

ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION FRANKFORT, KENTUCKY

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MEETING NOTICE: The Administrative Regulation Review Subcommittee is scheduled to meet on October 14, 1997. See tentative agenda beginning on page 825 of this Register.

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

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA - October 14, 1997 at 10 a.m. in Room 149, Capitol Annex
(& E) - means that the emergency administrative regulation has previously been reviewed by the subcommittee

FINANCE AND ADMINISTRATION CABINET

State Investment Commission

- 200 KAR 14:011E. General rules.
- 200 KAR 14:081E. Repurchase agreement.
- 200 KAR 14:200E. Linked Deposit Investment Program.

Office of the Secretary

Personnel Pilot Programs

- 200 KAR 22:041. Repeal of 200 KAR 22:040.

Kentucky Asset/Liability Commission

Commission

- 200 KAR 23:010 & E. Guidelines for use of financial agreements.

GENERAL GOVERNMENT CABINET

Board of Veterinary Examiners

- 201 KAR 16:060. Complaint processing procedures.
- 201 KAR 16:071. Repeal of 201 KAR 16:070.

Board of Nursing

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

Board of Certification of Marriage and Family Therapists

- 201 KAR 32:030. Fees.

TOURISM DEVELOPMENT CABINET

Department of Fish and Wildlife Resources

Game

- 301 KAR 2:140. Requirements for wild turkey hunting.
- 301 KAR 2:142. Spring wild turkey hunting.
- 301 KAR 2:144. Fall wild turkey hunting.

Hunting and Fishing

- 301 KAR 3:022. License, tag and permit fees.

GENERAL GOVERNMENT CABINET

Department of Agriculture

Division of Pesticides

Pesticides

- 302 KAR 31:040. Storage and handling of bulk pesticides and bulk fertilizers for agrichemical facilities.

Division of Markets

Organic Agricultural Product Certification

- 302 KAR 40:010. Standard organic agricultural product requirements. (Deferred from June)

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection

Division for Air Quality

General Administrative Procedures

- 401 KAR 50:012. General application.
- 401 KAR 50:066. Conformity of transportation plans, programs, and projects.

New Source Requirements; Nonattainment Areas

- 401 KAR 51:010. Attainment status designations.

New Source Standards

- 401 KAR 59:174. Stage II controls at gasoline dispensing facilities.

General Standards of Performance

- 401 KAR 63:005. Open burning.

Mobile Source-related Emissions

- 401 KAR 65:010. Vehicle emission control programs.

Department for Surface Mining Reclamation and Enforcement

Permits

- 405 KAR 8:001. Definitions for 405 KAR Chapter 8.
- 405 KAR 8:030. Surface coal mining permits.
- 405 KAR 8:040. Underground coal mining permits.

Performance Standards for Surface Mining Activities

- 405 KAR 16:001. Definitions for 405 KAR Chapter 16.
- 405 KAR 16:060. General hydrologic requirements.
- 405 KAR 16:090. Sedimentation ponds.
- 405 KAR 16:100. Permanent and temporary impoundments.

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405 KAR 16:160. Coal mine waste dams and impoundments.

Performance Standards for Underground Mining Activities

405 KAR 18:001. Definitions for 405 KAR Chapter 18.

405 KAR 18:060. General hydrologic requirements.

405 KAR 18:090. Sedimentation ponds.

405 KAR 18:100. Permanent and temporary impoundments.

405 KAR 18:160. Coal mine waste dams and impoundments.

405 KAR 18:210. Subsidence control.

JUSTICE CABINET

Department of Corrections

Office of the Secretary

501 KAR 6:020. Corrections policies and procedures.

501 KAR 6:090. Frankfort Career Development Center.

501 KAR 6:130. Western Kentucky Correctional Complex. (Found Deficient by ARRS, 10/96) (Deferred from November)

Department of State Police

Sex Offender Registration System

502 KAR 31:010. Sex offender registration system. (Deferred from September)

Candidate Selection

502 KAR 45:145 & E. Merit Pay Program.

Department of Juvenile Justice

Child Welfare

505 KAR 1:030E. DJJ policy and procedures manual. (Deferred from June)

TRANSPORTATION CABINET

Department of Vehicle Regulation

Division of Motor Vehicle Licensing

Department of Fiscal Management

Division of Audit Review

Motor Vehicle Tax

601 KAR 9:135. Apportioned registration. (Amended After Hearing)

Department of Highways

Traffic

603 KAR 5:070E. Motor vehicle dimension limits. (Deferred from August)

EDUCATION, ARTS, AND HUMANITIES CABINET

Board of Education

Department of Education

Bureau for Learning Support Services

Office of Instruction

704 KAR 3:455. Instructional material and textbook adoption process.

Education Professional Standards Board

Board

704 KAR 20:305E. Written examination prerequisites for teacher certification.

WORKFORCE DEVELOPMENT CABINET

State Board for Adult and Technical Education

Management of the Kentucky TECH System

780 KAR 2:130E. Minimum standards of admission for postsecondary students. (Deferred from September)

Personnel System for Certified and Equivalent Employees (Deferred from May)

780 KAR 3:070. Attendance, compensatory time, and leave. (Amended After Hearing)

780 KAR 3:080. Extent and duration of school term, use of school days and extended employment. (Amended After Hearing)

Unclassified Personnel Administrative Regulations

780 KAR 6:060. Attendance, compensatory time, and leave. (Deferred from March)

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 2:301E. Adoption and extension of established federal standards.

803 KAR 2:320E. Air contaminants.

803 KAR 2:403E. Occupational health and environmental controls.

803 KAR 2:411E. Scaffolds.

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

803 KAR 2:500E. Maritime employment.

Department of Workers' Claims

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Workers' Claims

803 KAR 25:175. Filing of insurance coverage and notice of policy change or termination.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

Motor Vehicle Repairs (No-fault)

806 KAR 39:070. Proof of motor vehicle insurance.

Department for Housing, Buildings and Construction Office of State Fire Marshal

Electrical Inspectors

815 KAR 35:015. Certification of electrical inspectors.

CABINET FOR HEALTH SERVICES Office of Certificate of Need

Certificate of Need

900 KAR 6:050E. Certificate of Need administrative regulations.

Department for Health Services

State Health Plan

902 KAR 17:041E. State health plan for facilities and services.

Controlled Substances

902 KAR 55:095E. Prescription for Schedule II controlled substance - facsimile transmission or partial filling. (Deferred from August)

Department for Public Health Division for Environmental health and Community Safety

Radiology

902 KAR 100:165. Notices, reports and instructions to employees.

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

Public Assistance

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

904 KAR 2:016E. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP).

904 KAR 2:017E. Kentucky Works supportive services. (Deferred from September)

904 KAR 2:035E. Right to apply and reapply. (Deferred from August)

904 KAR 2:040E. Procedures for determining initial and continuing eligibility. (Deferred from August)

904 KAR 2:046E. Adverse action; conditions. (Deferred from August)

904 KAR 2:050E. Time and manner of payments.

904 KAR 2:055E. Hearings and appeals. (Deferred from August)

904 KAR 2:060E. Delegation of power for oaths and affirmations. (Deferred from August)

904 KAR 2:370E. Technical requirements for Kentucky Works. (Deferred from September)

Food Stamp Program

904 KAR 3:060. Administrative disqualification hearings and penalties.

Department for Social Services Division of Family Services

Child Welfare

905 KAR 1:180 & E. DSS policy and procedures manual.

CABINET FOR HEALTH SERVICES Division of Licensing and Regulation

Office of Inspector General

906 KAR 1:120E. Informal dispute resolution.

Department for Medicaid Services Division of Administration and Development

Medicaid 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 1:160 & E. Home and community based waiver services.

907 KAR 1:170 & E. Payments for home and community based waiver services.

907 KAR 1:429. Repeal of 907 KAR 1:428 and 907 KAR 1:432.

907 KAR 1:560. Medicaid hearings and appeals for recipients.

907 KAR 1:710. Managed behavioral health care initiative (1915b Waiver). (Amended After Hearing) (Deferred from September)

907 KAR 1:720 & E. Coverage and payments for the Kentucky Early Intervention Program services provided through an agreement

with the state Title V agency.

907 KAR 1:755E. Preadmission Screening and Annual Resident Review Program

907 KAR 1:765E. Repeal of 907 KAR 1:460.

Department for Mental Health and Mental Retardation Services Division of Mental Retardation

Mental Health

908 KAR 2:200 & E. Coverage and payment for Kentucky Early Intervention Program services.

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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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NOTICES OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATIONS
RECEIVED AS OF SEPTEMBER 15, 1997

COUNCIL ON POSTSECONDARY EDUCATION

September 4, 1997

Council on Postsecondary Education

(1) The subject matter of the proposed administrative regulation is a determination of residency status for students enrolled in state-supported postsecondary institutions. The number and title of the administrative regulation is **13 KAR 2:045**, Determination of residency status for admission and tuition assessment purposes.

(2) The Council on Postsecondary Education intends to promulgate an administrative regulation pursuant to KRS 164.020(8) and (28).

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Wednesday, October 22, 1997 in the conference room, Kentucky Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601.

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

(c) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people by 10 calendar days prior to the hearing, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should submit a written request, no later than to the following address: Kentucky Council on Postsecondary Education; Attn: Dennis L. Taulbee, General Counsel at 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601. The phone number is (502) 573-1555; the fax number is (502) 573-1535.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Council on Postsecondary Education 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 a determination of residency status is KRS 164.020(8) and (28).

(b) The administrative regulation to be promulgated by the council is an amendment to an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulations is as follows: KRS 164.020(8) requires the Council on Postsecondary Education to determine tuition and approve the minimum qualifications for admission to the public institutions of postsecondary 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 postsecondary education institution and for each student residency determination.

(d) The benefits expected from the administrative regulations are: The administrative regulation ensures that only bona fide domiciliaries and residents of Kentucky receive a benefit of resident tuition rates and admission to academic programs.

(e) This administrative regulation will be implemented by the Council on Postsecondary Education with appropriate participation from the state-supported postsecondary education institutions as set out in the administrative regulation.

KENTUCKY STATE BOARD OF HAIRDRESSERS AND COSMETOLOGISTS

September 2, 1997

Kentucky State Board of Hairdressers and Cosmetologists

(1) **201 KAR 12:200**. Requirements for continuing education for renewal of license.

(2) The Kentucky State Board of Hairdressers and Cosmetologists intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the amended administrative regulation has been scheduled for Wednesday, October 22, 1997, at 10 a.m. at the office of the Kentucky State Board of Hairdressers and Cosmetologists, 314 West Second Street, Frankfort, Kentucky, 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to October 22, 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: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 314 West Second Street, Frankfort, Kentucky, 40601, (502) 564-4262.

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

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

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

(b) persons who wish to file this request may obtain a request form from the Kentucky State Board of Hairdressers and Cosmetologists at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of the administrative regulation is KRS 317A.050(8).

(b) The administrative regulation that the Kentucky State Board of Hairdressers and Cosmetologists intends to promulgate will amend 201 KAR 12:200. It will require application for programs to be submitted 60 days instead of 90 days prior to the starting date of the program and notification of approval or denial would be done in 30 days instead of 60 days. Section 3 will establish approval for organizations, institutions or other state agency programs that have been previously approved by the respective agency, and sets forth approval for course work from a college, university or other institute of higher education recognized by the Kentucky Council on Higher Education. The original transcript showing successful completion of at least one (1) three (3) hour course would satisfy the requirements for renewal.

(c) The necessity and function of the proposed administrative regulation is as follows: Beginning July 1, 1997, KRS 317A.050(8) requires cosmetologists, cosmetology instructors and nail technicians to provide proof of continuing education or renewal of license as determined by the board by promulgation of an administrative regulation. This administrative regulation establishes the requirements for sponsoring a continuing education program for providing proof of attendance at a continuing education program.

(d) The benefits expected from the amendment to the administrative regulation are: Elimination of possible duplication of classes for licensees with dual careers; more accessible classes for the licensee; one application for approval for standardized classes offered by organizations, institutions or other state agencies; reduced paper work for class sponsors and the board.

(e) The amendments to the administrative regulation will be implemented as follows: Mailing of notification to all licensees and class sponsors.

September 2, 1997

Kentucky State Board of Hairdressers and Cosmetologists

(1) **201 KAR 12:210.** Requirements for continuing education; active and inactive license and temporary waiver of requirements.

(2) The Kentucky State Board of Hairdressers and Cosmetologists intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the administrative regulation has been scheduled for Wednesday, October 22, 1997, at 10 a.m. at the office of the Kentucky State Board of Hairdressers and Cosmetologists, 314 West Second Street, Frankfort, Kentucky, 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to October 22, 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: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, 314 West Second Street, Frankfort, Kentucky, 40601, (502) 564-4262.

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

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

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

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

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of the administrative regulation is KRS 317A.050(8).

(b) The administrative regulation that the Kentucky State Board of Hairdressers and Cosmetologists intends to promulgate will not amend an existing administrative regulation. It will define a continuing education hour as 50 minutes; clarify that newly licensed persons would not be required to complete continuing education for the first renewal period; specify that hours exceeding the amount required cannot carry forward to the next years requirements and credit will not be given for any class repeated in the same year; establish an inactive status for licensees who are not working or actively engaged in the practice or teaching of cosmetology or nail technology; sets forth requirements for inactive status; provides for a temporary waiver for those who cannot meet the requirements for continuing education due to military duty, disability or undue hardship; and sets forth the requirements for temporary waivers.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation pertains to continuing education requirements for renewal of a license and establishes the requirements for an inactive license.

(d) The benefits expected from the administrative regulation are: Licensees who are retired or not actively engaged in the practice or teaching of cosmetology or nail technology will not be required to attend continuing education courses. Licensees who cannot meet the requirements due to military duty, temporary disability, or undue hardship may apply for a temporary waiver.

(e) The amendments to the administrative regulation will be implemented as follows: Written notification mailed to all licensees.

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KENTUCKY BOARD OF EXAMINERS OF PSYCHOLOGY

September 11, 1997

Kentucky Board of Examiners of Psychology

- (1) **201 KAR 26:125.** Health service provider designation.
- (2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for October 21, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 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 October 21, 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 Examiners of Psychology 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 health service provider designation is KRS 319.050(7).
 - (b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:125, Health service provider designation. It will revise the requirements for those persons holding the designation, health service provider.
 - (c) The necessity and function of the proposed administrative regulation is as follows: This regulation is necessitated by KRS 319.050(7) and defines terms used in the regulation of persons holding the designation of health service provider.
 - (d) The benefits expected from administrative regulation are: Persons holding the designation of health service provider will be aware of the requirements which must be met.
 - (e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

September 11, 1997

Kentucky Board of Examiners of Psychology

- (1) **201 KAR 26:175.** Continuing education.
- (2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for October 21, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 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 October 21, 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 Examiners of Psychology at the address listed above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to continuing education is KRS 319.032(1)(f).
 - (b) The administrative regulation that the board intends to promulgate will amend 201 KAR 26:175, Continuing education. It will revise and update the requirements for those persons holding a credential relative to the continuing education which is required for the maintenance of their credential.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 319.032 requires regulations governing the completion of continuing education as a condition for renewal of license or certificate. This administrative regulation establishes the continuing education requirements for renewal of a license or certificate.
 - (d) The benefits expected from administrative regulation are: Persons holding a credential with the board will be aware of the requirements which must be met to maintain that credential.
 - (e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

ADMINISTRATIVE REGISTER - 832

September 11, 1997

Kentucky Board of Examiners of Psychology

- (1) **201 KAR 26:180.** Requirements for granting licensure or certification in psychology by reciprocity.
- (2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for October 21, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 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 October 21, 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 Examiners of Psychology 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 requirements for granting licensure or certification in psychology by reciprocity is KRS 319.032(i).
 - (b) The administrative regulation that the board intends to promulgate will amend is 201 KAR 26:180, Requirements for granting licensure or certification in psychology by reciprocity. It will revise the requirements for those persons applying for licensure by reciprocity in Kentucky who hold licensure in a state which has a reciprocity agreement with this state. They will be required to have a minimum of five years of experience in the jurisdiction from which they are coming.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 319.032 requires the adoption of regulations for the granting of a license or certificates through reciprocity. This regulation establishes the requirements for licensure or certification.
 - (d) The benefits expected from administrative regulation are: Persons applying for licensure by reciprocity will be aware of the requirements which must be met.
 - (e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented as soon as it becomes effective.

September 11, 1997

Kentucky Board of Examiners of Psychology

- (1) **201 KAR 26:185.** Requirements for granting licensure or certification in psychology to an applicant licensed or certified in another state.
- (2) The Kentucky Board of Examiners of Psychology intends to amend the administrative regulation listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for October 21, 1997, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 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 October 21, 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 Examiners of Psychology 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 requirements for granting licensure or certification in psychology to an applicant licensed or certified in another state is KRS 319.032(i).
 - (b) The administrative regulation that the board intends to promulgate will amend is 201 KAR 26:185, Requirements for granting licensure or certification in psychology to an applicant licensed or certified in another state. It will revise the requirements for those persons applying for licensure by reciprocity in Kentucky who hold licensure in a state which does not have a reciprocity agreement with this state. They will be required to have a minimum of five years of experience in the jurisdiction from which they are coming.
 - (c) The necessity and function of the proposed administrative regulation is as follows: This regulation sets forth procedures for the granting of a license or certificate to an applicant who is licensed or certified in another state which does not have an agreement of reciprocity with this board.
 - (d) The benefits expected from administrative regulation are: Persons applying for licensure or certification from a state which does not have reciprocity will be aware of the requirements which must be met.

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

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources

August 21, 1997

Tourism Development Cabinet

Department of Fish and Wildlife Resources

- (1) Regulation Number and Title: **301 KAR 2:081**, Pet and propagation permits.
- (2) The Department of Fish and Wildlife Resources 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 October 21, 1997 at 9 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. Minimums 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 October 21, 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 150.280.
- (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:081 as follows: It will remove a definition of "wildlife" that is in conflict with current statutes and redefine wildlife which may or may not be held in captivity.
- (c) The necessity and function of the proposed administrative regulation is to control the taking and holding of live of native wildlife.
- (d) The benefits expected from the administrative regulation are protection of wildlife populations from over exploitation and assuring that wildlife is held under adequate conditions.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the Department's Division of Law Enforcement.

August 21, 1996

Tourism Development Cabinet

Department of Fish and Wildlife Resources

- (1) Regulation Number and Title: **301 KAR 2:083**, Importation of raccoons and canids.
- (2) The Department of Fish and Wildlife Resources 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 October 21, 1997 at 9 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. A minimum of five persons, or the administrative body or association agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing is not received from the required number of people at least ten days prior to October 21, 1997, the public hearing will be cancelled.
- (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) On the 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 an administrative regulation governing importation of wildlife is KRS 150.180(6).
- (b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It will prohibit the importation of raccoons and wild canids from states where rabies is known to exist in these species.
- (c) The necessity and function of the proposed administrative regulation is to prevent the establishment of rabies into wild raccoons and canids in Kentucky.
- (d) The benefits expected from the administrative regulation are protection of native wildlife and humans from exposure to rabies from imported raccoons and canids.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications

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and mass media outlets; it will be enforced by the Department's Division of Law Enforcement.

June 13, 1997

Tourism Development Cabinet

Department of Fish and Wildlife Resources

- (1) Regulation Number and Title: **301 KAR 2:225**, Dove, wood duck, teal and other migratory game bird hunting.
- (2) The Department of Fish and Wildlife Resources 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 October 28, 1997 at 9 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. A minimum of five persons, or the administrative body or association agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten days prior to October 28, 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(1) and 150.360(1).
 - (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:225 as follows: It will adjust opening and closing season dates to account for calendar shift; reduce the season length and bag limit on woodcock, and establish a one-day waterfowl hunt for persons less than sixteen years old.
 - (c) The necessity and function of the proposed administrative regulation is to establish migratory bird seasons and other hunting requirements within guidelines set by the U. S. Fish and Wildlife Service.
 - (d) The benefits expected from the administrative regulation are allowing hunter harvest of migratory game birds while protecting populations of these birds from over harvest.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the department's Division of Law Enforcement.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality

September 15, 1997

Natural Resources and Environmental Protection Cabinet

Department for Environmental Protection

Division for Air Quality

- (1) **401 KAR 50:032**, Prohibitory rule for hot mix asphalt plants. This proposed administrative regulation will establish operational limits for asphalt producers who do not hold a Title V or conditional major permit and proposes that asphalt plants must comply with the following limits:
 - (a) Batch mix plants shall not produce more than 360,000 tons of asphalt per year;
 - (b) Drum mix plants shall not produce more than 500,000 tons of asphalt per year; and
 - (c) No hot mix plant shall use waste oil as fuel in the production of asphalt.
- Sources are required to keep monthly logs of how much asphalt is produced, the type and quantities of fuel burned, and to make these logs available for inspection.
- (2) The Division for Air Quality intends to promulgate a new administrative regulation governing the subject matter listed above.
 - (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for October 21, 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 October 21, 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: 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.

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(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 224.10-100, 224.20-110, 224.20-120, and 42 USC 7661-7661f (Title V of the CAAA).

(b) The proposed administrative regulation that the Division for Air Quality intends to promulgate will not replace an existing administrative regulation. The new administrative regulation will establish operational limits for asphalt producers in Kentucky who do not hold a Title V or conditional major permit.

(c) The necessity and function of the proposed administrative regulation is as follows: 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. This administrative regulation establishes operational limits for hot mix asphalt plants that do not hold a Title V or conditional major permit.

(d) The expected benefit from this administrative regulation will be that most of Kentucky's 122 asphalt producers will not have to hire consultants or spend hundreds of hours preparing Title V or conditional major permit applications, and the Division for Air Quality will save hundreds of manhours that would have been required to review and issue those permits.

(e) This administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, asphalt producers in Kentucky who do not have a Title V or conditional major permit shall comply with the provisions of 401 KAR 50:032 as part of the existing regulatory program.

JUSTICE CABINET Department of Corrections

September 15, 1997

Justice Cabinet

Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:060**, Northpoint Training Center.

(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 October 21, 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 October 21, 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 6:060, as follows:

1. Relationships with public, media, and other agencies (NTC 01-17-01) shall be amended to include the media release form.
2. Inmate canteen (NTC 02-08-01) shall be amended to make the policy consistent with ACA Standards and minor word changes.
3. Insurance coverage (NTC 02-10-01) shall be amended to further explain the insurance coverage.
4. Inmate accounts (NTC 02-12-01) shall be amended to include additional information on withdrawals from the inmate's account.
5. Health standards and regulations for food service employees (NTC 11-05-02) shall be amended to include the preemployment

medical review and form.

6. Visiting (NTC 16-02-01) shall be amended to include a grievance concerning toboggans and jackets.

7. Conducting inmate organizational meetings and programs (NTC 22-03-01) shall be amended to delete repetitive information and update the warden's signature.

8. Religious services (NTC 23-01-01) shall be amended to include ACA language and to change the name of the chapel to institutional religious center.

9. Marriage of inmates (NTC 23-03-01) shall be amended to include the requirement for submission of the letter from the inmate and fiancée.

10. Honor housing (NTC 24-04-01) shall be amended to change the name from honor status to honor housing and to include the criteria for honor placement.

11. Release Preparation Program (NTC 25-01-01) shall be amended to include community based agencies.

12. Temporary and community center release (NTC 25-01-02) shall be amended to include ACA guidelines.

13. Graduated release (NTC 25-01-03) shall be amended to include the needs of the institution and to update the warden's signature.

14. Funeral trips and bedside visits (NTC 25-02-01) shall be amended to clarify the duties of the program's staff in the absence of the chaplain.

15. Inmate release procedure (NTC 25-03-01) shall be amended to include an up-to-date notification list and for arrangements if a bus is utilized for transportation upon release.

ADMINISTRATIVE REGISTER - 836

16. Citizen Involvement and Volunteer Services Program (NTC 26-01-01) shall be amended to describe the volunteer services.

(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 Northpoint Training Center 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.

September 15, 1997

Justice Cabinet

Department of Corrections

(1) Regulation Number and Title: **501 KAR 6:170**, Green River 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 October 21, 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 October 21, 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 6:170, as follows:

1. Special management unit (GRCC 10-01-01) shall be amended to more clearly define personal items allowable for SMU inmates at the GRCC.

2. Use of pharmaceutical products (GRCC 13-03-01) shall be amended to fully comply with ACA standards.

3. Inmate visiting (GRCC 16-01-01) shall be amended to comply with CPP 16.1.

4. Inmate correspondence and privileged mail (GRCC 16-02-02) shall be established to outline the guidelines for correspondence and privileged mail for inmates at GRCC.

5. Inmate release process (GRCC 15-01-02) shall be amended to comply with the current operating procedures regarding the inmate release process at the GRCC.

(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 Green River 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.

Department of Juvenile Justice

July 16, 1997

The Department of Juvenile Justice

(1) **505 KAR 1:040**, The Department of Juvenile Justice policies and procedures manual.

(2) The Department of Juvenile Justice intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for October 29, 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 member; and

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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 October 29, 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: Raymond DeBolt Jr., General Counsel, 320 W. Main Street, Frankfort, Kentucky 40601, (502) 564-2738, Fax: (502) 564-0839.

(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, the Department of Juvenile Justice, 320 W. Main Street, Frankfort, Kentucky 40601.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to 505 KAR 1:030, Department of Juvenile Justice Policy and Procedures Manual, is KRS 15A.210, 15A.160, 13A.312 and the requirements of a consent decree entered December 4, 1995, in United States of American v. Commonwealth of Kentucky et al., Civil Action No. 3:95 CV-757-S (W.D.Ky.1995) as well as EO 96-1576.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate will not amend an existing regulation. It will establish the current policies and procedures of the Department of Juvenile Justice and will implement some of the provisions of the voluntary consent decree entered into with the Department of Justice to improve conditions for youth housed in 13 residential treatment facilities operated or contracted by the cabinet.

(c) The necessity, function and conformity of the proposed administration regulation is as follows: KRS 15A.160 authorizes the Department of Juvenile Justice to adopt regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. This administrative regulation is promulgated to incorporate into regulatory form, by reference, materials used by the department in the implementation of a statewide social service program. Additionally it will comply with the mandates of the juvenile services consent decree relating to isolation and time out, abuse and neglect, fire safety, suicide screening, and maintenance and sanitation.

(d) The benefits expected from this administrative regulation are: The benefits expected are that the department will have established regulatory authority for the current policies and procedures relating to management procedures, support services, family and children's benefits and youth services. Another benefit is compliance with some of the provisions of the voluntary consent decree entered into with the United States Department of Justice in December 1995 to improve conditions for youth housed in 13 residential treatment facilities operated or contracted by the cabinet.

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

September 15, 1997

Public Protection and Regulation Cabinet

Department of Housing, Buildings and Construction

(1) Regulation Number and Title: **815 KAR 7:014**, Repeal of 815 KAR 7:013.

(2) The department 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 Tuesday, October 21, 1997, at 10 a.m., local time, in the department's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

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

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

and

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least ten (10) days prior to October 21, 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: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U. S. Highway 127 South, Suite #1, Frankfort, Kentucky 40601.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.050 and 198B.060.

(b) The administrative regulation the department intends to promulgate will repeal 815 KAR 7:013, which is the plan review fees for the Kentucky Building Code. Those fees are located in the Kentucky Building Code which is incorporated in 815 KAR 7:105.

(c) The necessity and function of the proposed administrative regulation is as follows: The plan review fees in 815 KAR 7:013 are now set forth in Section 112.0 of the Kentucky Building Code under 815 KAR 7:105.

(d) The benefits expected from this administrative regulation are: 815 KAR 7:013 is no longer necessary as a separate administrative regulation since the material is now contained in a more appropriate location.

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

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Code Enforcement.

CABINET FOR HEALTH SERVICES Department for Medicaid Services

September 15, 1997
Cabinet for Health Services
Department for Medicaid Services

(1) **907 KAR 1:145**, Supports for community living services for individuals with mental retardation or developmental disabilities.

(2) Cabinet for Health Services, Department for Medicaid 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 October 30, 1997 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(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 October 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: 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).

(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 Medicaid Services, Division of Administration and Development, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the provision of community-based waiver services are KRS 194.050 and EO 96-862.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will ensure no lapse of service for the population of individuals with mental retardation or developmental disabilities.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the coverage provisions relating to home and community-based waiver services provided to an individual with mental retardation or developmental disabilities.

(d) The benefits expected from administrative regulation are: A reduced cost per recipient which will allow for an increased number of recipients served.

(e) The administrative regulation will be implemented as follows: By the Division of Administration and Development, Department for Medicaid Services, Cabinet for Health Services.

September 15, 1997
Cabinet for Health Services
Department for Medicaid Services

(1) **907 KAR 1:155**, Payments for community living services for individuals with mental retardation or developmental disabilities.

(2) Cabinet for Health Services, Department for Medicaid 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 October 30, 1997 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(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 October 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: 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).

(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

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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 Medicaid Services, Division of Administration and Development, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to payments for the provision of community-based waiver services are KRS 194.050 and EO 96-862.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will ensure no lapse in payment for services provided to the population of individuals with mental retardation or developmental disabilities.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the coverage provisions relating to home and community-based services provided to an individual with mental retardation or developmental disabilities.

(d) The benefits expected from administrative regulation are: A reduced cost per recipient which will allow for an increased number of recipients served.

(e) The administrative regulation will be implemented as follows: By the Division of Administration and Development, Department for Medicaid Services, Cabinet for Health Services.

Department for Mental Health/Mental Retardation Services

September 15, 1997

Cabinet for Health Services

Department for Mental Health/Mental Retardation Services

(1) **908 KAR 1:311.** Repeal of the following administrative regulations: 908 KAR 1:010, 908 KAR 1:020, 908 KAR 1:030, 908 KAR 1:040, 908 KAR 1:050, 908 KAR 1:060, 908 KAR 1:070, 908 KAR 1:080, 908 KAR 1:090, 908 KAR 1:100, 908 KAR 1:110, 908 KAR 1:120, 908 KAR 1:130, 908 KAR 1:140, 908 KAR 1:150, 908 KAR 1:160, 908 KAR 1:170, 908 KAR 1:180, 908 KAR 1:190, 908 KAR 1:200, 908 KAR 1:210, 908 KAR 1:220, 908 KAR 1:230, 908 KAR 1:240, 908 KAR 1:250, 908 KAR 1:260.

(2) The Department for Mental Health/Mental Retardation Services intends to repeal existing licensure standards for nonmedical alcohol treatment and education centers and drug abuse treatment and education centers concomitant with the promulgation of new administrative regulations establishing licensure standards for substance abuse treatment and education programs at 908 KAR 1:370.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for October 30, 1997 at 9 a.m. in the Department for Public Health 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 five members; and
2. A minimum of 5 persons or the administrative body, or association, agrees, in writing, to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to October 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: Mae B. Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

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

(b) The administrative regulation that the Department for Mental Health/Mental Retardation Services intends to promulgate will repeal existing licensing standards for nonmedical alcohol treatment centers and drug abuse treatment and education centers.

(c) The necessity and function of the proposed administrative regulation is to repeal outdated licensing standards.

(d) The benefits expected from this administrative regulation are to simplify licensing standards for alcohol abuse and drug abuse programs.

August 25, 1997

Cabinet for Health Services

Department for Mental Health and Mental Retardation Services

Division of Substance Abuse

(1) **908 KAR 1:370.** Licensing procedures and standards for agencies operating alcohol and other drug abuse treatment programs.

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

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

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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 October 30, 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: Mae B. Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of Counsel, 275 East Main Street, 4W-C, 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 Mental Health and Mental Retardation Services, Division of Administration and Financial Management, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

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

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

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

(d) The benefits expected from the administrative regulation are: The licensure standards should improve the quality of services delivered to alcohol and other drug abuse clients. Emphasis will be placed on increasing the requirements for clinical staff supervision. Enhancing the quality of clinical services provided to these clients should decrease the abuse of alcohol and other drugs thereby improving the health and safety of the citizens of the Commonwealth.

September 15, 1997

Cabinet for Health Services

Department for Mental Health/Mental Retardation Services

(1) **908 KAR 2:190.** Supported living.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulations has been scheduled for October 30, 1997 at 9 a.m. in the Department for Public Health 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 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 October 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: Mae B. Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Phone: (502) 564-7900, Fax: (502) 564-7573.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to supported living services KRS 210.770-210.795.

(b) The administrative regulation that the Department for Mental Health/Mental Retardation Services intends to promulgate will carry out the purposes and intent of KRS 210.770 to 210.795 regarding the state supported living council, regional supported living councils, and

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supported living applicants and recipients.

(c) The necessity, function, and conformity of the proposed administrative regulations is as follows: To promulgate administrative regulations governing the operations of the state and regional supported living councils and the provision of services to supported living applicants and recipients necessary for carrying out the purposes of KRS 210.770 to 210.795.

(d) The benefits expected from this administrative regulation are: To promote consistency and clarity of operating procedures and practices for the state supported living council, the regional supported living councils, and supported living applicants and recipients.

(e) The administration regulation will be implemented as follows: The regulation will be implemented by the state supported living council, the regional supported living councils, and the Department for Mental Health/Mental Retardation Services.

EMERGENCY ADMINISTRATIVE REGULATIONS FILED AS OF NOON, SEPTEMBER 15, 1997

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

STATEMENT OF EMERGENCY
301 KAR 2:225E

Migratory bird hunting season frameworks are established annually by the U.S. Fish and Wildlife Service. Under federal law, states that wish to establish migratory bird hunting seasons must do so within the federal frameworks. Development of the federal regulations involves consideration of harvest and population status data, coordination with state wildlife agencies, and public involvement. Consequently, federal migratory bird hunting regulations are promulgated less than six (6) weeks before the opening dates of the hunting season in Kentucky. An ordinary administrative regulation will not suffice because insufficient time precludes timely effectiveness of the administrative regulation. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
C. THOMAS BENNETT, Commissioner

TOURISM CABINET
Department of Fish and Wildlife Resources

301 KAR 2:225E. Dove, wood duck, teal, and other migratory game bird hunting.

RELATES TO: KRS 150.025(1), 150.320(1), 150.330, 150.340, 150.360, 150.603(1), 150.620

STATUTORY AUTHORITY: KRS 150.025(1), 150.360(1)

EFFECTIVE: August 21, 1997

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) and 150.360(1) authorizes the department to establish open seasons for the taking of wildlife. The function of this administrative regulation is to allow the taking of migratory game birds within reasonable limits based upon an adequate supply, and within the frameworks established by the U.S. Fish and Wildlife Service.

Section 1. Definitions. (1) "Migratory game birds" means mourning dove, wood duck, teal, common moorhen, woodcock, common snipe, purple gallinule, Virginia rail, and sora rail.

(2) "Teal" means green-winged teal, blue-winged teal, and cinnamon teal.

Section 2. Season Dates for Gun Archery and Falconry. A person shall not hunt migratory game birds except on the dates listed in this administrative regulation.

(1) Doves: September 1 through September 30; October 4 [5] through October 27 [28]; and November 27 [28] through December 2 [3].

(2) Woodcock: October 18 [42] through December 1 [45].

(3) Common snipe: September 17 [48] through November 2 [3] and November 27 [28] through January 25 [26].

(4) Wood duck and teal: September 17 [48] through September 21 [22].

(5) Virginia and sora rails, common moorhen and purple gallinule: September 1 through November 9.

Section 3. Bag and Possession Limits. A person shall not exceed the following limits:

(1) Doves: daily limit, fifteen (15); possession limit, thirty (30).

(2) Woodcock: daily limit, three (3) [five (5)]; possession limit, six

(6) [ten (10)].

(3) Common snipe: daily limit, eight (8); possession limit, sixteen (16).

(4) Virginia rails and sora rails, singly or in the aggregate: daily and possession limit, twenty-five (25).

(5) Common moorhen and purple gallinules singly or in the aggregate: daily limit, fifteen (15); possession limit, thirty (30).

(6) Wood duck and teal: daily limit, four (4); shall not include more than two (2) wood ducks; possession limit, eight (8); shall not include more than four (4) wood ducks.

(7) A person shall leave the head or one (1) fully feathered wing attached to migratory game birds, except doves, being held in the field or transported.

Section 4. Shooting Hours. A person shall not take migratory game birds except during the times listed in this section.

(1) Doves:

(a) From 11 a.m. until sunset during the September and October portions of the season; and

(b) From sunrise to sunset during the November-December portion of the season.

(2) Other species listed in this administrative regulation, from one-half (1/2) hour before sunrise to sunset.

Section 5. Shot Requirements. A person hunting wood ducks or teal shall not use or possess shotgun shells:

(1) Longer than three and one-half (3 1/2) inches; or

(2) Containing:

(a) Lead shot;

(b) Shot not approved by the U.S. Fish and Wildlife Service for waterfowl hunting; or

(c) Shot larger than size "T".

Section 6. Youth Hunting Day. (1) A person who has not reached his 16th birthday may hunt ducks, coots or mergansers on October 11.

(2) A person at least eighteen (18) years old shall accompany the juvenile hunter and:

(a) Shall not hunt ducks, coots or mergansers;

(b) May hunt other species for which there is an open season.

(3) The bag limits for the youth hunting day shall be:

(a) Ducks: six (6), which shall not include more than:

1. Four (4) mallards, no more than two (2) of which shall be hen mallards;

2. Three (3) pintails;

3. Two (2) wood ducks;

4. Two (2) redheads;

5. One (1) canvasback; or

6. One (1) black duck.

(b) Fifteen (15) coots; and

(c) Five (5) mergansers, no more than one (1) of which shall be a hooded merganser.

Section 7. Exceptions to Statewide Migratory Bird Seasons on Specified Wildlife Management Areas. (1) On a wildlife management area owned or controlled by the department:

(a) Unless excepted below, all provisions of this administrative regulation shall apply.

(b) A person shall not:

1. Hunt wood ducks or teal on areas closed to waterfowl hunting

by 301 KAR 2:222.

2. Hunt in an area marked by a sign as closed to hunting.
3. Enter an area marked by a sign as closed to the public.

(2) A person hunting doves on the Ballard, Barlow Bottoms, [Swan Lake, Peat,] Sloughs, Ohio River Islands, Duck Island, Kaler Bottoms, Kentucky River and Westvaco Wildlife Management Areas shall not use or possess shotgun shells containing lead shot.

- (3) Ballard Wildlife Management Area. A person shall not hunt:
 - (a) migratory birds after October 13, except as provided in 301 KAR 2:221.

[2. Woodcock.]

- (4) Central Kentucky Wildlife Management Area.

- (a) A person shall not hunt:

1. migratory game birds after October 13, except as provided in 301 KAR 2:221.

[2. Woodcock.]

- (b) A dove hunter shall not carry firearms except during shooting hours.

- (5) Grayson Lake Wildlife Management Area.

(a) A migratory bird hunter shall check in and out daily at a designated check station.

- (b) A person shall not hunt:

1. Within the no wake zone at the dam site marina;
 2. On Deer Creek Fork; or
 3. On or from the shores of Camp Webb or the state park.

(6) Land Between the Lakes. A person shall not hunt doves, woodcock or common snipe between the last Saturday in September and November 30.

(7) West Kentucky Wildlife Management Area. A person shall not hunt:

(a) Doves after October 13, except on tracts 2, 3, 6, and 7 during the November-December portion of the season.

- (b) Woodcock and snipe except on tracts 2, 3, 6, and 7.

- (c) On tracts designated by numbers followed by the letter "A".

(8) Yatesville Lake Wildlife Management Area. A migratory game bird hunter shall check in and out daily.

(9) A person shall not hunt migratory game birds on the main block of Robinson Forest.

Section 8. [7:] Dove Hunter Guidelines on Wildlife Management Areas. (1) The department may establish hunter density guidelines for dove hunting fields on department property after considering the following:

- (a) Terrain of the field;
 - (b) Topography of the field;
 - (c) Providing for approximately forty (40) yards between hunters.
- (2) Strategically located signs shall be posted in fields advising hunters:

- (a) Of recommended hunter densities;
 - (b) That hunting in excess of the desired hunter density limit shall be at the hunter's own risk.

(3) A hunter behaving in an unsafe or uncooperative manner shall be required to leave the premises.

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

MIKE BOATWRIGHT, Chairman

SCOTT PORTER, General Counsel

APPROVED BY AGENCY: June 13, 1997

FILED WITH LRC: August 21, 1997 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: John Wilson

(1) Type and number of entities affected: An estimated 90,000 persons will participate in the migratory bird hunting proposed by this administrative regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. Direct costs involve the purchase of a state hunting license, a federal migratory bird hunting and conservation stamp and a state waterfowl stamp if hunting waterfowl. Indirect costs would be determined by the hunter, depending on his level of participation. U.S. Fish and Wildlife Service approved nontoxic shot is required for all waterfowl hunting. Approved nontoxic shot costs approximately \$2 to \$7 more per box of 25 shells, dependent on shot material selected, than does lead shot.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation will have no anticipated impact 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: This administrative regulation imposes no reporting or paperwork requirements.

2. Second and subsequent years: Same as for first year.

(3) Effects on the promulgating administrative body: Requires time and effort in developing, publishing reporting on, and enforcing the proposed administrative regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with enforcement of the administrative regulation.

1. First year: This administrative regulation will not impose additional costs or create additional savings.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reporting or paper work requirements.

(4) Assessment of anticipated effect on state and local revenues: A positive effect could be expected on state revenues since hunters are required to purchase a hunting license and pay other state taxes on items purchased in connection with hunting and the hunting trip. The average migratory bird hunter in Kentucky will expend about \$228 a season on food, lodging, transportation and equipment. This will add about \$20,520,000 to the income of local businesses.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation. Revenue from the sale of hunting and fishing licenses and will be used for implementation and enforcement of this administrative regulation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods, reasons why alternatives were rejected: Reasons why alternatives were rejected: The U.S. Fish and Wildlife Service requires that any harvest of migratory game birds be through a regulated hunting season that is held within a specific time frame. Therefore, the only available alternative to regulated hunting is to close the season which was rejected since migratory birds are a renewable resource and involved species are at population levels that permit regulated hunting for the benefit of Kentucky.

(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 is intended to conserve populations of migratory birds, a positive impact on environmental welfare. It also allows utilization of these populations as a recreational resource, having a positive effect on the health and well-being of those who participate.

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(b) State whether a detrimental effect on environment and public health would result if not implemented: Reduction in the potential recreational opportunity and the loss of conservation of migratory birds.

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

(a) Necessity of proposed regulation if in conflict: 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: Was tiering applied? No. Only one class of citizen, the hunter, is impacted by this administrative regulation. Disregarding physiography, distribution of the species sought by hunters is assumed to be uniform, thus negating the need to recognize tiers. Tiering according to physiography is impractical and unnecessary as a means of species protection or provision of hunter opportunity.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or administrative regulation constituting the federal mandate. 50 CFR Part 20.

2. State compliance standards. State seasons and bag limits are within federal frameworks.

3. Minimum or uniform standards contained in the federal mandate. Woodcock - season frameworks between the Saturday nearest September 22, 1997, and January 31, with a 45 day maximum season. Bag limits may be a maximum of three per day with six in possession. Wood duck and teal - season frameworks allow five days in September. Bag limits may total four per day with not more than two of these being wood ducks. Possession limit is eight of which not more than four may be wood ducks. Dove - season frameworks allow either 70 or 60 days between September 1 and January 15. Bag limits may be either 12 per day with 24 in possession for the 70 day season or 15 per day with 30 in possession for the 60 day season. Common snipe - season frameworks allow a 107 day season between September 1 and February 28. Bag and possession limit is 8 and 16, respectively. Virginia and sora rails - the season may not exceed 70 days with a season framework between September 1 and January 20. Bag and possession limit of 25 per day, singly or in aggregate. Common moorhen and purple gallinule - the season may not exceed 70 days with a season framework between September 1 and January 20. Daily bag limit of 15, singly or in aggregate. Possession limit is twice the daily bag limit.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

STATEMENT OF EMERGENCY

505 KAR 1:040E

This emergency administrative regulation and Notice of Intent were promulgated to establish the current policies and procedures of the Department of Juvenile Justice relating to management procedures, support services, family and children's services and youth services. This emergency administrative regulation implements some of the provisions of the consent decree, entered December 4, 1995 by the United States of America v. Commonwealth of Kentucky, et.al., Civil Action No. 3:95 CV-757-S (W.D.KY. 1995), entered into with the United States Department of Justice to improve conditions for youth housed in thirteen (13) residential treatment facilities operated or contracted by the cabinet. An emergency administrative regulation is necessary in order to implement requirements of the consent decree which are currently mandated. EO 96-1576 signed November 27,

1996 transfers responsibility of these services to the Department of Juvenile Justice. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on September 15, 1997.

PAUL E. PATTON, Governor

RALPH E. KELLY, Ed.D., Commissioner

JUSTICE CABINET

Department of Juvenile Justice

505 KAR 1:040E. Policy and procedures manual.

RELATES TO: KRS 194.060, 199.420 to 199.990, 200.080 to 200.120, 205.201 to 205.204, 205.455 to 205.465, Chapters 208, 209, 600 to 645, *United States of America v. Commonwealth of Kentucky, et.al.*, Civil Action No. 3:95 CV-757-S (W.D.KY. 1995), EO #96-1576

STATUTORY AUTHORITY: KRS 194.050, 199.420, 200.080, 209.030, 605.150, 615.50, 620.180, 625.120, 630.140, 635.100, 640.120, 645.250, EO 96-862, *United States of America v. Commonwealth of Kentucky, et.al.*, Civil Action No. 3:95 CV-757-S (W.D. 1995), E.O. #96-1576.

EFFECTIVE: September 15, 1997

NECESSITY, FUNCTION, AND CONFORMITY: 42 USC 9901-9912 "Block Grants for Social Services - Title XX", authorizes grants to states for social services. KRS 15A.160 authorizes the Justice Cabinet to adopt administrative regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. This administrative regulation is promulgated to incorporate into regulatory form, by reference, materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program, and to implement currently required provisions of a consent decree entered December 4, 1995, by the United States District Court of Kentucky in *United States of America v. Commonwealth of Kentucky, et.al.*, Civil Action No. 3:CV-757-S (W.D.KY. 1995) and EO 396-1576.

Section 1. Incorporation by Reference. (1) The Justice Cabinet Policy and Procedures Manual is incorporated by reference.

(2) Copies of the Department of Juvenile Justice Policy and Procedures Manual may be inspected, copied or obtained in any department field office or at the Office of the Commissioner, Department of Juvenile Justice, 320 West Main Street, Frankfort, Kentucky, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

RALPH E. KELLY, Ed.D., Commissioner

RAYMOND F. DEBOLT, General Counsel

APPROVED BY AGENCY: September 11, 1997

FILED WITH LRC: September 15, 1997 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Raymond DeBolt, Jr.

(1) Type and number of entities affected: The type and number of entities affected are all families, children and adults who may be benefited by the implementation of a statewide juvenile service program through the current policies and procedures of the Department of Juvenile Justice. The implementation of the policies for compliance with the consent decree entered into with the Department of Justice will affect the 13 residential facilities, 17 group homes and 18 day treatment programs operated or contracted by the Department for Social Services, Division of Youth Services now Department of Juvenile Justice via EO 96-1576 signed November 27, 1996.

(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. Implementation of these regulations will not affect the cost of living or employment in the areas served. A public hearing has been scheduled during which public comments may be received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received. Implementation of this regulation will not affect the cost of doing business in the areas served. A public hearing has been scheduled during which public comments may be received.

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

1. First year following implementation: The only change in compliance, reporting and paperwork requirements for the first year is that facilities affected by the policies and procedures will be required to maintain adequate records to document compliance and management staff will be required to monitor compliance and report back as related to meeting the terms of the regulation.

2. Second and subsequent years: The only change in compliance, reporting and paperwork requirements for the second and subsequent years is that facilities affected by the policies and procedures will be required to maintain adequate records to document compliance and management staff will be required to monitor compliance and report back as related to meeting the terms of the regulation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will not be any first year direct or indirect costs to The Department of Juvenile Justice as the proposed regulations only implement some provisions of the voluntary consent decree entered into with the Department of Justice.

2. Continuing costs or savings: There will not be any continuing direct or indirect costs or savings to the Department of Juvenile Justice as the proposed regulations only implement some provisions of the voluntary consent decree entered into with the Department of Justice.

3. Additional factors increasing or decreasing costs: The only other factor that may decrease costs is the decrease in liability from law suits related to youth's constitutional rights as a result of the implementation of some provisions of the voluntary consent decree entered into with the Department of Juvenile Justice.

(b) Reporting and paperwork requirements: The only change in reporting and paperwork requirements is that facilities affected by the policies and procedures will be required to maintain adequate records to document compliance and management staff will be required to monitor compliance and report back as related to meeting the terms of the regulation.

(4) Assessment of anticipated effect on state and local revenues: There will not be any anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Sources of revenue used to implement this administrative regulation include the Department of Juvenile Justice General Funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: A public hearing has been scheduled during which public comments may be received.

(b) Kentucky: A public hearing has been scheduled during which public comments may be received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternative methods were considered because the proposed regulations are currently in effect via EO 96-1576.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There are no effects on the public health and environmental welfare, but this regulation will improve conditions for youth housed in residential treatment facilities operated or contracted by the Department of Juvenile Justice.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There are no detrimental effects on the public health or environmental welfare, but this regulation will improve conditions for youth housed in residential treatment facilities operated or contracted by the Department of Juvenile Justice.

(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. This administrative regulation sets forth the policies and procedures of all offices of the Department of Juvenile Justice and is effective statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Consent decree entered December 4, 1995 by the United States District Court for the Western District of Kentucky in the case of *United States of America v. Commonwealth of Kentucky* et.al. Civil Action No. 3:95-CV-757-S (W.D.KY 1995) and EO 96-1576 signed November 27, 1996.

2. State compliance standards. The state has issued policies that comply with mandates of the juvenile services consent decree relating to protection and rights of committed juveniles.

3. Minimum or uniform standards contained in the federal mandate. The consent decree contained specific requirements to improve conditions for youth housed in 13 residential treatment facilities operated or contracted by the cabinet, now the Department of Juvenile Justice, via EO 96-1576.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These administrative regulations will not impose stricter standards, or additional or different responsibilities or requirements.

STATEMENT OF EMERGENCY 907 KAR 1:145E

This emergency administrative regulation is being promulgated to protect services to the citizens of the Commonwealth of Kentucky who have mental retardation or developmental disabilities. This action must be taken on an emergency basis to replace the existing waiver which will expire on August 31, 1997. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because in order to continue serving this vulnerable population, this emergency

administrative regulation must be promulgated prior to September 1, 1997. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JOHN H. MORSE, Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Administration and Development

907 KAR 1:145E. Supports for community living services for individuals with mental retardation or developmental disabilities.

RELATES TO: KRS 205.520, 42 CFR 441, Subpart G, 42 USC 1396a, b, d, n

STATUTORY AUTHORITY: KRS 194.050, EO 96-862

EFFECTIVE: September 11, 1997

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 authorizes the cabinet, by administrative regulation, to comply with a 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 coverage provisions relating to home and community-based services provided to an individual with mental retardation or developmental disabilities as an alternative to intermediate care facility services for the mentally retarded.

Section 1. Definitions. "Supports for community living (supports)" means community-based waiver services for an individual with mental retardation or developmental disabilities.

Section 2. General Coverage Provisions. (1) Except as provided in subsection (2) of this section, "supports" services shall be provided to an individual eligible for Medicaid:

- (a) Who meets patient status criteria for intermediate care for the mentally retarded in accordance with 907 KAR 1:022;
- (b) Who is in a community residence living situation; and
- (c) For whom "supports" services are an appropriate alternative to institutionalization.

(2) "Supports" services shall not be provided to an individual who:

- (a) Is an inpatient of a hospital;
- (b) Is in a nursing facility; or
- (c) Is an inpatient of a facility for the mentally retarded.

(3) The department may exclude from coverage an individual for whom the cost of "supports" services would exceed the cost of the appropriate level of institutional care.

(4) The "supports" service agency may provide one (1) or more of the services as outlined in Section 4 of this administrative regulation.

(5) The federally designated Peer Review Organization (PRO) shall make the level of care determination as the agent of the department.

Section 3. Provider Participation. (1) A participating "supports" services provider shall meet the applicable certification requirements for providing community-based waiver services in accordance with 907 KAR 1:671, 907 KAR 1:672 and 907 KAR 1:675.

(2) Group homes shall be licensed by the Commonwealth of Kentucky in accordance with 902 KAR 20:078.

Section 4. Covered Services. Except for room and board, the following shall be covered "supports" services:

(1) "Supports" coordination such as:

- (a) Initiation and ongoing monitoring of admission, assessment and eligibility processes;
- (b) Development and monitoring of an individual support plan;
- (c) Ensuring access to and freedom of choice of "supports" providers;
- (d) Monitoring of the health, safety and welfare of the individual by a "supports" coordinator;
- (e) Ensuring the availability of a waiver service;
- (f) Providing information to an individual, parent or legal representative;

(g) Establishing and overseeing a human rights committee for the review of overall procedures and individual behavior plans;

(h) Acting on behalf of the individual to assist in gaining access to and receiving services from qualified "supports" providers; and

(i) Providing assistance to the individual, his family or legal representative in accessing another service as needed;

(2) Community living supports provided to an individual in their own home to assist, train or support in activities including:

- (a) Laundry services;
- (b) Meal preparation;
- (c) Household care and maintenance;
- (d) Daily living skills;
- (e) Socialization;
- (f) Relationship building;
- (g) Leisure choices; and
- (h) Participation in community activities;

- (3) Behavioral supports;
- (4) Psychological services;
- (5) Occupational therapy;
- (6) Physical therapy;
- (7) Speech therapy;

(8) Community habilitation services to provide nonresidential "supports" training and intervention in activities that include:

- (a) Self care;
- (b) Daily living skills;
- (c) Communication;
- (d) Behavior support;
- (e) Community living;
- (f) Social skills;
- (g) Participation in community activities; and
- (h) Utilization of community resources;

(9) Supported employment for a participating individual eligible under Health Care Financing Administration (HCFA) regulations. Services required to be provided by another agency under 29 USC Section 701 and USC Section 1400 shall not be covered by the Medicaid Program;

(10) Respite care provided for the temporary relief of the staff or family or for the safety of the individual;

(11) Wellness monitoring providing one (1) visit per month by a registered nurse to:

- (a) Evaluate the condition of an individual at risk of medical complications; and
- (b) Refer the individual to the appropriate medical services;
- (12) Specialized medical equipment and supplies; and
- (13) Personal emergency response systems.

Section 5. Prior Authorization for Services; Hearing Rights. (1) The department shall prior authorize "supports" services to ensure that:

- (a) Client status is met;
- (b) There are adequate services for the needs of the individual; and
- (c) The services do not exceed the cost of the appropriate level of institutional care.

(2) An individual who is eligible for "supports" services shall be given the choice of "supports" services or traditional intermediate care facility services for the mentally retarded.

Section 6. "Supports" Waiting List. Using procedures described in the Department for Medicaid Services Supports for Community Living Manual, incorporated by reference, an individual may be placed on a waiting list maintained by the department. The main components of the "supports" waiting list process are as follows:

(1) Application. An individual shall be placed on the "supports" waiting list upon receipt of a completed application for supports for community living services.

(2) "Supports" waiting list placement.

(a) The order of placement on the "supports" waiting list shall be determined chronologically by date of receipt of the application by the department, unless an emergency situation which meets specified criteria supersedes the chronological order. Emergency criteria shall be defined as:

1. Death or loss of the immediate care provider;
2. Emergency hospitalization of the immediate care provider;
3. Other circumstances relating to the situation of the individual or caregiver may also be considered as emergency criteria on a case by case basis.

(b) If multiple applications are received on the same arrival date, a lottery shall be held to determine placement on the "supports" waiting list.

(c) A written notification of the date and placement on the "supports" waiting list shall be mailed to the individual or his legal representative and support coordination provider if identified.

(3) Maintenance of the "supports" waiting list. The department shall, at least annually, update the "supports" waiting list. The individual or his legal representative and the "supports" coordination provider shall be contacted in writing to verify the accuracy of the data on the "supports" waiting list and the continued desire to pursue placement in the "supports" program. The requested data shall be received by the department within thirty (30) days from the date of the letter, excluding holidays and weekends.

(4) Criteria for removal from the "supports" waiting list. The removal from the waiting list shall not prevent the resubmittal of a new application at a later date for the individual.

(a) The criteria for removal from the waiting list shall be:

1. After a documented attempt, the department is unable to locate the individual or his legal representative;
2. "Supports" placement for services is offered and the individual or his legal representative refuses the offer of placement or does not, without good cause, complete the application process with the department within sixty (60) days of the placement allocation date; or
3. The individual is deceased.

(b) If the individual is removed from the "supports" waiting list, written notification shall be mailed by the department to the individual or his legal representative and the "supports" coordination provider.

Section 7. Appeal Rights. (1) A negative action regarding a Medicaid beneficiaries may be appealed in accordance with 907 KAR 1:560.

(2) No decision to voluntarily terminate an individual or to reallocate placement subject to appeal shall be final until the hearing officer issues a decision.

Section 8. Incorporation by Reference. (1) "Supports for Community Living Manual", Department for Medicaid Services, September 1997 Edition, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

LARRY A MCCARTHY, Deputy Commissioner

JOHN H. MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: September 9, 1997

FILED WITH LRC: September 11, 1997 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Trish Howard or Karen Doyle

(1) Type and number of entities affected: 1102

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS 13A requirement.

(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: None

(a) Direct and indirect costs or savings:

1. First year: \$3,041,000 (increase)

2. Continuing costs or savings: \$3,041,000 (increase)

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. *Federal matching funds of 70.09% equaling \$2,131,437 and state matching funds of 29.91% equaling \$909,563. State revenues will come from funds previously designated for the expiring waiver.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: It will allow individuals, who would otherwise be in an ICF-MR, to remain within the community and attain their highest possible level of functioning. It also will allow the family to remain or become caregivers.

(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 because the current waiver expires on August 31, 1997, resulting in the termination of services to the mentally retarded or developmentally disabled.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering 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.

STATEMENT OF EMERGENCY

907 KAR 1:151E

This emergency administrative regulation is being promulgated to repeal 907 KAR 1:140 and 907 KAR 1:150. This action must be taken on an emergency basis so that the regulations for the new waiver may be promulgated. Failure to enact this administrative regulation on an emergency basis would result in the loss of federal funds because the waiver, under which services in these repealed administrative regulations are included, will expire on August 31, 1997. In addition, failure to promulgate this emergency administrative regulation would result in conflicting policy, endangering the welfare of current beneficiaries, due to the promulgation of new administrative regulations which contain policy in conflict with these repealed administrative regulations. This emergency administrative regulation shall not be replaced by an ordinary administrative regulation filed with the Regulations Compiler because it acts solely as a repealer.

PAUL E. PATTON, Governor
JOHN H. MORSE, Secretary

CABINET FOR HEALTH SERVICES Department For Medicaid Services Division of Administration and Development

907 KAR 1:151E. Repeal of 907 KAR 1:140 and 907 KAR 1:150.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194.050, 205.520(3), EO 96-862

EFFECTIVE: September 11, 1997

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 authorizes the cabinet, by administrative regulation, to comply with a 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 repeals 907 KAR 1:140 and 907 KAR 1:150 which are no longer needed because the waiver covered by these administrative regulations shall expire on August 31, 1997 and shall be replaced by a new waiver.

Section 1. 907 KAR 1:140, Alternative intermediate services for individuals with mental retardation or developmental disabilities; and 907 KAR 1:150, Payments for alternative and community-based services for the mentally retarded are hereby repealed.

LARRY A MCCARTHY, Deputy Commissioner

JOHN H. MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: September 10, 1997

FILED WITH LRC: September 11, 1997 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 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 October 14, 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: Trish Howard or Karen Doyle

(1) Type and number of entities affected: 1102 beneficiaries currently receiving the AIS/MR waiver services.

(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 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 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: \$0

2. Continuing costs or savings: \$0

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: Budget neutral.

(6) To the extent available from the public comments received,

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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: None

(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 because the policy included in the regulation being repealed is obsolete as of August 31, 1997.

(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.

STATEMENT OF EMERGENCY

907 KAR 1:155E

This emergency administrative regulation is being promulgated to protect services to the citizens of the Commonwealth of Kentucky who have mental retardation or developmental disabilities. This action must be taken on an emergency basis to replace the existing waiver which will expire on August 31, 1997. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because in order to continue serving this vulnerable population, this emergency administrative regulation must be promulgated prior to September 1, 1997. This emergency administrative regulation shall be replaced by ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JOHN H. MORSE, Secretary

CABINET FOR HUMAN RESOURCES Department for Medicaid Services Division of Administration and Development

907 KAR 1:155E. Payments for supports for community living services for individuals with mental retardation or developmental disabilities.

RELATES TO: KRS 205.520, 42 CFR 441, Subpart G, 42 USC 1396a, b, d, n, 20 USC Chapter 33, 29 USC Chapter 16

STATUTORY AUTHORITY: KRS 194.050, EO 96-862

EFFECTIVE: September 11, 1997

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 authorizes the cabinet, by administrative regulation, to comply with a 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 coverage provisions relating to home and community-based waiver services provided to an individual with mental retardation or developmental disabilities as an alternative to intermediate care facility services for the mentally retarded.

Section 1. Definition. "Supports for community living (supports)" means community-based waiver services for an individual with mental retardation or developmental disabilities.

Section 2. Coverage. (1) The cabinet shall reimburse a participating provider of "supports" for services to a Medicaid recipient who:

(a) Meets patient status criteria for intermediate care for the mentally retarded; and

(b) Is authorized for the "supports" services by the department.

(2) In order to be covered, services shall be described, defined, and provided in accordance with the terms and conditions specified in 907 KAR 1:145E, Supports for community living services for individuals with mental retardation or developmental disabilities.

Section 3. Payment Amounts. (1) A participating in-state "supports" provider certified in accordance with 907 KAR 1:145E shall be reimbursed at a prospective rate per unit of service during the first year of participation based on a budgeted cost report in accordance with the Department for Medicaid Services' Supports for Community Living Payment Rate Determination Manual, incorporated by reference.

(2) Payment rate setting shall be as follows:

(a) Reimbursement shall be made using a projected rate per unit of service based on an annual cost report; and

(b) Reimbursement shall be retroactively adjusted to incorporate adjustments to the annual cost report as a result of an audit or desk review.

(3) Reimbursement for medical services and dentures, eyeglasses, and hearing aids shall be paid at a reasonable cost, determined by the department, if prescribed for a recipient by a physician as necessary for an individual's habilitation and are not otherwise covered by the Medicaid Program. These services shall be paid apart from the services paid through the cost report, but limited to reasonable cost.

(4) Minor home adaptations shall be paid on the basis of reasonable cost not to exceed \$1,500 per individual per patient year. The patient year for an individual begins on the first day of admittance

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of the individual to the "supports" program, with a new patient year beginning for that individual on the same day in each succeeding calendar year.

(5) A payment and rate shall be subject to a test of reasonableness.

(6) Utilizing the formula described in 42 CFR 441.303(d)(1) as a guideline and applying accumulated statistical data, the department shall set, effective July 1 each year, an annualized upper limit to be applied to the total payments for "supports" services.

(7) The department may reduce established rates or limit new rates by a percentage amount which will assure that the total payments to a provider does not exceed the annualized upper limit. A reduction factor shall be applied in a manner as to ensure an even flow of reimbursement to a "supports" provider through the year.

Section 4. Units of Service. The units of service shall be as follows:

(1) A "supports" coordination services unit of service shall be one (1) month;

(2) A residential care services unit of service shall be twenty-four (24) hours;

(3) A community living "supports" services unit of service shall be one (1) hour;

(4) A respite care services unit of service shall be one (1) hour; institutional respite unit of service shall be twenty-four (24) hours;

(5) A community habilitation services unit of service shall be one (1) hour;

(6) A physical therapy, occupational therapy, speech therapy, behavioral support, and psychological services unit of service shall be one-fourth (1/4) hour;

(7) A wellness monitoring unit of service shall be one (1) visit;

(8) A supported employment unit of service shall be one (1) hour;

(9) A personal emergency response system (PERS) unit of service shall be one (1) month of initial installation; and

(10) Specialized medical equipment and supplies unit of service shall be one (1) item.

Section 5. Payment Exclusions and Limitations. (1) Payment shall not include:

(a) The cost of room and board; or

(b) The cost of maintenance, upkeep and improvements to the residence when it is a group home or other licensed facility.

(2) A payment shall not be made to:

(a) A community living "supports" provider for routine care and supervision which would be provided by a family and which is duplicative of homemaker and personal care services; or

(b) A community habilitation provider for supported employment services for individuals not receiving payment according to 20 USC Chapter 33 or 29 USC Chapter 16.

Section 6. Auditing and Reporting. (1) A participating provider shall be required to maintain fiscal and service records and to provide reports determined necessary by the department for the effective functioning and administration of the program.

(2) A provider shall be required to make available upon request service and financial records to a representative or designee of:

(a) The Commonwealth of Kentucky, Cabinet for Health Services;

(b) The United States Department of Health and Human Services, Comptroller General;

(c) The Department of Health and Human Services, Health Care Financing Administration;

(d) The General Accounting Office; or

(e) The Commonwealth of Kentucky, Office of the Auditor of Public Accounts.

Section 7. Incorporation by Reference. (1) The Supports for Community Living Payment Rate Determination Manual, Department

for Medicaid Services, September 1997 Edition, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 8. Implementation Date. The provisions of this administrative regulation shall be applicable with regard to services provided on or after September 1, 1997.

LARRY A MCCARTHY, Deputy Commissioner

JOHN H. MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: September 9, 1997

FILED WITH LRC: September 11, 1997 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Trish Howard or Karen Doyle

(1) Type and number of entities affected: 1102

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: (See companion regulation 907 KAR 1:145E).

2. Continuing costs or savings: (See companion regulation 907 KAR 1:145E).

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. *Federal matching funds of 70.09% equaling (See companion regulation 907 KAR 1:145) and state matching funds of 29.91% equaling (See companion regulation 907 KAR 1:145). State revenues will come from (See companion regulation 907 KAR 1:145E).

(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: To be determined after the Notice of Intent public hearing which will be held in accordance with KRS Chapter 13A requirement.

(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: It will allow individuals, who would otherwise be in an ICF-MR, to remain within the community and attain their highest possible level of functioning. It will also allow the family to remain or become care-

givers.

(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. (See companion regulation 907 KAR 1:145).

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

COMPILER'S NOTE: Unless otherwise noted, the following administrative regulations were amended by the promulgating agency and the Administrative Regulation Review Subcommittee on September 9, 1997.

PERSONNEL BOARD
(As Amended)

101 KAR 1:365. Appeal and hearing procedures.

RELATES TO: KRS Chapter 13B, 18A.075, 18A.0751, 18A.095
STATUTORY AUTHORITY: KRS 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 provides that the Personnel Board shall promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 provides that the Personnel Board shall promulgate comprehensive administrative regulations providing for the procedures to be utilized by the board in the conduct of hearings. This administrative regulation establishes Personnel Board hearing procedures.

Section 1. Definitions. (1) "Because of sex" or "on the basis of sex" is defined by KRS 344.030(8).

(2) "Qualified individual with a disability" is defined by KRS 344.030(1).

(3) "Reasonable accommodation" is defined by KRS 344.030(6).

(4) "Religion" is defined by KRS 344.030(7).

(5) "Undue hardship" is defined by KRS 344.030(9).

Section 2. An appeal of an action alleged to be based on discrimination shall be governed by the terms defined in Section 1 of this administrative regulation.

Section 3. Filing. (1) An appeal or a document relating to an appeal [Appeals and documents related thereto] shall be filed with the Personnel Board through the office of the executive director within the time period set forth in KRS 18A.095 after receiving notification of the penalization or after becoming aware of the penalization through the exercise of due diligence.

(2)(a) An appeal, motion, request, objection, exception, response, witness list or other document [Appeals, motions, requests, objections, exceptions, responses, witness lists, or other documents] may be filed by a party with the board by means of facsimile transmission.

(b) If a party transmits a document to the board by facsimile transmission, he shall attempt to transmit the document to all parties by facsimile transmission.

(3) To be timely filed, a document transmitted by facsimile shall be received by the board within the statutory or regulatory times specified for filing and be received by the board no later than midnight on the last day for filing.

(4) The original of a [all] facsimile transmission [transmissions] shall be received by the Personnel Board no later than three (3) business days after transmission or the document transmitted shall be voided unless good cause is shown.

(5) The date of filing of a document filed by facsimile transmission shall be the date the original of the document was received by the board, if the board fails to receive the facsimile transmission.

(6) A state employee shall not use state time, equipment, materials, or personnel in pursuing an appeal.

(7) An appeal [All appeals] shall be heard in Frankfort, Kentucky.

Section 4. [2:] Designation of Hearing Officer. (1) Unless otherwise directed by the board, the executive director shall assign a hearing officer or officers to an appeal.

(2) If more than one (1) hearing officer is assigned, one (1) shall be designated as chief hearing officer.

(3) If an appeal will be heard by the full board, the chairman of the board shall serve as the chief hearing officer.

Section 5. [3:] Continuances. (1) A continuance of a scheduled hearing may be granted by a hearing officer for good cause.

(2) A request for a continuance shall:

(a) Be written;

(b) State the reason for the request;

(c) Include proposed dates for rescheduling the hearing;

(d) Be filed with the board; and

(e) Be mailed to all parties at least ten (10) days prior to the scheduled hearing.

(3) An objection to a request for a continuance shall:

(a) Be written;

(b) State the reason for the objection to the request for continuance;

(c) Be filed with the board; and

(d) Be mailed to all parties at least five (5) days prior to the scheduled hearing.

(4)(a) At the direction of the hearing officer, the executive director shall execute and transmit to all parties an interim order either granting or denying the request for continuance.

(b) If the request for 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.

Section 6. [4:] Prehearing Procedures. (1) A motion, request or filing shall be in writing, filed with the board through the office of the executive director, and served on all parties.

(2) Unless an interim order provides for review by the board prior to the conclusion of a hearing, the board shall review an interim order when it considers the recommended order, record, and exceptions.

(3) If an employee retains counsel subsequent to filing his appeal, his attorney shall file a written entry of appearance.

(4) An employee shall notify all parties and the board in writing of a change of address.

(5)(a) A Kentucky Personnel Board subpoena form [forms] shall be available in the office of the executive director and shall be issued by the executive director.

(b) Preparation and service of the subpoena and compliance with the subpoena shall be the responsibility of the party requesting the subpoena.

(6) A deposition [Depositions] may be taken [only] in an extraordinary circumstance [circumstances] and upon authorization by the hearing officer. A request to take a deposition shall be filed at least fifteen (15) days prior to the scheduled hearing. An objection to the request shall be filed prior to the scheduled hearing.

(7) Upon agreement of all parties and approval by the hearing officer, two (2) or more appeals which involve the same or similar facts may be consolidated. Upon motion of a a [any] party, or upon his own motion, the hearing officer may join other parties as necessary to appropriately consider the matter.

(8) An agreed settlement shall be submitted in writing for review and final action by the board.

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Section 7. [5:] Conduct of Hearing. (1) Unless the appeal is heard by the full board, the hearing officer assigned shall hear the appeal.
(2) A party shall provide four (4) copies of an exhibit that is to be introduced as evidence. Copies shall be prepared prior to the hearing.

Section 8. [6:] Board Review and Action. (1) A response to a written exception to a recommended order [Responses to written exceptions to recommended orders] may be filed by a party within five (5) days after the date the written exception is [exceptions are] filed with the board. A response shall be:

- (a) [Responses shall be] In writing; and
- (b) [Responses shall be] Served on all parties.
- (2) At the request of a party or on its own motion, the board may permit oral arguments before the full board. A request for oral argument shall be:
 - (a) [Request for oral arguments shall be] In writing; and
 - (b) [Request for oral arguments shall be] Filed with the board within fifteen (15) days of issuance of a recommended order.
- (3) A final order shall be prepared, executed and entered at the direction of the board by the secretary to the board.

Section 9. [7:] Incorporation by Reference. (1) The following forms are incorporated by reference:

- (a) "Kentucky Personnel Board Appeal Form (12-15-94 [3-25-94])"; and
- (b) "Kentucky Personnel Board Subpoena Form (2-90)".
- (2) These forms may be inspected, copied or obtained at the office of the Personnel Board, 28 Fountain Place, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
- [(3) The following statutory definitions are incorporated by reference:

- (a) KRS 344.030(1);
- (b) KRS 344.030(6);
- (c) KRS 344.030(7);
- (d) KRS 344.030(8); and
- (e) KRS 344.030(9);]

PETE B. OWENS, Chairman
APPROVED BY AGENCY: June 13, 1997
FILED WITH LRC: July 14, 1997 at 10 a.m.

KENTUCKY REVENUE CABINET Department of Law Division of Tax Policy (As Amended)

103 KAR 15:050. Filing dates and extensions.

RELATES TO: KRS 131.081(11), 131.170, 136.100, 141.042, 141.160, 141.170, 141.300

STATUTORY AUTHORITY: KRS 131.130(1), 141.042(6), 141.050(4), 141.300(6) [Chapter 13A]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.081(10), 131.170, 141.042(6), and 141.170 [Chapters 131 and 141] authorize the Revenue Cabinet to grant a taxpayer an extension of time to file a tax return or to pay an installment of estimated income tax. This administrative regulation establishes the procedures to be used by an individual, a corporation, or a noncorporate entity to obtain an extension of time to file an income or corporation license tax return or to pay an installment of estimated income tax for a taxable year. [This administrative regulation is specifically required by KRS 141.042 and 141.300 to provide filing dates and extensions for declarations of estimated income tax for income tax returns:]

Section 1. Definitions. [As used in this administrative regulation:]
(1) "Corporation" means a corporation as defined in KRS

141.010(24), an S corporation as defined in KRS 141.010(25), a limited liability company taxed as a corporation, or [any] other entity taxed as a corporation for Kentucky income tax purposes;

(2) "Date prescribed by KRS 136.100 or 141.160" means the 15th day of the fourth month following the close of the taxable year; and

(3) "Noncorporate entity" means a partnership, a limited liability company treated as a partnership, a trust, a fiduciary, or [any] other entity not taxed as a corporation for Kentucky income tax purposes.

Section 2. [Filing Dates for an Income or Corporation License Tax Return. (1) Every individual, corporation, and noncorporate entity required to file an income or license tax return pursuant to KRS Chapters 136 or 141 shall file the return [Income tax returns must be filed] with the Revenue Cabinet by the 15th day of the fourth month following the close of the taxable year unless an extension of time for filing is granted:

(2) If the filing [due] date for an income or a corporation license tax return falls on a [is] Saturday, Sunday, or a legal holiday, the filing [due] date is deemed to be the next business day. [If the envelope bearing the return is postmarked on or before the due date, late filing penalties will not apply:]

Section 3. [An Extension of Time for Filing an (2. Extensions: Individual) Income or Corporation License Tax Return. (1) Pursuant to KRS 131.081(11) and 141.170, a taxpayer [Returns: The cabinet is authorized to grant extensions of time for filing income tax returns: Individual taxpayers] may obtain an extension of time for filing a Kentucky income tax return [extensions] by means of either a federal extension or a Kentucky extension. [of the following methods:]

(2) Federal extension.

(a) A taxpayer granted an extension of time for filing a federal income tax return shall be granted the same extension of time for filing a Kentucky income tax return for the same taxable year if [provided] a copy of the federal extension approval or request for an automatic extension is attached to the Kentucky income tax return when it is filed.

(b) An extension of time for filing a Kentucky income tax return granted pursuant to this subsection shall be valid [only] for the extension period granted by the Internal Revenue Service.

(c) A copy of the federal extension shall not be mailed to the Revenue Cabinet on or before the date prescribed by KRS 141.160, except as provided in Section 4 of this administrative regulation.

(3) Kentucky extension. A taxpayer [(1) Specific request: Taxpayers] may file an application for extension [requests] with the [Income Withholding Tax Section, Department of Processing and Enforcement, Kentucky] Revenue Cabinet, on or [Post Office Box 1190, Frankfort, Kentucky 40602;] before the date prescribed by KRS 141.160 for filing [due date of] the return.

(a) An individual or a noncorporate entity shall file an "Application for Extension of Time to File Individual, Partnership and Fiduciary Income Tax Returns for Kentucky", Revenue Form 40A102.

1. An individual or a noncorporate entity shall state [Extension requests must contain] the reason [reasons] for the request on the application for extension. Inability to pay the tax liability shall not be [is not] a valid reason.

2. An individual or a noncorporate entity shall [Upon approval; taxpayers will] be notified by mail if the application for extension is denied. A copy of an approved application for extension shall not be returned to the individual or noncorporate entity.

3. An individual or a noncorporate entity shall be [A copy of the approved extension must be attached to the return when it is filed. Extensions requested under this method are automatically] granted an extension of time to file for six (6) months unless the application for extension is denied.

4. An individual outside the United States shall be granted an extension of time to file for twelve (12) months unless the application for extension is denied. [(twelve (12) months for individuals outside

the United States);]

5. A copy of the signed and dated application for extension shall be attached to the income tax return when it is filed.

(b) A corporation shall file an "Application for Six-month Extension of Time to File Kentucky Corporation Income and License Tax Return", Revenue Form 41A720SL.

1. A corporation shall be granted an extension of time to file for six (6) months.

2. A copy of an approved application for extension shall not be returned to the corporation.

3. The extension shall become valid when mailed to the Revenue Cabinet on or before the date prescribed by KRS 141.160 for filing the return.

4. The corporation shall attach a copy of the signed and dated application for extension to its "Kentucky Corporation Income And License Tax Return", Revenue Form 720, when it is filed.

(4) An extension of time for filing a consolidated Kentucky corporation income tax return shall constitute an extension of time for filing for each member of the affiliated group.

(5) An extension of time for filing a corporation income tax return shall constitute an extension of time for filing a corporation license tax return for the same taxable year.

Section 3. [4:] Payment of Tax. (1) An extension of time to file an income or corporation license tax return shall not constitute an extension of time to pay the tax.

(2) A [Every] taxpayer shall determine if an [any] amount of tax remains unpaid on or before the date prescribed by KRS 136.100 or 141.160 for filing the return.

(3) If tax remains unpaid, a check for the amount of the [any] unpaid tax shall be submitted to the Revenue Cabinet on or before the date prescribed by KRS 136.100 or 141.160 for filing the return along with the Kentucky extension or a copy of the federal extension.

(4) A [Every] corporation shall write its Kentucky Account Number in the upper right hand corner of the federal extension submitted.

(5) An affiliated group filing a consolidated income tax return and making a payment of tax with the application for extension shall file a Kentucky extension to ensure the proper processing of payments.

Section 4. [5:] Interest and Penalties. (1) Statutory interest shall be paid from the date prescribed by KRS 136.100 or 141.160 for filing the return [original due date] until the tax is paid.

(2) [Failure to file the return by the date prescribed by KRS 136.100 or 141.160 including extensions of time may result in the assessment of a late filing penalty pursuant to KRS 131.180(1).] If the envelope bearing the return is postmarked on or before the filing date, a [no] late filing penalty shall not apply.

[(3) Failure to attach a copy of the Kentucky application for extension or the federal application for extension to the return when filed may result in the assessment of a late filing penalty pursuant to KRS 131.180(1).]

(4) Failure to pay the tax due by the date prescribed by KRS 136.100 or 141.160 for filing the return may result in the assessment of a late payment penalty pursuant to KRS 131.180(2).] [Federal extensions. Taxpayers will be granted the same extension of time for filing Kentucky income tax returns as they are granted for filing federal income tax returns. A specific request to the cabinet is not required; under this method, but a copy of the federal extension approval(s), or request for an automatic extension must be attached to the return when it is filed. Extensions requested under this method are only for the extension period(s) granted by the Internal Revenue Service and are not automatically granted for six (6) months. Tax due plus statutory interest must be paid from the normal due date until the return is filed. Failure to file and pay the tax by the extended due date will result in late filing penalties.]

Section 5. [6:] Extension of Time to Pay Estimated Income Tax.

(1) A request [3-Extensions: Individual Declaration. An application] for an extension of time to pay an installment of [for filing a declaration of] estimated [income] tax prescribed by KRS 141.042 and 141.300 shall be submitted to [filed with] the [Individual Withholding Tax Section, Department of Processing and Enforcement, Kentucky] Revenue Cabinet, [Post Office Box 1190,] Frankfort, Kentucky 40620 [40602].

(2) The request [application] shall state a [contain the] basis for the extension [request].

(3) An extension of time to pay an installment of [for filing declarations of] estimated tax shall [will] be granted for thirty (30) days [and only] under exceptional circumstances. [If approved, the extension will be granted for thirty (30) days from the normal due date.]

(4) Interest shall be paid from the due date of the installment of estimated tax until the tax is paid. [The approval also extends the time for paying installments of estimated tax for thirty (30) days.]

Section 6. [7:] Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) "Application for Extension of Time to File Individual, Partnership and Fiduciary Income Tax Returns for Kentucky", Revenue Form 40A102, (9-97); and

(b) "Application for Six-month Extension of Time to File Kentucky Corporation Income and License Tax Return", Revenue Form 41A720SL, (9-97).

(2) These forms may be obtained or inspected at the Kentucky Revenue Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, or at a [any] Kentucky Revenue Cabinet Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m. [4-Extensions: Corporation Income and License Tax Returns. A corporation may file an extension request with the Corporation Income Tax Section, Department of Processing and Enforcement, Kentucky Revenue Cabinet, Post Office Box 1302, Frankfort, Kentucky 40602. The extension request must be filed on or before the due date of the return and ninety (90) percent of the income tax due for the taxable year (or the income tax shown on the return for the preceding year) must be paid by that date. Payment includes credit(s) for declaration payment(s) or overpayment(s) of prior taxable year(s) credited to the current taxable period. A copy of an approved extension will not be returned to the corporation, but a copy of the extension request must be attached to the return when it is filed. Under the provisions of KRS 141.170, the cabinet is not authorized to grant an extension of time for filing a corporation income tax return unless the taxpayer both files the extension request on or before the return due date and also prepays at least ninety (90) percent of the income tax due for the year (or pays the amount of income tax shown on the return for the preceding taxable year covering a twelve (12) month period) by such return due date. (No prepayment is required if the return for the preceding year shows no tax liability.) Failure to comply with either of these requirements may require application of the penalty imposed by KRS 141.990(2). Any penalty assessed shall not apply to amounts paid on or before the original due date of the return. Statutory interest shall be paid from the original due date until the tax is paid. A timely extension request is automatically an extension for filing the corporation license tax return for the same taxable year. The corporation is not required to prepay the license tax to obtain a license tax extension. If an extension is invalid for income tax purposes, this will not invalidate the extension for license tax. A corporation may elect to pay the license tax due when an extension is requested. Tax due plus interest shall be paid from the due date until the license tax return is filed and payment submitted. Corporations which are members of a consolidated group or affiliates of another corporation must each file separate extension requests.]

Section 5. Extensions: Corporation Declarations. An application for an extension of time for filing a corporation declaration of estimated income tax shall be filed with the Corporation Income Tax

Section, Department of Processing and Enforcement, Kentucky Revenue Cabinet, Post Office Box 1302, Frankfort, Kentucky 40602; and shall contain the basis for the extension request. An extension of time for filing a declaration of estimated tax will be granted only under exceptional circumstances. If approved, the extension will be granted for thirty (30) days from the normal due date. The approval also extends the time for paying installments of estimated tax for thirty (30) days.}]

MARGARET A. HANDMAKER, Secretary
ALEX W. ROSE, Commissioner
APPROVED BY AGENCY: July 14, 1997
FILED WITH LRC: July 14, 1997 at 3 p.m.

**FINANCE AND ADMINISTRATION CABINET
Kentucky Infrastructure Authority
(As Amended)**

**200 KAR 17:070. Drinking Water State Revolving Fund,
priority formula and application requirements.**

RELATES TO: KRS Chapters 224, 224A, PL 104-182
STATUTORY AUTHORITY: KRS 224A.113, 224A.1115, 42 USCA 300f, 300g, 300j, PL 104-182

NECESSITY, FUNCTION, and CONFORMITY: The 1996 amendments to the Safe Drinking Water Act, among other things, created a Drinking Water State Revolving Fund. This administrative regulation sets out requirements for applying for funding from the fund for the construction or reconstruction of new and expanded facilities to deliver potable water for public use, as well as stipulating certain requirements and criteria to prioritize such projects to receive funds. At this time there is no comparable federal administrative regulation, however this administrative regulation does conform to federal guidelines.

Section 1. Definitions. For the purposes of this administrative regulation the words and terms used shall have the same meaning as in KRS 224A.011, with the following additions:

(1) "Applicant" means any governmental agency that has submitted an application to the authority and the cabinet for a loan from the federally assisted drinking water supply revolving fund.

(2) "Application" means an application submitted by an applicant for a loan from the federally-assisted drinking water supply revolving fund.

(3) "Assistance agreement" means the contract document executed by the local governmental agency after approval for funding by the authority.

(4) "Authority staff" means the Office of Financial Management and Economic Analysis.

(5) "Best practicable treatment and distribution technology" means a treatment and distribution technology which, in the best professional judgment of the cabinet's engineers, will adequately treat and deliver the water from the raw water source to assure public health and compliance with existing and future national drinking water standards, in a cost effective manner.

(6) "Cabinet" means the Natural Resources and Environmental Protection Cabinet.

(7) "Capacity" means the financial, managerial, and technical ability of a public water system to comply with all applicable state and federal regulations, including 401 KAR Chapter 8 and this administrative regulation.

(8) "Capacity development" means any activity which is designed to improve a public water system's financial, managerial, or technical ability to operate in accordance with all applicable state and federal requirements including 401 KAR Chapter 8 and this administrative regulation.

(9) "Capacity development strategy" means the strategic planning process whereby the cabinet and the Commonwealth's public water systems determine how to assure the long-term ability of public water systems to obtain or retain the capacity to comply with all applicable state and federal requirements, and includes the planning process developed pursuant to 401 KAR 4:220.

(10) "Closing date" means the date established by the authority for execution of the assistance agreement upon satisfaction of the conditions contained in the conditional commitment letter.

(11) "Conditional commitment letter" means a letter delivered to the applicant stating the authority's commitment to provide a loan under specifications and subject to the satisfaction of [certain] conditions established by the authority by the applicant on or before the closing date.

(12) "Drinking water supply project" means a drinking water project described in Section 3 of this administrative regulation.

(13) "Fund" means the federally assisted drinking water supply revolving fund created by KRS 224A.1115.

(14) "Project priority list" means a list developed by the cabinet pursuant to Section 1452 of the Safe Drinking Water Act, containing eligible drinking water projects in the priority order that they are scheduled to receive funds.

(15) "Public water system" means a water system for the provision to the public of water for human consumption, if the system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year. The term includes collection, treatment, storage and distribution facilities under the control of the operator of the system and used primarily in connection with the system and collection and pretreatment storage facilities not under the control of the operator of the water system which are used primarily in connection with the water system.

(16) "Replacement reserve fund" means the special depreciation fund required to be established by an applicant by Section 7 of this administrative regulation in connection with a loan from the federally assisted drinking water revolving fund.

(17) "Requisition for funds" means the form identified in and attached to the assistance agreement to be used by the governmental agency for obtaining disbursements of the loan from the authority as construction of the drinking water project progresses.

Section 2. Eligible Applicants. (1) Any governmental agency, except a federal agency, shall be eligible to apply for financial assistance for planning, design and construction of eligible drinking water supply projects described in Section 3 of this administrative regulation.

(2) No assistance under this administrative regulation shall be provided to an agency for a public water system that:

(a) Does not have the technical, managerial, and financial capability to insure compliance with the requirements of 401 KAR Chapter 8 and the Safe Drinking Water Act; or

(b) Is not in compliance with requirements of 401 KAR Chapter 8 or the Safe Drinking Water Act.

(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 **shall** [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) ~~(a)~~ An eligible applicant may request ~~[an application]~~ to be placed on the project priority list ~~by~~ ~~[from]~~ the cabinet's Division of Water. The ~~request~~ ~~[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.

(b) A request to be placed on the project priority list shall be typewritten or on a Drinking Water Supply Revolving Fund Preliminary Project Information form (DEP 6056).

(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 **which meets the requirements of this administrative regulation shall** [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 **shall** [will] make these determinations based on the following factors:

(a) Resource development. **Projects shall include:**

1. Projects 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.

2. Projects to assure a sufficient quantity and quality of raw water for treatment.

3. Projects which allow one (1) or more public water systems to consolidate to achieve technical, financial or managerial capacity to meet national standards, such as intakes, wells, raw and finished water lines, and pump stations. ~~[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, **such as** ~~[-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, **such as** ~~[-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) **An Application for Loan Assistance** ~~[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 submitted to the address listed on the application and addressed to the Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Water, Drinking Water Branch, Attention Branch Manager.

(3) Only completed applications, including all supporting documents, shall be considered for assistance from the fund.

(4) Financial information contained in the application shall be documented and based on verifiable estimates.

Section 7. Drinking Water Project Requirements. (1) In addition to other requirements stated in this administrative regulation, the following specific requirements shall be met:

(a) The drinking water project shall use the best practicable treatment and distribution technology.

(b) Any drinking water project with a related distribution system shall assure that the distribution system is in good repair, or shall include a component to address system problems, to assure that water loss will be within acceptable ranges for the system.

(c) The drinking water project shall be consistent with long range water supply plans developed pursuant to 401 KAR 4:220, and with capacity development strategies developed pursuant to PL 104-182, the Safe Drinking Water Act as amended in 1996.

(d) The applicant shall demonstrate that the public water system that is to benefit from the project, has the financial, managerial, and technical capacity to operate in accordance with 401 KAR Chapter 8 and this administrative regulation; or, the applicant shall demonstrate that the project will create the financial, managerial, and technical capacity for the public water system to operate or be operated in accordance with 401 KAR Chapter 8 and this administrative regulation.

(e) The applicant shall have an adequate revenue stream to assure the repayment of the loan while allowing capacity to efficiently operate the public water system.

(f) The drinking water project shall be cost effective, with engineering costs consistent with federal rural development prevailing rates for engineering.

(g) The applicant shall ensure compliance with all applicable state and federal laws and regulations.

(h) The applicant shall certify that all procurements related to the drinking water project are in compliance with the requirements of KRS Chapter 45A.

(i) All construction contracts shall be awarded to the lowest responsive responsible bidder.

(2) The drinking water contract between the Kentucky Infrastructure Authority and the project applicant shall comply with any federal requirements that may be established by Congress from time to time.

Section 8. Loan Process. (1) Upon completion of the credit review by the authority's staff, the application shall be submitted to the authority's board of directors for final action, subject to the cabinet's priority ranking and approval of the project.

(2) If the authority approves the application, a conditional commitment letter shall be issued to the applicant. This letter shall set forth the conditions and documentation required by the authority prior to execution of an assistance agreement. No funds shall be provided until the assistance agreement is fully executed and any special conditions included therein met. The commitment shall be made upon the authority's satisfaction that the drinking water project proposed is financially feasible, the applicant is credit worthy and that the drinking water project will comply with all technical and program requirements set forth in state and federal laws and regulations.

(3)(a) The authority shall establish interest rates annually based on:

1. Prevailing market conditions;
2. Availability of funds; and

3. Funding demand.

(b) The executive director of the authority shall recommend rates to the authority board of directors for approval.

(c) The rate of interest on each loan shall be set forth in the conditional commitment letter.

(d) Interest rates shall be offered at the:

1. Standard rate; and
2. Hardship community rate.

(e) Applicants shall receive the standard rate of interest unless they qualify for the hardship community rate.

(f) The hardship community rate shall be two (2) percent less than the standard rate.

(g) To qualify for the hardship community rate, applicants shall meet the following criteria:

1. The median household income of the applicant's jurisdiction shall be below the state median; and

2. After undertaking the proposed drinking water project, the residential water bill for 4,000 gallons of usage shall reasonably be estimated to exceed 1.25 percent of the median household income.

(h) The most recent statistics on household income as published in the "U.S. Census Bureau Income Report" [by the Urban Studies Center, University of Louisville,] shall be used in making the hardship community rate determination in paragraph (g) of this subsection.

(i) If an applicant's jurisdiction lies within more than one (1) city or county, the median household income of the city or county containing over fifty (50) percent of the users shall be used in making the hardship community rate determination in paragraph (g) of this subsection.

(j) If no one (1) city or county contains fifty (50) percent of the users, an average of all counties or cities shall be used in making the hardship community rate determination in paragraph (g) of this subsection.

(k) The authority shall consider adjustments of the interest rate to the hardship community rate if the applicant has documented that the median household income of their users is lower than the data being applied. [The authority may consider adjustments of the interest rate to the hardship community rate in situations where the applicant can document that the median household income of their users is actually lower than the data being applied.]

(l) If the nature of a drinking water project financed by the authority's loan causes interest on any authority bonds issued to fund the drinking water project to become taxable, the authority may consider adjustments in the interest rate to reflect the additional costs of authority funds.

(4) Principal on any loan shall be repaid over a period not to exceed federal requirements or the life of the facilities being financed. Repayment of principal shall commence within one (1) year of the initiation of operation of the drinking water project or upon such other date as may be set forth in the assistance agreement. Principal shall be payable semiannually, unless the authority establishes a more frequent payment schedule due to credit concerns. The authority shall elect a loan repayment period that is [may be] equal to or less than the federally permitted maximum [upon election of the authority].

(5) Interest payments on the outstanding principal amount of the loan shall be paid semiannually and shall commence within six (6) months of initial disbursement of loan proceeds, unless such interest payments are dependent upon revenues generated from the drinking water project. In the event interest payments are deferred as provided above, interest payments shall begin within six (6) months after the drinking water project is completed, and interest to cover the authority's cost of money during the construction period may be added to the amount of the loan.

(6) The principal amount of each loan shall be equal to the amount approved by the authority. The final loan amount may be adjusted by up to ten (10) percent of the amount stated in the conditional commitment letter without further action by the authority, subject to the availability of user fees to service the debt and authority

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funds to provide the increase.

(7) To ensure adequate funds for major maintenance and replacement of the drinking water projects funded by this program, the applicant shall be required to set aside annually to a replacement reserve fund from current revenues, after taking into account costs of operations and maintenance and debt service requirements, an amount to be determined by the cabinet. 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 **shall** [may] be rescinded unless the applicant is able to document extenuating circumstances. 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 **shall** [will] be given either the [at the authority's discretion, the standard or hardship community] interest rate applicable at the time of such reapplication or, upon presenting documentation that the present interest rate is not affordable to the applicant, the initial rate assigned, [depending on affordability. However,] The interest rate shall [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.

Section 13. (1) Material Incorporated by Reference. The following material is incorporated by reference:

(a) "Drinking Water Supply Revolving Fund Preliminary Project Information form (DEP 6056)";

(b) "Application for Loan Assistance" (9-97);

(c) "U.S. Census Bureau Income Report" (1990).

(2) This material may be inspected, obtained, or copied at the Division of Water, Natural Resources and Environmental Protection Cabinet, 14 Reilly Road, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

JOHN P. MCCARTY, Secretary

APPROVED BY AGENCY: May 15, 1997

FILED WITH LRC: May 15, 1997 at noon

GENERAL GOVERNMENT CABINET Kentucky Board of Ophthalmic Dispensers (As Amended)

201 KAR 13:080. Inspection of establishments.

RELATES TO: KRS 326.010(2), 326.030, 326.070, 326.090(4), 326.990 [326.035(1), (5), (7)]

STATUTORY AUTHORITY: KRS 326.020(3)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.030 provides that a person shall not engage in the practice of ophthalmic dispensing unless he is licensed. KRS 326.090(4) authorizes the board to suspend or revoke a license to practice ophthalmic dispensing for a violation of KRS Chapter 326. KRS 326.990 provides that the practice of ophthalmic dispensing without a license shall be a misdemeanor. KRS 326.020(3)(a) authorizes the board to promulgate administrative regulations necessary to implement the chapter. This administrative regulation establishes a procedure for the inspection of an establishment to determine if the establishment has complied with the licensing requirements. [KRS 326.030 sets forth that no person shall engage in the practice of ophthalmic dispensing unless he is the holder of a license. KRS 326.035(1) authorizes the issuance of an apprentice license to a person to train under the supervision of a licensed ophthalmic dispenser. Additionally, KRS 326.035(5) requires the sponsor to file an outline of the training schedule along with an overview of the facilities to be utilized for the training. This administrative regulation gives the board, its employees, and its authorized agents the ability to enter the establishment for the purpose of establishing that persons practicing ophthalmic dispensing are appropriately licensed, the ability to inspect the facility to establish its sufficiency to provide adequate training of an apprentice, and to determine whether or not the laws and administrative regulations applying thereto are being followed.]

Section 1. The provisions of this administrative regulation shall apply exclusively to a person practicing ophthalmic dispensing as defined by KRS 326.010(2).

Section 2. A board member, employee of the board, or an authorized agent may enter an establishment where a licensed ophthalmic dispenser or apprentice ophthalmic dispenser practices ophthalmic dispensing during regular business hours to determine if a person practicing ophthalmic dispensing at that establishment is in compliance with the statutes and administra-

tive regulations applying to the practice of ophthalmic dispensing. The provisions of this administrative regulation shall not apply to a person who is exempted under KRS 326.070. [Any board member, employee of the board, or any of its authorized agents shall be privileged to enter any establishment wherein an ophthalmic dispenser practices ophthalmic dispensing during regular business hours for the purpose of determining whether or not the persons practicing therein are in compliance with the statutes and administrative regulations applying thereto.]

Section 3. ~~A~~ [2.-Any] licensed ophthalmic dispenser or apprentice ophthalmic dispenser shall produce the appropriate license or [licenses and] identification for each person [all persons] employed within the establishment upon request.

Section 4. ~~A~~ [3.-Any] licensed ophthalmic dispenser shall permit the complete inspection of an [all portions of any] establishment used in the practice of ophthalmic dispensing upon request.

Section 5. ~~A~~ [4.-Any] licensed ophthalmic dispenser or apprentice ophthalmic dispenser shall display his license in a conspicuous place in the office in which he practices. He shall also produce, upon request, a current identification card issued by the board.

JON H. DURKIN, Chairman

APPROVED BY AGENCY: May 15, 1997

FILED WITH LRC: May 15, 1997 at 11 a.m.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(As Amended)**

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements.

RELATES TO: KRS 314.142

STATUTORY AUTHORITY: KRS 314.131(1), 314.142(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.142(1) requires the board to promulgate administrative regulations to create a Sexual Assault Nurse Examiner Program. This administrative regulation establishes the requirements relating to a sexual assault nurse examiner course and the credentials of a sexual assault nurse examiner. [KRS 314.142 creates the Sexual Assault Nurse Examiner Program and requires the Board of Nursing to implement it.]

Section 1. Definition. "SANE course" means a formal, organized course of instruction that is designed to prepare a registered nurse [nurses] to perform forensic evaluation of a sexual assault victim [victims] fourteen (14) years of age or older and to promote and preserve the victim's [their] biological, psychological and social health. ~~[A SANE course shall comply with the board's administrative standards as stated herein.]~~

Section 2. SANE Course Approval Application. On the form "Application for Initial or Continued SANE Course Approval", the applicant for approval of a SANE course shall submit evidence of:

(1) Nurse administrator of SANE course. A registered nurse, with current, active Kentucky licensure, a baccalaureate or higher degree in nursing, and experience in adult and nursing education shall be administratively responsible for assessment, planning, development, implementation, and evaluation of the SANE course.

(2) Faculty qualifications. The course shall be taught by multidisciplinary faculty with documented expertise in the subject matter. The name, title and credentials identifying the educational and professional qualifications for each instructor shall be provided.

(3) Course syllabus. The syllabus shall include:

(a) Course prerequisites, requirements and fees.

(b) Course outcomes. The outcomes shall provide statements of observable competencies, which when taken as a whole, present a clear description of the entry level behaviors to be achieved by the learner.

(c) Unit objectives. Individual unit objectives shall be stated in operational or [] behavioral terms with supportive content identified.

(d) Content. The content shall be described in detailed outline format with corresponding lesson plans and time frame. The content shall be related to, and consistent with, the unit objectives, and support achievement of expected course outcomes.

1. The SANE course shall include:

a. A minimum of forty (40) hours of didactic instruction pursuant to subparagraph 3 of this paragraph; and

b. The clinical practice experience required by subparagraph 2 of this paragraph. [be a minimum of forty (40) hours of didactic instruction in length. Clinical practice experiences are additional.]

2. Clinical practice. The clinical portion of the course shall include supervised clinical practice, whereby students complete ten (10) pelvic and rectal examinations to include both male and female, and two (2) forensic examinations of sexual assault victims.

3. The didactic portion of the course shall include~~[-but not be limited to;]~~ instruction in the following topics related to forensic evaluation of sexual assault victims:

a. The role and responsibilities of a sexual assault nurse examiner [examiners], health care professional [professionals], rape crisis, law enforcement and judicial system personnel;

b. Application of the statewide medical protocol relating to the forensic and medical examination of victims of sexual assault pursuant to KRS 216B.400(2);

c. Principles and techniques of evidence collection and preservation and chain of custody;

d. Assessment of victim injuries;

e. Physician consultation and referral;

f. Medicolegal documentation;

g. Victim's bill of rights, KRS 421.500 through 421.550 [et seq.];

h. Crisis intervention;

i. Dynamics of sexual assault;

j. Testifying in court;

k. Overview of the criminal justice system and related legal issues; and

l. Available community resources including~~[-but not limited to;]~~ rape crisis centers.

(e) Teaching methods. The activities of both instructor and learner shall be specified in relation to content outline. These activities shall be congruent with stated course objectives and content, and reflect application of adult learning principles.

(f) Evaluation. There shall be clearly defined methods for evaluating the learner's achievement of course outcomes. There shall also be a process for annual course evaluation by students, providers, faculty, and administration.

(g) Instructional or [] reference materials. All required instructional materials and reference materials shall be identified.

(4) Completion requirements. Requirements for successful completion of the SANE course shall be clearly specified and shall include demonstration of clinical competency. A statement of policy regarding a candidate who fails [candidates who fail] to successfully complete the course shall be included.

Section 3. (1) Contact hour credit for continuing education. The SANE course shall be approved for contact hour credit which may be applied to licensure requirements.

(2) Approval period. Board approval for a SANE course shall be granted for a four (4) year period.

(3) Records shall be maintained for a period of five (5) years, including the following:

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(a) Provider name, date and site of the course; and
(b) Participant roster, with a minimum of names, Social Security numbers and license numbers.

(4) A participant [Participants] shall receive a certificate of completion that documents the following:

- (a) Name of participant;
- (b) Title of course, date and location;
- (c) Provider's name; and
- (d) Name and signature of authorized provider representative.

Section 4. Continued Board Approval of a SANE Course. (1) An application [Applications] for continued approval of a SANE course shall be submitted at least three (3) months prior to the end of the current approval period.

(2) A SANE course syllabus shall be submitted with the "Application for Initial or Continued SANE Course Approval".

(3) Continued approval shall be based on the past approval period performance and compliance with board standards.

Section 5. The board may deny, revoke or suspend the approval status of a [any] SANE course for cause.

Section 6. Appeal. If a SANE course administrator is dissatisfied with a board decision concerning approval and wishes a review of the decision, the following procedure shall be followed:

(1) A written request for the review shall [must] be filed with the board within thirty (30) days after the date of notification of the board action which the SANE course administrator contests.

(2) The board, or its designee, shall conduct a review in which the SANE course administrator may appear in person and with counsel to present reasons why the board's decision should be set aside or modified.

Section 7. Requirements for Sexual Assault Nurse Examiner (SANE) Credential. (1) The applicant for the SANE credential shall:

(a) Hold a current, active registered nurse license in Kentucky.

(b) Have completed a board approved SANE educational course or a comparable course. The board or its designee shall evaluate the applicant's course to determine its course comparability. The board or its designee shall advise an applicant if the course is not comparable and specify what additional components shall be completed to allow the applicant to be credentialed.

(c) If the applicant has [Applicants who have] completed a comparable course, [shall] complete that portion of a SANE course of at least five (5) hours which shall include [but not be limited to] those topics specified in Section 2(3)(d)3a, b, c, g, k, and l of this administrative regulation if not included in the comparable course. The Office of the Attorney General may offer in cooperation with a board approved continuing education provider a course of at least five (5) hours to include those topics specified in this paragraph [subsection].

(d) Complete the "Application for Initial SANE Credential".

(e) Pay the fee established [as-set] in 201 KAR 20:240.

(2) Upon completion of the application process, the board shall issue the SANE credential for a biennial period of November 1 through October 31 of even numbered years.

Section 8. Renewal. (1) To renew the SANE credential for the next biennial period, each sexual assault nurse examiner shall complete at least five (5) contact hours of continuing education related to the role of the sexual assault nurse examiner within each continuing education earning period. A provider [Providers] of a board approved SANE course may also offer continuing education related to the role of the sexual assault nurse examiner.

(2) Upon completion of the required continuing education, completion of the "Application for Renewal of SANE Credential" and payment of the fee established [as-set] in 201 KAR 20:240, the SANE credential shall be renewed at the same time the registered

nurse license is renewed.

(3) The five (5) contact hours may count toward the required thirty (30) contact hours of continuing education for renewal of the registered nurse license.

(4) Failure to meet the five (5) contact hour continuing education requirement shall cause the SANE credential to lapse.

Section 9. Reinstatement. (1) If the SANE credential has lapsed for a period of less than two (2) consecutive registered nurse licensure periods, [then] the individual may reinstate the credential by:

(a) Submitting the "Application for Reinstatement of the SANE Credential";

(b) Paying [-pay] the fee established [as-set-forth] in 201 KAR 20:240; and

(c) Submitting [-and-submit] evidence of earning the continuing education requirement for the number of registered nurse licensure periods since the SANE credential lapsed.

(2) If the SANE credential has lapsed for more than two (2) consecutive licensure periods, [then] the nurse shall complete a SANE course prior to reinstatement.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Initial or Continued SANE Course Approval" (6/97), Kentucky Board of Nursing;

(b) "Application for Initial SANE Credential" (6/97), Kentucky Board of Nursing;

(c) "Application for Renewal of SANE Credential" (6/97), Kentucky Board of Nursing; and

(d) "Application for Reinstatement of the SANE Credential" (6/97), Kentucky Board of Nursing.

(2) This material may be inspected, copied, or obtained at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8:30 a.m. to 4:30 p.m. [The following forms are incorporated by reference and may be reviewed, copied or inspected at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8:30 a.m. through 4:30 p.m.:

(1) "Application for Initial or Continued SANE Course Approval" (6/97);

(2) "Application for Initial SANE Credential" (6/97);

(3) "Application for Renewal of SANE Credential" (6/97); and

(4) "Application for Reinstatement of the SANE Credential" (6/97).]

LINDA J. THOMAS, President

APPROVED BY AGENCY: July 1, 1997

FILED WITH LRC: July 8, 1997 at 1 p.m.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Social Work
(As Amended)**

201 KAR 23:060. Licensed social workers, [and] certified social workers, and licensed clinical social workers.

RELATES TO: KRS 335.030, 335.080, 335.090, 335.100 [335.010 to 335.160]

STATUTORY AUTHORITY: KRS 335.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.030 prohibits unlicensed social work practice and using social work titles except as authorized by law. KRS 335.080, 335.090, and 335.100 establish licensed social worker, certified social worker, and licensed clinical social worker licenses, and KRS 335.080(3) establishes [contains] the conditions in which a certified social worker may engage in the practice of clinical social work. This administrative

regulation establishes [sets forth] the scope of practice for each license and the permissible use of license abbreviations. [This administrative regulation refines the use of descriptions prohibited from usage by unlicensed individuals.]

Section 1. **A** [Any] person who possesses a valid, unsuspended or unrevoked licensed social worker license may: [certificate as a licensed social worker, and who has received a license pursuant to KRS Chapter 335 has the right to:

(1) Practice the profession of social work within the constraints of KRS Chapter 335 and rules and administrative regulations promulgated thereunder;

(1) [(2)] Engage in a [any] social work activity [activities] except the [independent] practice of clinical social work as defined in 201 KAR 23:070, Section 1(2); and

(2) [(3)] Use [the title, "Licensed Social Worker" or] the abbreviation "LSW." [No other person shall assume these titles or use these abbreviations on any work or letter, sign, figure, or device to indicate that the person using the same is a licensed social worker.]

Section 2. **A** [Any] person who possesses a valid, unsuspended or unrevoked certified social worker license may: [license as a "Certified Social Worker" has the right to:

(1) Practice his profession within the constraints of KRS Chapter 335;

(1) [(2)] Engage in a social work activity that:

(a) Except as provided in paragraph (b) of this subsection, does not include the practice of clinical social work as defined in 201 KAR 23:070, Section 1(2); or

(b) Includes the practice of clinical social work as defined in 201 KAR 23:070, Section 1(2), if the conditions established in KRS 335.080(3) are met; and

(2) [Engage in any social work activities except the [independent] practice of clinical social work as defined in 201 KAR 23:070, Section 1(2);

(2) Engage in the practice of [(3) Perform] clinical social work as defined in 201 KAR 23:070, Section 1(2), and [activities] under the conditions set forth in KRS 335.080(3) [201 KAR 23:070, Section 2]; and

(3) [(4)] Use the [title "Certified Social Worker" or its] abbreviation "CSW." [No other person shall assume such title or use such abbreviation on any work or letter, sign, or figure, or device to indicate that the person using the same is a licensed certified social worker.]

Section 3. **A** [Any] person who possesses a valid, unsuspended or unrevoked licensed clinical social worker license may: [certificate as a certified social worker for the independent practice of clinical social work has the right to:]

(1) Engage in the [independent] practice of social work, including the practice of clinical social work as defined in 201 KAR 23:070, Section 1(2); [under the constraints of KRS Chapter 335 and rules and administrative regulations promulgated thereunder; and]

(2) [To] Hold himself out to the public as engaging in the practice of clinical social work as defined in 201 KAR 23:070, Section 1(2); [providing service authorized in 201 KAR 23:070; and]

(3) [To] Use [the title of clinical social worker or] the abbreviation "LCSW"; and

(4) Employ a certified social worker under the conditions established [set forth] in KRS 335.100(3) [201 KAR 23:070, Section 2].

JANICE K. JAMES, Chair

APPROVED BY AGENCY: April 21, 1997

FILED WITH LRC: May 15, 1997 at noon

GENERAL GOVERNMENT CABINET
Kentucky Board of Social Work
(As Amended)

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) require [provide that] an applicant for a certified social worker license or a licensed clinical social worker license to [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) requires [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 to [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 establishes [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 a graduate school [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, diagnosis, and treatment of an emotion disorder [emotional disorders] and mental illness as related to the total health of the individual and which meets the requirements of Section 2 of this administrative regulation. [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 KRS 335.080(3) and 335.100(3);

(b) Has no unresolved complaints filed with the board;

(c) Has no previous or existing personal relationship with any supervisee; and

(d) Has been in the practice of clinical social work for three (3) years following licensure as a licensed clinical social worker; or

(e) Has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (d) of this subsection;

(5) [(6)] "Supervisor of record" means a supervisor who:

(a) Assumes responsibility for the practice of a certified social worker pursuant to KRS 335.080(3) and 335.100(3); and

(b) Has no more than six (6) certified social workers with whom he has a contract to be held accountable to the board; [licensed clinical social worker who enters into a plan of supervised activities for clinical social work experience with a certified social worker for any authorized purpose. This person shall assume responsibility for the GSW's practice and shall supervise in accordance with Section 3 of this administrative regulation, and KRS 335.100(b) during the period covered by the plan;]

Section 2. Practice of Clinical Social Work. (1) The practice of clinical social work shall be based on knowledge of psychodynamics, human relations, crisis intervention, psychopathology, and group dynamics.

(2) A practitioner of clinical social work shall:

(a) Possess numerous skills, including skills necessary for:
1. Individual, marital, family, and group psychotherapy; and
2. Other treatment modalities;

(b) Establish a therapeutic relationship with his client which:

1. Leads to correction of the dysfunction;

2. Includes:

a. Diagnosis using professionally recognized clinical nomenclature, treatment planning which includes development, implementation, and modification of the plan;

b. Evaluation of progress; and

c. Termination of the treatment process; and

3. Is characterized by face-to-face contact with the client throughout the treatment process.

Section 3. Supervision. (1) A supervisor shall be a licensed

clinical social worker who:

(a) Provides supervision to a certified social worker pursuant to KRS 335.080(3) and 335.100(3);

(b) Does not have:

1. An unresolved citation filed against him by the board;

2. A suspended or probated license; or

3. A previous or existing personal relationship with a supervisee; and

(c) Has:

1. Been in the practice of clinical social work for three (3) years following licensure as a licensed clinical social worker; or

2. Demonstrated a level of competence equivalent to the experience requirement established in subparagraph 1 of this paragraph.

(2) A supervisor of record shall be the supervisor who assumes responsibility for the practice of a certified social worker pursuant to KRS 335.080(3) and 335.100(3). A licensed clinical social worker shall not serve as a supervisor of record for more than six (6) certified social workers with whom he has a contract to be held accountable to the board at the same time.

Section 4. Supervisory Contract. [(1) A certified social worker who is an employee of an individual LGSW, nonexempt institution, or a nonexempt organization may engage in the practice of clinical social work by contracting, in writing, with a person who holds a valid Kentucky certification for clinical practice, who shall assume responsibility for the employee's practice and shall supervise in accordance with Section 3 of this administrative regulation, and KRS 335.100(b), over the qualifying period of eligibility for taking the specialty certification exam:

(a) The certified social worker shall, for purposes of this section, be an employee of a nonexempt institution or nonexempt organization in which he has no direct or indirect interest other than his employment.

(b) He shall not enter into the practice of clinical social work until this contract has been approved by the board and shall cease the practice of clinical social work immediately upon the termination of the contract.

(c) At the termination of the contract the employee shall apply for the specialty certification or request an extension of the contract from the board.

(2) The supervisory contract required by KRS 335.080(3) and 335.100(3) [in subsection (1) of this section] shall contain [all of the following]:

(1) [(a)] The name and license number of the supervisee.

(2) [(b)] The name and license number of the supervisor of record.

(3) The name and license number of [any] other supervisors.

(4) The agency, institution, or organization where the experience will be received.

(5) A detailed description of [(e)] the nature of the practice including the type of [which includes the following]:

(a) ~~[(The type of)]~~ Clients which shall be seen;

(b) ~~[(The type of)]~~ Therapies and treatment modalities which shall be used including the prospective length of treatment; and

(c) ~~[(The type of)]~~ Problems which shall be treated.

(6) [(d)] The nature, duration, and frequency of the supervision, including the [which includes the following]:

(a) ~~[(The)]~~ Number of hours of supervision per week;

(b) ~~[(The)]~~ Amount of group and individual supervision; and

(c) ~~[(The)]~~ Methodology for transmission of case information.

(7) [(e)] The conditions or procedures for termination of the supervision.

(8) A statement that:

(a) The supervisor of record understands that he shall be held accountable to the board for the care given to the supervisee's clients;

(b) The certified social worker is an employee of an agency, institution, or organization, and has Social Security and income tax deducted from his salary; and

(c) The supervisor of record and other supervisors meet the criteria established in Section 3(1) and (2) of this administrative regulation. [(f)] [The explicit statement that the supervisor of record understands that he shall be held accountable to the board for the care given to the supervisee's clients:

(9) [(g)] The explicit statement that the certified social worker is an [a bona fide] employee of an agency, institution, or organization, and has social security and income tax deducted from his salary:

(10) [(h)] The explicit statement that the supervisor of record and any other supervisors meet [meets] the criteria set out in Section 1(4) and (5) of this administrative regulation.] [subsection (4) of this section:]

Section 5. Notice to Client. If an employee is practicing under the supervision of a licensed clinical social worker, the employee shall send written notification to each client at the beginning of his employment. The notification shall contain:

(1) The name, office address, telephone number, and license number of the supervisor of record; and

(2) A statement that the employee is licensed by the board.

[Section 3. Notice to Client. [(3)] While practicing under supervision, the employee shall notify each client, [patient of this fact in the following format:

(a)] This notice shall be in writing and shall contain:

(1) [include] The name, office address, telephone number, and license number of the supervisor of record; and

(2) [(b)] It shall also contain] Information regarding the regulatory authority of this board:]

[(4)] For purposes of the contractual arrangement mentioned in subsection (1) of this section only, the criteria for a supervisor shall be a person who:

(a) Has been in the independent practice of clinical social work for three (3) years following licensure for the independent practice of clinical social work; and

(b) Has no unresolved complaints filed before the board; and

(c) Has no more than six (6) certified social workers with whom they have a contract to be held accountable to the board; or

(d) Has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection:]

Section 6. [4:] Experience Under Supervision. Experience under supervision shall consist of:

(1) [3.] To be certified for the independent practice of clinical social work the licensee shall have:

(1) Had the required number of hours of experience in clinical social work under supervision. The supervision shall have been provided by an individual meeting the requirement set forth in subsection (5) of this section;

(2) Spent] At least sixty (60) percent of the required experience in a direct client-professional relationship;

(2) [(3)] Had] Direct responsibility for a specific individual or group [groups] of clients; and

(3) [(4)] Qualifying experience which provides] Broad exposure and opportunity for skill development with a variety of dysfunctions, diagnoses, acuity levels and population groups.

[(5)] Supervision provided by one (1) of the following:

(a) An individual certified for the independent practice of clinical social work by this board;

(b) A person who has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection:]

Section 7. [5:] Supervision Requirements. (1) [(6)] Supervision shall relate specifically to the qualifying experience and [related specifically to the experience which is proffered as the qualifying experience for the clinical certificate. The supervision] shall focus on:

(a) The accurate diagnosis of a client problem [client problems] leading to proficiency in applying professionally recognized clinical nomenclature;

(b) The development and modification of the treatment plan;

(c) The development of treatment skills suitable to each phase of the therapeutic process;

(d) Ethical problems in the [independent] practice of clinical social work; and

(e) The development and use of the professional self in the therapeutic process.

(2) [(7)] Supervision shall total [which totals] a minimum of 200 hours, which shall include individual supervision of not less than two (2) hours during every two (2) weeks of clinical social work practice, [equitably distributed] [throughout the qualifying period. Not] More than 100 hours [of which, excepting hours of supervision received prior to December 31, 1981,] shall not [may] be obtained through group supervision in groups of six (6) or fewer members. [;

(8) Supervision congruent with the board's code of ethical practice;

(9) Passed an examination developed by the board:]

Section 8. [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 shall submit [submits] his application along with appropriate documentation of supervision upon completion of the experience.

(b) Transitional evaluation. The candidate shall submit [submits] a contract for the experience already attained and for the experience yet to be attained.

(c) Preapproved [(2) Preexperience] evaluation. The candidate shall submit [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 pursuant to KRS 335.080(3). 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

GENERAL GOVERNMENT CABINET
Kentucky Board of Social Work
(As Amended)

201 KAR 23:080. Code of ethical conduct [practice].

RELATES TO: KRS 335.150(1)(g) ~~[335.010 to 335.150]~~

STATUTORY AUTHORITY: KRS 335.070(3), 335.150(1)(g) ~~[335.070]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.150(1)(g) provides that the board may take disciplinary action against an applicant or licensee who has violated the code of ethical conduct as set forth by the board by promulgation of an administrative regulation. This administrative regulation establishes the ~~[this]~~ code of ethical conduct. ~~[KRS 335.070(1) permits the Board of Examiners of Social Work to adopt a code of ethical practice for social workers and certified social workers.]~~

Section 1. Definitions. (1) "Client" means an individual, family, group, or organization who directly receives social work services from a social worker.

(2) "Dual relationship" means a social, business, or personal relationship between a social worker and a client that coexists with the professional-client relationship between the social worker and the client.

Section 2. Responsibility to Clients. (1) A social worker shall promote the well-being of a client ~~[clients]~~ and, if ~~[where]~~ required by law, ~~[shall promote]~~ the safety and well-being of an individual whose life ~~[other individuals whose lives]~~ might be affected by the client's behavior or circumstance.

(2) A social worker shall not illegally discriminate against an ~~[any]~~ individual ~~[on the basis of race, gender, national origin, or sexual orientation]~~.

(3) A social worker shall not provide a service ~~[services]~~ outside his scope of practice as established ~~[set forth]~~ in 201 KAR 23:060.

(4) A social worker shall notify a client ~~[clients]~~ of the regulatory authority of the board by displaying a written notice in public view in the social worker's office or service site. The notice shall contain the:

- (a) Name of the social worker;
- (b) Type of social work license;
- (c) License number of the social worker; and
- (d) Name, address, and telephone number of the board.

(5) A social worker shall confine his practice to a condition ~~[the terms set by any conditions]~~ imposed upon his license by a ~~[any]~~ state or federal authority and shall not practice as a social worker as defined in KRS 335.020 if ~~[when]~~ his license has been suspended or revoked.

(6) A social worker shall provide a service ~~[services]~~ to a client in a manner that is respectful and appreciative of the client's culture.

(7) A social worker shall not refer a client or delegate a service to a ~~[services to any]~~ provider whom the social worker has reason to believe is not qualified to perform a professional service. ~~[professional services]~~.

(8) A social worker shall provide a service to a client ~~[services to clients]~~ in the least restrictive mode of care.

Section 3. Informed Consent. (1) A social worker shall obtain informed consent from the client or his legal guardian to provide a social work service ~~[services]~~. To obtain informed consent, a social worker shall inform the client of the following:

- (a) The client's condition;
- (b) The recommended social work service;
- (c) Reasonable expectations of the benefits from the service;
- (d) Possible foreseeable risks or negative consequences of the service;

- (e) Possible alternative services; and
- (f) The right to refuse a service ~~[services]~~.

(2) A social worker shall obtain written informed consent from the client or his legal guardian before audiotaping or videotaping the client.

(3) A social worker shall inform a client of the social worker's duties and obligations to a third party if ~~[when]~~ the third party has referred the client and has a continuing interest in the client's participation in a service plan.

(4) A social worker who provides a collateral service to a family member ~~[services to family members]~~ of a client shall inform the family member ~~[members]~~ about the social worker's duties and obligations to the primary client and the possible limitations of service to the family member ~~[members]~~.

Section 4. Professional Integrity. (1) A social worker shall not provide a social work service if ~~[services while]~~ under the influence of alcohol, another mind-altering or mood-altering drug ~~[drugs]~~, or physical or psychological illness which impairs delivery of the ~~[such]~~ services.

(2) A social worker shall not possess or distribute the board's examination material ~~[materials]~~ without authorization by the board.

(3) A social worker shall not interfere with a board investigation of a social worker through a ~~[any]~~ willful means including:

- (a) Misrepresentation of a fact ~~[facts]~~;
- (b) Undue influence of a witness ~~[witnesses]~~;
- (c) A threat toward a person; or ~~[Threats toward any person; and]~~

(d) Harassing communication ~~[communications]~~ toward a ~~[any]~~ person.

(4) A social worker shall not verbally abuse or harass or physically threaten or assault a client, supervisee, employee, board member, or ~~[any]~~ agent of the board.

Section 5. Responsibility to Students and Supervisees. (1) A social worker shall promote the educational and training interests of his students and supervisees.

(2) A social worker shall not engage in a social, business, or personal relationship with his student or supervisee if ~~[when]~~ that relationship might:

- (a) Impair the social worker's professional judgment;
- (b) Incur the risk of exploitation of the student or supervisee; or
- (c) Otherwise violate a provision of this administrative regulation.

(3) If a social, business, or personal relationship cannot be avoided and if it does not impair the social worker's professional judgment, incur a risk of exploitation of the student or supervisee, 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.

(4) A social worker shall not obtain or engage the service ~~[services]~~ of his student or supervisee in an activity except an activity that promotes a ~~[any activities except those activities that promote the]~~ student's or supervisee's academic, educational, or training interest ~~[interests]~~.

(5) A social worker shall not engage in sexual intimacy or contact with his student or supervisee.

(6) A social worker shall not enter into a professional-client relationship with his student or supervisee.

(7) A social worker shall not permit a student or supervisee to perform or to hold himself out as competent to perform a professional service ~~[services]~~ beyond his level of training, experience, or competence.

Section 6. Advertising. (1) A social worker shall accurately present his services, education, professional credentials, qualifications, and license level to the public.

(2) A social worker shall not display a license issued by the board which has expired, or has been suspended or revoked.

(3) A social worker shall not use professional identification, including a business card, office sign, letterhead, telephone directory listing, or electronic listing, if it includes a statement that is false, fraudulent, misleading, or deceptive. A statement shall be deemed false, fraudulent, misleading or deceptive if it:

- (a) Contains a material misrepresentation of fact; or
- (b) Is intended to, or is likely to, create an unjustified expectation by the public or by a client.

Section 7. Payment for Services. (1) A social worker shall ensure that a client is ~~[clients are]~~ informed of the fee ~~[fees]~~ and billing arrangement ~~[arrangements]~~ before rendering a service ~~[services]~~.

(2) A social worker shall not bill, or permit a client or third party ~~[clients or third parties]~~ to be billed, for a social work service if ~~[services when]~~ he knows that the service was ~~[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 a ~~[any]~~ form of remuneration for a service ~~[services]~~ that involves the bartering of services.

(5) A social worker may take legal measures to collect a fee if:

(a) A client does not pay the agreed fee for a rendered service; and

(b) The social worker:

- 1. Gives reasonable advance notice to the client; and
- 2. Does not release more information about the client than is necessary to collect the fee. ~~[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 a record ~~[records]~~ of client information in a confidential manner.

(2) A social worker may disclose client information if ~~[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 not 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 a training manual, professional writing, or classroom presentation. ~~[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 a client record ~~[client records]~~.

(2) A social worker shall retain and secure a client record in a manner than maintains ~~[client records to maintain]~~ confidentiality

and, if authorized by subsection (3) of this section, shall destroy a record in a manner that ensures ~~[records by means that ensure]~~ confidentiality.

(3) A social worker shall maintain a client record ~~[client records]~~ for at least five (5) years from the date of termination of a service, or ~~[services, but in any case shall maintain client records]~~ until a client reaches the age of twenty (20) years, whichever is longer.

Section 10. Dual Relationships. (1) A social worker shall not enter into a dual relationship with a client if the ~~[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 service ~~[services]~~ of a client if ~~[when]~~ obtaining or engaging the service ~~[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 a member ~~[members]~~ of the client's immediate family.

(8) A social worker shall be solely responsible for acting appropriately in regard to a relationship with a client or former client ~~[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 make a timely and appropriate referral of a client for a social work or other service if:

- (a) The social worker is unable to provide the work or service; or
- (b) The client's need exceeds the competency of the social worker.

(2) A social worker shall terminate a social work service if a client:

- (a) Has attained his stated goal or objective; or
- (b) Fails to benefit from the social work service. ~~[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 a social work service ~~[services]~~ to a client.

(4) A social worker shall not terminate a social work service

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[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 activity [activities] that might serve a [the] personal, political, or religious interest [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 if [when] the client is a subject of a research project.

(2) A client's consent shall comply with the requirements of federal and [or] state law regulating research with a human subject [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 a client who is a [clients who are] research subject [subjects] and shall inform a client of a limitation [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 name of the client [names of clients] or client identifying information unless the client has [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 limitation. The licensed social worker agrees to:

- (1) Accept as his primary responsibility the welfare of his clients;
- (2) Carry out his professional responsibilities without discrimination on the basis of age, sex, race, color, religion, national origin or socioeconomic status;
- (3) Practice the principles of confidentiality;
- (4) Carry out his professional practice in a responsible manner and to hold himself responsible for the quality of the service he provides;
- (5) Act with integrity with regard to his relationship with colleagues in social work and other professions;
- (6) Work toward the establishment of conditions within agencies that allow social workers to conduct themselves in accordance with this code of ethics;
- (7) Contribute his knowledge, skills and abilities to further programs of human service and welfare.

Section 2. Unprofessional conduct in the practice of social work shall include but not be limited to the following acts or omissions by a licensee:

- (1) Violation of any of the provisions of KRS Chapter 335 or the administrative regulations adopted thereunder;
- (2) Giving or causing to be given in any manner or by any means a valuable consideration of gratuity of any kind to another person, persons or agency, in return for the referral of clients;
- (3) Participating in any manner or by any means in the splitting of fees or any charge with any person or persons or participating in such fee-splitting;
- (4) Practicing as a licensee while intoxicated or under the

influence of alcohol or other mind-altering or mood-altering drugs not prescribed by a licensed physician;

- (5) Engaging in any immoral conduct in the practice of social work;
- (6) Violating the code of ethics adopted by the board.

JANICE K. JAMES, Chair

APPROVED BY AGENCY: April 21, 1997

FILED WITH LRC: May 15, 1997 at noon

GENERAL GOVERNMENT CABINET Kentucky Board of Social Work (As Amended)

201 KAR 23:140. Per diem compensation for board members.

RELATES TO: KRS 335.060

STATUTORY AUTHORITY: KRS 335.060, 335.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.060 provides that a board member [members] shall receive per diem compensation, not to exceed \$125, to be established by administrative regulation promulgated by the board. This administrative regulation establishes this per diem compensation.

Section 1. The per diem compensation for a board member [board members] shall be \$100.

JANICE K. JAMES, Chair

APPROVED BY AGENCY: April 21, 1997

FILED WITH LRC: May 15, 1997 at noon

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources (As Amended)

301 KAR 1:201. Fishing limits.

RELATES TO: KRS 150.470, 150.990(2)

STATUTORY AUTHORITY: KRS 150.025(1), 150.470

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes [requires] the department to promulgate administrative regulations to protect fish species from overharvest, allocate their harvest, maintain ecological balance and improve fishing. This administrative regulation establishes size, daily, and possession limits for fishing [and also repeals 301 KAR 1:100].

Section 1. Definitions. (1) "Artificial baits" means a lure or fly:

(a) Made of:

- 1. Wood;
 - 2. Metal;
 - 3. Plastic;
 - 4. Feathers;
 - 5. Preserved pork rind; or
 - 6. A similar inert material; and
- (b) Not having attached:
- 1. An insect;
 - 2. Minnow;
 - 3. Fish egg;
 - 4. A worm;
 - 5. Corn;
 - 6. Cheese;
 - 7. Cut bait; or
 - 8. Similar organic bait substance. [lures or flies made of wood;

metal, plastic, feathers, preserved pork rind or similar inert materials and having no organic baits, such as insects, minnows, fish eggs;

worms, corn, cheese, cut bait or a similar substance attached to the lure.]

(2) "Daily limit" means the creel limit, the maximum number of a particular species or group of species a person may legally take in a day or have in possession while fishing.

(3) "Kentucky bass" means the following with a patch of teeth on its tongue:

(a) Largemouth bass;

(b) Kentucky bass; or

(c) Coosa bass. [a largemouth bass, Kentucky bass or Coosa bass with a patch of teeth on its tongue.]

(4) "Lake" means impounded waters from the dam upstream to the first riffle on:

(a) The main stem river; and

(b) Tributary streams.

(5) "Length" means the distance from the tip of a fish's lower jaw to the tip of its tail, measured with the fish laid flat on a rule and its tail lobes squeezed together.

(6) "Possession limit" means the maximum number of fish a person may hold in the field after two (2) or more days of fishing.

(7) "Release" means the return of the fish:

(a) In the best possible physical condition;

(b) Immediately after removing the hook;

(c) To the water from which it was taken; and

(d) In a place where the fish's immediate escape shall not be prevented.

(8) "Single hook" means a hook with no more than one (1) point.

(9) "Size limit" means the minimum legal length of a fish.

(10) "Slot limit" means protecting fish within a specified minimum and maximum size range.

Section 2. Statewide Size and Creel Limits. (1) Except as specified in Section 4 of this administrative regulation or [and] by 301 KAR 1:180, a person [persons] fishing in public or private waters shall observe the following daily possession and size limits.

(a) Black bass: daily limit, six (6); possession limit, twelve (12).

1. Largemouth bass, smallmouth bass or Coosa bass: size limit, twelve (12) inches.

2. Kentucky bass: no size limit.

(b) Rock bass: daily limit, fifteen (15); possession limit, thirty (30); no size limit.

(c) Walleye and their hybrids: daily limit, ten (10); possession limit, twenty (20); size limit, fifteen (15) inches.

(d) Sauger: daily limit, ten (10); possession limit, twenty (20); no size limit.

(e) Muskellunge: daily and possession limit, two (2); size limit, thirty (30) inches.

(f) Chain pickerel: daily limit, five (5); possession limit, ten (10); no size limit.

(g) White bass and yellow bass, singly or in combination: daily limit, thirty (30); possession limit, sixty (60); no size limit.

(h) Striped bass and their hybrids: daily and possession limit, five (5); size limit, fifteen (15) inches.

(i) Crappie: daily limit, thirty (30); possession limit, sixty (60); no size limit.

(j) Rainbow trout and brown trout, singly or in combination: daily and possession limit, eight (8), no more than three (3) of which shall be brown trout; no size limit.

(k) Brook trout: daily and possession limit, two (2); size limit, ten (10) inches.

(2) A person shall release grass carp caught from a lake owned or managed by the department.

(3) A person shall release fish:

(a) Below the minimum size limits established by this administrative regulation;

(b) Within a protected slot limit [as] established by this administrative regulation; or

(c) Of a particular species, if [when] a person has in his possession the daily limit for that species [as] established by this administrative regulation.

(4) A person shall not remove any part of the head or tail of a [any] fish for which there is a size or creel limit until he has completed fishing for the day and has left the water.

(5) A person who wishes to possess sport fish below the size limit or beyond the possession limit shall:

(a) Obtain the fish from a licensed fish propagator or other legal source; and

(b) Retain a receipt or other written proof that the fish were legally acquired.

(6) A person shall release trout unless he:

(a) Has a valid trout permit;

(b) Is exempted from trout stamp requirements by KRS 150.170(3); or

(c) Is fishing in a licensed pay lake stocked with trout by the lake operator.

Section 3. Fishing Season. The fishing season shall be open year round.

Section 4. Exceptions to Statewide Administrative Regulations. A person fishing in the waters listed in this section shall observe the following special requirements. Except as specified in this section, all other provisions of this administrative regulation shall apply to these bodies of water.

(1) Bad Branch, Letcher County: artificial baits with single hooks only shall be used.

(2) Barkley Lake.

(a) Largemouth bass and smallmouth bass:

~~1. Through February 28, 1997, size limit fourteen (14) inches; except that the daily limit may contain one (1) and the possession limit two (2) bass under fourteen (14) inches;~~

~~2. After February 28, 1997,] size limit [limits], fifteen (15) inches.~~

(b) Crappie: size limit, ten (10) inches.

(c) Sauger: size limit, fourteen (14) inches.

(3) Barren River Lake, including:

(a) Barren River to the Highway 100 bridge;

(b) Long Creek to the Highway 100 bridge;

(c) Beaver Creek to the Highway 1297 bridge;

(d) Skaggs Creek to the Mathews Mill Road bridge; and

(e) Peter Creek to the Peter Creek Road bridge;

~~1. [and the Barren River upstream from Barren River Lake:~~

(a)] White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit, no more than five (5) fish in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches or longer.

~~2. [(b)]~~ Crappie: size limit, nine (9) inches.

~~3. [(c)]~~ Largemouth bass and smallmouth bass: size limit, fifteen (15) inches. Daily limit may include no more than one (1) and the possession limit no more than two (2) fish less than fifteen (15) inches.

(4) Bert Combs Lake: a person shall not possess shad or use shad for bait.

(5) Boltz Lake: a person shall not possess shad or use shad for bait.

(6) Briggs Lake: a person shall not possess shad or use shad for bait.

(7) Buckhorn Lake: largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(8) Carpenter Lake: a person shall not possess shad or use shad for bait.

(9) Carr Fork Lake.

(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

(b) Crappie: size limit, nine (9) inches.

- (10) Carter Caves Lake.
 (a) Fishing shall be during daylight hours only.
 (b) Largemouth bass: daily and possession limit, one (1) fish; size limit through February 28, 1998, twenty (20) inches; after February 28, 1998, fifteen (15) inches.
 (c) A person shall not possess shad or use shad for bait.
 (11) Cave Run Lake: largemouth bass and smallmouth bass: slot limit - a person may keep fish less than thirteen (13) or greater than sixteen (16) inches and shall release fish between thirteen (13) and sixteen (16) inches.
 (12) Corinth Lake: a person shall not possess shad or use shad for bait.
 (13) Cumberland Lake.
 (a) Largemouth and smallmouth bass: size limit fifteen (15) inches.
 (b) Striped bass: size limit, twenty-four (24) inches; daily and possession limit, two (2) fish.
 (c) Crappie: size limit, ten (10) inches.
 (14) Cumberland River downstream from Barkley Lake Dam.
 (a) Striped bass: daily and possession limit, three (3).
 (b) Sauger: size limit, fourteen (14) inches.
 (15) Cumberland River:
 (a) ~~Through February 28, 1997, downstream from the Highway 61 bridge. Trout: slot limit - a person shall release trout between twelve (12) and twenty (20) inches.~~
 (b) ~~After February 28, 1997,~~ from Wolfe Creek Dam downstream to the Kentucky-Tennessee state line. Brown trout: size limit, twenty (20) inches; creel limit, one (1).
 (16) Cyprus AMAX and Robinson Forest Wildlife Management Areas.
 [(a) Through February 28, 1997:
 1. On Starfire Lake:
 a. Largemouth bass: size limit, twenty (20) inches; daily and possession limit, one (1).
 b. Sunfish: daily and possession limit ten (10).
 c. Channel catfish: size limit, fifteen (15) inches; daily and possession limit, four (4).
 2. On impounded waters of the area, persons shall not fish:
 a. Except during daylight hours.
 b. From January 1 through June 30.
 (b) After February 28, 1997:
 1. On impounded waters of the area:
 (a) [a:] Largemouth bass: size limit, fifteen (15) inches; daily and possession limit, one (1);
 (b) [b:] Sunfish: daily and possession limit, ten (10);
 (c) [c:] Channel catfish: size limit, fifteen (15) inches; daily and possession limit, four (4).
 (d) A person [2- Persons] shall not fish:
 1. Except during daylight hours; or
 2. On Starfire Lake between January 1 and May 31.
 (17) Dale Hollow Lake.
 (a) Smallmouth bass: daily limit, two (2); size limit, eighteen (18) inches.
 (b) Walleye and their hybrids: daily limit, ten (10); size limit, sixteen (16) inches.
 (c) Sauger: daily limit, ten (10); size limit, fourteen (14) inches.
 (d) Muskellunge: daily limit, one (1).
 (e) Rainbow trout and lake trout.
 1. Daily limit, April 1 - October 31: seven (7), no more than two (2) of which may be lake trout. No size limit.
 2. Daily limit, November 1 - March 31: two (2); size limit, twenty-two (22) inches.
 (18) Dewey Lake.
 (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
 (b) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.
 (19) Dix River for two (2) miles downstream from Herrington Lake Dam.
 (a) Artificial baits only.
 (b) Brown trout: size limit, fifteen (15) inches.
 (20) Dix River upstream from Herrington Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit: no more than five (5) in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches or longer.
 (21) Elkhorn Creek downstream from the confluence of the North and South forks. Largemouth bass and smallmouth bass: slot limit - a person shall release fish between twelve (12) and sixteen (16) inches. The daily limit shall not include more than two (2) fish greater than sixteen (16) inches long.
 (22) Elmer Davis Lake.
 (a) Largemouth bass: slot limit - a person shall release fish between twelve (12) and sixteen (16) inches.
 (b) A person [Persons] shall not possess shad or use shad for bait.
 (23) Fishtrap Lake.
 (a) Largemouth bass or smallmouth bass: size limit, fifteen (15) inches.
 (b) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.
 (24)(a) A person shall not possess shad or use shad for bait.
 (b) Upper Game Farm Lake:
 1. Largemouth bass and smallmouth bass: daily limit, two (2); size limit, fifteen (15) inches.
 2. Channel catfish: daily limit, three (3).
 (c) Lower Game Farm Lake:
 1. A person [Through February 28, 1997, size and daily limits shall be the same as the Upper Game Farm Lake.
 2. After February 28, 1997:
 a. Persons] thirteen (13) years or older shall not fish.
 2. [b:] Daily limit, three (3) fish regardless of species.
 (25) Grayson Lake. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
 (26) Greenbo Lake. A person shall not possess shad or use shad for bait.
 (27) Green River Lake. Crappie: size limit, nine (9) inches.
 (28) Guist Creek Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.
 (29) Herrington Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit: no more than five (5) in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches long or longer.
 (30) Kentucky Lake and the canal connecting Kentucky and Barkley lakes.
 (a) Largemouth bass and smallmouth bass:
 [1. Through February 28, 1997, size limit fourteen (14) inches; except that the daily limit may contain one (1) and the possession limit two (2) bass under fourteen (14) inches.
 2. After February 28, 1997:] size limit, fifteen (15) inches.
 (b) Crappie: size limit, ten (10) inches.
 (c) Sauger: size limit, fourteen (14) inches.
 (31) Laurel Lake. [After February 28, 1997:] Largemouth bass and smallmouth bass, size limit, fifteen (15) inches.
 (32) Lebanon City Lake.
 (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
 (b) Crappie: size limit, nine (9) inches; daily limit, fifteen (15).
 (c) Bluegill and shellcrackers (singly or in aggregate): creel limit, thirty (30).

- (d) Channel catfish: creel limit, five (5).
- (33) Leary Lake.
 - (a) Fishing shall be during daylight hours only.
 - (b) Largemouth bass: daily limit, one (1); size limit, fifteen (15) inches.
 - (c) Bluegill: daily limit, twelve (12).
 - (d) Channel catfish: daily limit, two (2).
- (34) Lincoln Homestead Lake.
 - (a) Fishing shall be during daylight hours only.
 - (b) Largemouth bass: daily limit, three (3); size limit, fifteen (15) inches.
- (c) Bluegill and red-ear sunfish: daily limit, ten (10) fish over seven (7) inches, singly or in combination; no limit on fish less than seven (7) inches.
- (d) Channel catfish: daily limit, three (3).
- (e) A person shall not possess shad or use shad for bait.
- (35) Lake Malone. Largemouth bass: slot limit - a person may keep fish less than twelve (12) or greater than fifteen (15) inches and shall release fish between twelve (12) and fifteen (15) inches.
- (36) Marion County Lake.
 - (a) Largemouth bass: size limit, fifteen (15) inches.
 - (b) A person shall not possess shad or use shad for bait.
- (37) Martins Fork and its tributaries in Harlan County from the Left Fork upstream two and three-tenths (2.3) miles to the Cumberland Gap National Park boundary. Artificial baits with single hooks only shall be used.
- (38) Mauzy Lake. Largemouth bass; no size limit.
- (39) McNeely Lake. A person shall not possess shad or use shad for bait.
- (40) Mill Creek Lake. A person shall not possess shad or use shad for bait.
- (41) Nolin River Lake.
 - (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches except that the daily limit may contain one (1) and the possession limit two (2) bass under fifteen (15) inches.
 - (b) Crappie: size limit, nine (9) inches.
- (42) Ohio River.
 - (a) Walleye, sauger and their hybrids: no size limit; daily limit, ten (10) fish, singly or in combination.
 - (b) White bass, yellow bass, striped bass and their hybrids: daily limit, thirty (30); no more than four (4) in a daily limit may be fifteen (15) inches long or longer.
- (43) Paintsville Lake. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
- (44) Parched Corn Creek, Wolfe County. Artificial baits with single hooks shall be used.
- (45) Peabody Wildlife Management Area (Goose Lake, Island Lake or South Lake):
 - (a) Largemouth bass: size limit, twenty (20) inches; daily and possession limit, one (1).
 - (b) Bluegill: daily and possession limit, fifteen (15).
 - (c) Redbreast sunfish: daily and possession limit, fifteen (15).
 - (d) Channel catfish: size limit, fifteen (15) inches; daily and possession limit, two (2).
 - (e) Walleye: size limit, fifteen (15) inches; daily and possession limit, one (1).
 - (f) Crappie: daily and possession limit, ten (10).
 - (g) A person shall not fish:
 1. Except during daylight hours;
 2. Through February 28, 1998, from October 16 through June 30 on South Lake or Island Lake [~~and, until February 28, 1997, on Goose Lake~~];
 3. Through February 28, 1998, [~~After February 28, 1997,~~] from October 16 through the last day of February on Goose Lake.
 4. After February 28, 1998, from October 15 through March 15 on Goose Lake, South Lake or Island Lake.
 - (h) A person shall not take [gig] frogs.

- (46) Poor Fork and its tributaries in Letcher County downstream to the first crossing of Highway 392. Artificial baits with single hooks only.
- (47) Lake Reba.
 - (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
 - (b) A person [Persons] shall not possess shad or use shad for bait.
- (48) Rough River Lake.
 - (a) Crappie: size limit, nine (9) inches.
 - (b) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches, except that the daily limit may contain one (1) and the possession limit two (2) bass under fifteen (15) inches.
 - (c) White bass: for size and creel limit purposes anglers shall consider fish of the Morone family with an unseparated, U-shaped rear tooth patch on the tongue to be white bass.
 - (d) Hybrid striped bass: for size and creel limit purposes anglers shall consider fish of the Morone family with a separated rear tooth patch on the tongue to be hybrid striped bass.
- (49) Shanty Hollow Lake.
 - (a) Largemouth bass: size limit, fifteen (15) inches.
 - (b) A person shall not possess shad or use shad for bait.
- (50) Shillalah Creek, Bell County, outside the Cumberland Gap National Park. Artificial baits with single hooks shall be used.
- (51) Spurlington Lake. A person shall not possess shad or use shad for bait.
- (52) Sympson Lake: [~~after February 28, 1997,~~] Largemouth bass: size limit, fifteen (15) inches.
- (53) Taylorsville Lake.
 - (a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
 - (b) Crappie: daily limit, fifteen (15); possession limit, thirty (30); [~~after February 28, 1997,~~] size limits, nine (9) inches.
 - (c) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.
- (54) Tennessee River downstream from Kentucky Lake Dam.
 - (a) Striped bass: daily and possession limit, three (3).
 - (b) Sauger: size limit, fourteen (14) inches.
- (55) Yatesville Lake. Largemouth bass and smallmouth bass; size limit, fifteen (15) inches.

C. THOMAS BENNETT, Commissioner
 ANN R. LATTA, Secretary
 MIKE BOATWRIGHT, Chairman
 APPROVED BY AGENCY: June 13, 1997
 FILED WITH LRC: July 15, 1997 at 9 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended)

301 KAR 2:082. Importing and holding exotic wildlife.

RELATES TO: KRS 150.010, 150.180, 150.280, 150.290, 150.305[~~150.320, 150.330, 150.360, 150.370, 150.470~~]
 STATUTORY AUTHORITY: KRS, 150.025(1), 150.180(6), 150.280
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.280 authorizes the department to promulgate administrative regulations governing the holding of protected wildlife; KRS 150.180(6) requires a person transporting live wildlife into Kentucky to obtain a permit from the department. This administrative regulation establishes the procedure for obtaining a transportation permit for exotic wildlife, prohibits the importation or holding of exotic species with the potential to damage native ecosystems, places restriction on importing species

that are potentially dangerous to human health and safety, and lists exotic species not classified as wildlife.

Section 1. Definitions. (1) "Circus" means a traveling public entertainment show consisting of acrobats, clowns, and trained animals, but shall not include a show including wrestling bears or other direct contact between members of the public and inherently dangerous animals.

(2) "Exotic wildlife" means living terrestrial wildlife species which have:

- (a) [Have] Never existed in the wild in Kentucky; or
- (b) [Have] Been extirpated from the state and could not be reasonably expected to survive in the wild if introduced.
- (3) "Protected wildlife" is defined by KRS 150.010(25).
- (4) "Wildlife" is defined by KRS 150.010(41).

Section 2. (1) Except as specified in subsection (2) of this section, a person shall not import or possess:

- (a) Suricate or slender-tailed meerkat (Genus Suricata);
- (b) Flying fox or fruit bat (Genus Pteropus);
- (c) Wild European rabbit (also called the San Juan Rabbit);
- (d) [Wild European rabbit (Genus Oryctolagus);
- (e)] Mulimammate rat (Subgenus Mastomys);
- (e) [(f)] Nutria (Myocastor coypus);
- (f) [(g)] Monk or Quaker parakeet (Myiopsitta monachus);
- (g) [(h)] Cuckoo (Family Cuculidae), except native species;
- (h) [(i)] Sky lark (Alauda arvensis);
- (i) [(j)] European blackbird (Turdus merula);
- (j) [(k)] Mistle thrush (Turdus viscivorus);
- (k) [(l)] Fieldfare (Turdus pilar);
- (l) [(m)] Song thrush (Turdus philomelos);
- (m) [(n)] White eyes (Genus Zosterops);
- (n) [(o)] Cape sparrow (Plocius philippines);
- (o) [(p)] Baya weaver (Plocius baya);
- (p) [(q)] Madagascar weaver (Foudia madagascariensis);
- (q) [(r)] Weaver finches (Genus Passer), except Passer domesticus;
- (r) [(s)] Dioc or red-bellied quelea (Quelea quelea);
- (s) [(t)] Cowbirds (Genus Molothrus), except native species;
- (t) [(u)] Blackbirds (Genus Agelaius), except native species;
- (u) [(v)] Yellowhammer (Emberiza citrinella);
- (v) [(w)] Java sparrow (Padda oryzivora);
- (w) [(x)] Hawaiian rice bird or spotted munia (Lonchura punctulata nisoris);
- (x) [(y)] Starlings (Family Sturnidae) except Sturnus vulgaris and hill mynahs (Gracula Religiosa);
- (y) [(z)] Pink starling or rosy pastor (Sturnus roseus);
- (z) [(aa)] Mute swan (Cygnus olor);
- (aa) [(bb)] Giant or marine toad (Bufo marinus);
- (bb) [(cc)] Tongueless or African clawed frog (Aenopus laevis);
- (cc) [(dd)] A member of the following families:
 - 1. Suidae (pigs or hogs), except for domestic swine;
 - 2. Viverridae (civits, genets, lingsangs, mongooses and fossas);
 - 3. Tayassuidae (Peccaries and javelinas).
- (2) Under the provisions of KRS 150.180(6) the commissioner may allow the importation or possession of the species listed in subsection (1) of this section for legitimate scientific or educational purposes by:
 - (a) A zoo that is:
 - 1. A member of the American Zoo and Aquarium Association; or
 - 2. Designated as the official zoo of a municipality.
 - (b) A government agency;
 - (c) A college or university; or
 - (d) A similar educational or research institution.

Section 3. (1) A person shall obtain a transportation permit from the department before importing exotic wildlife.

(2) An application for a transportation permit shall be made on an application for Transportation Permit form provided by the department and accompanied by:

(a) A veterinarian's certificate that the wildlife does not exhibit symptoms of disease;

(b) A copy of a bill or sale or other proof that the wildlife was obtained legally; and

(c) If not an institution listed in Section 2(2) of this administrative regulation, a signed statement from the local authority having jurisdiction over where the animal will be kept, certifying that the possession of the following dangerous exotic species is not prohibited by local ordinance: [Application for transportation permits shall be:

(a) Made on forms provided by the department; and

(b) Accompanied by:

1. A veterinarian's certificate that the wildlife does not exhibit symptoms of disease;

2. A copy of a bill of sale or other proof that the wildlife was obtained legally; and

3. Unless the applicant is an institution listed in Section 2(2) of this administrative regulation, a signed statement from the local authority having jurisdiction over where the animal will be kept which certifies that local ordinances do not prohibit the possession of the following dangerous exotic species:]

- 1. [a:] African buffalo (Syncerus caffer);
- 2. [b:] Hippopotamus (Hippopotamus amphibius);
- 3. [c:] Hyenas (family Hyaenidae), all species except aardwolves (Proteles Cristatus);
- 4. [d:] Honey badger or ratel (Mellivora campensis);
- 5. [e:] Old world badger (Meles meles);
- 6. [f:] Lions, jaguars, leopards or tigers (Genus Panthera);
- 7. [g:] Clouded leopard (Neofelis nebulosa);
- 8. [h:] Cheetah (Acinonyx jubatus);
- 9. [i:] Elephants (family Elephantidae);
- 10. [j:] Rhinoceroses (family Rhinocerotidae);
- 11. [k:] Gibbons or siamangs (family Hylobatidae);
- 12. [l:] Orangutans, chimpanzees, or gorillas (Family Pongidae);
- 13. [m:] Baboons, drills or mandrills (Genus Papio);
- 14. [n:] Macaques (Genus Macaca);
- 15. [o:] Gelada baboon (Theropithecus gelada);
- 16. [p:] Gavials (Family Gavialidae);
- 17. [q:] Crocodiles (Family Crocodylidae);
- 18. [r:] Alligators or caimans (Family Alligatoridae);
- 19. [s:] Sea snakes (Family Hydrophidae);
- 20. [t:] Cobras or coral snakes (Family Elapidae);
- 21. [u:] Adders or vipers (Family Viperidae);
- 22. [v:] Venomous rear-fanged species (Family Colubridae);
- 23. [w:] Gila monsters or beaded lizards (Family Helodermatidae);
- 24. [x:] Komodo dragon (Varanus komodoensis);
- 25. [y:] The following constricting snakes over eight (8) feet in length:
 - a. [(f)] Boa constrictor (Boa constrictor) all subspecies;
 - b. [(g)] Anaconda (eunectes murinus);
 - c. [(h)] Indian python (Python molurus);
 - d. [(i)] Reticulated python (Python reticulatus); or
 - e. [(j)] Rock Python (Python sebae);
- 26. [z:] Bears (Family Ursidae);
- 27. [aa:] Wolf or wolf hybrids of over twenty-five (25) percent wolf;

or

28. [bb:] Cougar or mountain lion (Felis concolor).

(3) Failure to provide accurate, truthful and complete information on the application form shall result in:

- (a) Immediate withdrawal or revocation of the permit; and
- (b) Confiscation of the wildlife imported under the permit.

Section 4. [For reasons of human health or safety, or for the abatement or control of a nuisance, a county or city government may

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prohibit the holding of the dangerous exotic wildlife listed in Section 3 of this administrative regulation.

Section 5. A person shall not release exotic wildlife into the wild.

Section 5. [6:] Unless otherwise protected by state or federal law, exotic wildlife **shall not**:

- (1) ~~[Shall not]~~ Be classed as protected wildlife; and
- (2) ~~[Shall not]~~ Require a permit from the department for possession.

Section 6. [7:] The following classes of animals shall not be considered wildlife and shall not require permits from the department for importation or possession:

- (1) Breeds and varieties of goats derived from the wild goat or bezoar (*Capra aegagrus*);
- (2) Domestic swine, except free-living or feral wild boars or wild swine;
- (3) Llama (*Lama glama*);
- (4) Alpaca (*Lama pacos*);
- (5) Domestic Yak (*Bos grunniens*);
- (6) Camels (*Camelus bactrianus* and *Camelus dromedarius*);
- (7) Hamsters (*Mesocricetus* spp.);
- (8) Domesticated races of mink (*Mustela vison*), if:
 - (a) Adults are heavier than 1.15 kilograms; or
 - (b) The fur color can be distinguished from wild mink;
- (9) Guinea pigs (*Cavia porcellus*);
- (10) Gerbils (*Meriones unguiculatus*);
- (11) Chinchillas (*Chinchilla laniger*);
- (12) Domesticated races of rats (*Rattus norvegicus* or *Rattus rattus*) or mice (*Mus musculus*);
- (13) Domesticated races of the European rabbit (*Oryctolagus cuniculus*), except the wild :
 - (a) European rabbit (also called the San Juan Rabbit). [*ferae naturae*; or
 - (b) The San Juan rabbit;]
- (14) Domesticated races of turkeys (*Meleagris gallopavo*) recognized by the American Poultry Association and the U.S. Department of Agriculture; but shall not include captive held or bred wild turkeys;
- (15) Domestic races of ducks and geese (*Anatidae*) distinguishable morphologically from wild ducks or geese;
- (16) Feral Pigeons (*Columba domestica* or *Columba livia*) or domesticated races of pigeons;
- (17) Guinea fowl (*Mumida megeagris*);
- (18) Peafowl (*Pavo cristatus*);
- (19) Ratites, as defined by KRS 247.870; or
- (20) American bison.

Section 7. [8:] The provisions of this administrative regulation shall not be enforced until after January 1, 1998.

Section 8. Incorporation by Reference. (1) Application for Transportation Permit, (1997), Department of Fish and Wildlife Resources, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

MIKE BOATWRIGHT, Chairman

APPROVED BY AGENCY: June 13, 1997

FILED WITH LRC: July 15, 1997 at 9 a.m.

JUSTICE CABINET Division of Charitable Gaming (As Amended)

500 KAR 11:001. Definitions for 500 KAR Chapter 11.

RELATES TO: KRS 238.500 to 238.995

STATUTORY AUTHORITY: KRS 238.515(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS **238.515(9)** [Chapter 238] authorizes the Division of Charitable Gaming to **promulgate** [adopt] administrative regulations to carry out the provisions of the chapter. This administrative regulation establishes definitions of terms used throughout 500 KAR Chapter 11.

Section 1. Definitions. [The following definitions describe terms used in administrative regulations found in 500 KAR Chapter 11. Terms not defined below shall have the meanings given to them by KRS 238.505 or if not so defined, the meanings attributed by common use.]

(1) "Bet block" means an area which indicates the dollar amount of the wager.

(2) "Card" or "face" means a card or paper containing:

(a) Five (5) rows of five (5) squares with twenty-four (24) preprinted numbers;

(b) A free center space; and

(c) The letters "B", "I", "N", "G", "O" printed in order over the five (5) columns. ["Card" means a card or paper containing five (5) rows of five (5) squares with twenty-four (24) preprinted numbers and a free center space, and the letters, "B", "I", "N", "G", "O" printed in order over the five (5) columns.]

(3) "Cash" means currency, coinage or a negotiable instrument.

(4) "Conditioning" means a restatement of:

(a) How many numbers or combinations of numbers are being selected by the players;

(b) The way in which the numbers are being wagered; and

(c) The corresponding dollar amount wagered. ["Conditioning" means a restatement of how many numbers or combination of numbers are being selected by the players, the way in which they are wagered, and the corresponding dollar amounts wagered.]

(5) "Covered" means daubed or smeared with indelible ink.

(6) "Deal" means each separate game or series of charity game tickets with the same serial number.

(7) "Designator" means an item:

(a) Upon which bingo letters and numbers are imprinted; and

(b) Used in the number selection process. ["Designator" means an item used in the number selection process, such as a ping pong ball, upon which bingo letters and numbers are imprinted.]

(8) "Disposable paper bingo card" means a nonreusable, paper bingo card:

(a) Bearing preprinted numbers; and

(b) Assembled in a:

1. Multiple card sheet;

2. Single sheet;

3. Pad; or

4. Packet form. ["Disposable paper bingo card" means a nonreusable, paper bingo card bearing preprinted numbers and assembled in multiple card sheet, single sheet, pad or packet form.]

(9) "Draw ticket" means a ticket upon which the numbers randomly selected are marked on a blank ticket as the numbers are selected.

(10) "EPROM" means Erasable Programmable ROM.

(11) "Exception log" means a record documenting a prize payout that has [any prize payouts which have] not been authorized by the computer.

(12) "Festival bingo" means bingo:

(a) Conducted at a charity fundraising event; and

(b) For which total cash and fair market value of prizes

awarded do not exceed \$5,000.

(13) "Flare" means a piece of paper, cardboard or similar material that bears printed information relating to the:

- (a) Number of prizes to be awarded; and
- (b) Specific prize amounts in a particular deal of charity game tickets.

(14) "Inside ticket" means a blank Keno ticket:

(a) Constructed with eighty (80) blocks numbered one (1) through eighty (80); and

(b) Containing a bet block.

(15) "Keno" means a numbers game in which:

(a) A participant chooses from one (1) to ten (10) numbers from a pool of eighty (80) numbers; and

(b) The winner and his prize is determined by correctly matching his numbers to the twenty (20) numbers generated in the game.

(16) "Keno equipment" means a:

- (a) Electronic selection device;
- (b) Random number generator;
- (c) Computerized Keno system; or
- (d) Integrated system of computer hardware and software that:

- 1. Generates a player ticket;
- 2. Records a game outcome;
- 3. Verifies a winning ticket;
- 4. Produces a management report; or
- 5. Performs other internal audit controls of a Keno operation.

["Face" means a card or paper containing five (5) rows of five (5) squares with twenty-four (24) preprinted numbers and a free center space, and the letters "B", "I", "N", "G", "O" printed in order over the five (5) columns:

(13) "Festival bingo" means bingo conducted at a charity fundraising event and for which total cash and the fair market value of prizes awarded do not exceed \$5,000.

(14) "Flare" means a piece of paper or cardboard or similar material which bears printed information relating to the number of prizes to be awarded and the specific prize amounts in a particular deal of charity game tickets.

(15) [(14)] "Inside ticket" means a blank Keno ticket constructed with eighty (80) blocks containing the printed numbers one (1) through eighty (80) and containing a bet block.

(16) [(15)] "Keno" means a numbers game in which participants choose from one (1) to ten (10) numbers from a pool of eighty (80) numbers, and the winner(s) and their prize(s) are determined on the basis of correctly matching their numbers to the twenty (20) numbers generated for each game.

(17) [(16)] "Keno equipment" means electronic selection devices; random number generators and computerized Keno systems/integrated systems of computer hardware and software that generate player tickets, record game outcomes, verify winning tickets, produce management reports and perform other internal audit controls of the Keno operation.]

(17) [(17)] [(17)] "Keno manager" means the person in charge of the operation of the Keno game.

(18) [(18)] [(18)] "Multirace ticket" means a single ticket which allows a player to make the same wager on consecutive games.

(19) [(20)] [(19)] "Outside ticket" means a computer generated ticket given to the player which reflects certain game and wagering information.

(20) [(21)] [(20)] "Perm number" means the number generally printed in the center space of a bingo card that identifies the unique pattern of numbers printed on that card.

(21) [(22)] [(21)] "PROM" means programmable ROM.

(22) [(23)] [(22)] "Quick pick" means a number selection made for the player by a computer.

(23) "RAM" or "random access memory" means the electronic memory that a computer uses to store information.

(24) "Random number generator" means a device:

(a) For generating number values that exhibit characteristics of randomness; and

(b) Composed of:

- 1. Computer hardware;
- 2. Computer software; or
- 3. A combination of computer hardware and software.

[(24)] [(23)] "RAM" means random access memory and is the electronic memory that the computer uses to store information.

(25) [(24)] "Random number generator" means a hardware, software or combination hardware and software device for generating number values that exhibit characteristics of randomness:]

(25) [(26)] [(25)] "Regrade" means to manually recalculate the prize payout of a winning ticket according to the printed pay schedule.

(26) "ROM" or "read only memory" means:

(a) The electronic component used for storage of nonvolatile information in Keno equipment that provides instructions needed by the computer to begin its operations each time it is turned on;

(b) "PROM"; and

(c) "EPROM".

(27) "Selection device" means a device that:

(a) May be operated:

- 1. Manually; or
- 2. Automatically; and
- (b) Is used to randomly select bingo numbers.

(28) "Serial number" means a number that is:

- (a) Printed by the manufacturer on each card in a set; and
- (b) Unique to the set.

[(27)] [(26)] "ROM" means read only memory which is the electronic component used for storage of nonvolatile information in Keno equipment and provides instructions the computer needs to begin its operations each time the computer is turned on. The term includes PROM and EPROM.

(28) [(27)] "Selection device" means a device that may be operated manually or automatically and is used to randomly select bingo numbers:

(29) [(28)] "Serial number" means a unique number printed by the manufacturer on each card in a set and which is unique to that set.]

(29) [(30)] [(29)] "Series number" means the number of unique card faces contained in a set.

(30) "Set" means a specific group of cards from the same product line that:

(a) Are the same:

- 1. Color; and
- 2. Border pattern;
- (b) Are imprinted with the same serial number; and
- (c) May include more than one (1) series of:

1. Cards; or

2. Faces.

(31) "Transaction log" means a record of the same information printed on each outside ticket that is:

(a) Retained in the computer's memory; or

(b) Printed out by the computer.

(32) "Verification book" means a book compiled by the manufacturer of bingo cards that:

(a) Lists the unique patterns of numbers on each card by perm number; and

(b) Is used to verify the authenticity of a winning card.

[(31)] [(30)] "Set" means a specific group of cards from the same product line which are the same color, border pattern and imprinted with the same serial number. A set of cards may include more than one (1) series of cards or faces:

(32) [(31)] "Transaction log" is a record either retained in the computer's memory or printed out by the computer which contains the same information printed on each outside ticket.

(33) [(32)] "Verification book" means a book compiled by the manufacturer of bingo cards that lists the unique pattern of numbers

on each card by perm number and is used to verify the authenticity of a winning card.]

(33) [(34)] [(33)] "Way ticket" means a single ticket that permits wagering on a [which allows a player to wager on the] combination of groups of numbers in various ways designated by the player.

(34) [(35)] "Week" means a seven (7) day period beginning on Sunday and ending Saturday.

(35) [(36)] [(34)] "Year" means calendar year except as used in KRS 238.555(7) and 500 KAR 11:080, Section 2, when "year" means the licensee's license year.

SARAH M. JACKSON, Director

APPROVED BY AGENCY: June 10, 1997

FILED WITH LRC: June 10, 1997 at 4 p.m.

JUSTICE CABINET
Division of Charitable Gaming
(As Amended)

500 KAR 11:025. Quarterly reports of a licensed charitable organization.

RELATES TO: KRS 238.550, 238.570(1)

STATUTORY AUTHORITY: KRS 238.515(4), (9), 238.550, 238.570(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.550(2) and 238.570(1) require a licensed charitable organization to submit quarterly reports and remit one-half (1/2) of one (1) percent of the gross receipts derived from charitable gaming to the division. [All licensed charitable organizations are required to remit one-half (1/2) of one (1) percent of gross receipts derived from charitable gaming. Quarterly reports are required of all licensed charitable organizations.] This administrative regulation establishes the method and time of filing the quarterly reports and remitting payment of the quarterly fees due.

Section 1. Quarterly Reporting Period Defined. A quarterly report shall be filed by a [each] licensed charitable organization within [no later than] thirty (30) days following the close of each calendar year quarter. A quarterly report shall be considered filed when due if it has been mailed to the division by first class mail, postage prepaid, to the correct address and postmarked by the due date.

Section 2. Quarterly Reports. A quarterly report shall:

(1) Be submitted on the following forms:

(a) Form CG-QR, "Quarterly Activity Report";

(b) Attachment A, "Charitable Gaming Accounting Summary";

(c) Attachment B, "Report of All Prize Winners of \$600 or More";

(d) Attachment C, "Special License Activity Report";

(e) Attachment D, "Summary of Gaming Activity";

(f) Attachment E, "Report of Charitable Contributions Made by Licensee";

(2) Be signed by an authorized officer of the licensed charitable organization; and

(3) If prepared by an individual other than an authorized officer, be signed by the preparer. [Quarterly reports shall be submitted on forms prescribed by the division and shall be signed by an authorized officer of the licensed charitable organization and, if prepared by an individual other than an authorized officer, by the preparer.]

Section 3. Fees Due. The fee [fees] imposed by KRS 238.570(1) on gross gaming receipts of a licensed charitable organization [organizations] shall be remitted by check [or money order] made payable to "Kentucky State Treasurer" at the time the quarterly report

is [reports are] due.

Section 4. Late Fine. (1) If the quarterly fee imposed by KRS 238.570(1) is not remitted when due, a fine of twenty-five (25) dollars per day, not to exceed \$250 dollars per quarter, shall be imposed on the licensed charitable organization until the quarterly fee has been received by the division.

(2) The quarterly fee shall be considered remitted when due if:

(a) It has been mailed:

1. To the division by first class mail;

2. Postage prepaid; and

3. To the correct address; and

(b) It has been postmarked by the due date.

(3) The fine imposed in subsection (1) of this section shall be paid:

(a) Within ten (10) days of receipt of an invoice from the division; and

(b) By check made payable to "Kentucky State Treasurer". [The quarterly fee shall be considered remitted when due if it has been mailed to the division by first class mail, postage prepaid, to the correct address and postmarked by the due date.]

(2) The fine imposed in subsection (1) of this section shall be paid within ten (10) days of receipt of an invoice from the division and shall be by check [or money order] made payable to "Kentucky State Treasurer".]

Section 5. Reporting Expenses. All expenses reported by a licensee on Form CG-QR shall be reported for the period in which payment is made regardless of when the goods or services are used.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Quarterly Activity Report", Form CG-QR, (June 1996 Edition), Division of Charitable Gaming;

(b) "Charitable Gaming Accounting Summary", Attachment A, (June 1996 Edition), Division of Charitable Gaming;

(c) "Report of All Prize Winners of \$600 or More", Attachment B, (June 1996 Edition), Division of Charitable Gaming;

(d) "Special License Activity Report", Attachment C, (June 1996 Edition), Division of Charitable Gaming;

(e) "Summary of Gaming Activity", Attachment D, (June 1996 Edition), Division of Charitable Gaming;

(f) "Report of Charitable Contributions Made by Licensee", Attachment E, (June 1996 Edition), Division of Charitable Gaming;

(2) This material may be inspected, copied, or obtained at the Division of Charitable Gaming, Justice Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, Monday through Friday, 8 a.m. to 4:30 p.m. [Incorporation by Reference. (1) The following reporting forms are incorporated by reference:

(a) Form CG-QR, "Quarterly Activity Report (6/96)";

(b) Attachment A, "Charitable Gaming Accounting Summary (6/96)";

(c) Attachment B, "Report of All Prize Winners of \$600 or More (6/96)";

(d) Attachment C, "Special License Activity Report (6/96)";

(e) Attachment D, "Summary of Gaming Activity (6/96)";

(f) Attachment E, "Report of Charitable Contributions Made by Licensee (6/96)";

(2) These forms may be inspected, obtained or copied at the Division of Charitable Gaming, Justice Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, 8 a.m. to 4:30 p.m., Monday through Friday.]

SARAH M. JACKSON, Director

APPROVED BY AGENCY: June 10, 1997
FILED WITH LRC: June 10, 1997 at 4 p.m.

JUSTICE CABINET
Division of Charitable Gaming
(As Amended)

500 KAR 11:080. Charity fundraising event.

RELATES TO: KRS 238.505(8), **238.535(1)(c)**, **238.545(1)(c)**
STATUTORY AUTHORITY: KRS 238.505(8), 238.515(2), (9),
238.535

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.505(8) authorizes a charity fundraising event ~~of [; such as a fair, carnival, bazaar or festival, that is of short, definite and]~~ limited duration and requires licensure by the Division of Charitable Gaming. This administrative regulation establishes licensure requirements, prize amounts, duration and frequency.

Section 1. (1) A licensed charitable organization shall be issued a special charitable fundraising event license for an event described in KRS 238.505(8) if it submits a completed CG-Schedule A.

(2) The total cash or fair market value of all prizes to be awarded at the event shall not exceed \$5,000, exclusive of:

(a) Charity game ticket prizes; and

(b) Bingo prizes awarded at a regularly scheduled bingo session, for which a change of location was approved by the division director, pursuant to KRS 238.540(1).

(3) A special charitable fundraising event shall not last longer than five (5) continuous days. [A special charitable fundraising event license shall be issued to a licensed charitable organization for the charity fundraising event described in KRS 238.505(8) if:

(1) The licensed charitable organization submits the satisfactory completed CG-Schedule A;

(2) The total cash or fair market value of all prizes to be awarded at the event on games of chance does not exceed \$5,000, exclusive of charity game ticket prizes and bingo prizes awarded at a regularly scheduled bingo session, for which a change of location was approved by the division director pursuant to KRS 238.540(1); and

(3) The event does not last longer than five (5) continuous days.]

Section 2. A licensed charitable organization shall not be issued more than two (2) special charity fundraising event licenses per year. [No more than two (2) special charity fundraising event licenses will be issued to any one (1) licensed charitable organization in one (1) year.]

Section 3. The Division of Charitable Gaming shall not charge a separate fee for the issuance of a special charity fundraising event license. [There shall be no separate fee charged by the Division of Charitable Gaming for the issuance of a special charity fundraising event license.]

Section 4. If special limited games are conducted at a charity fundraising event, the licensed charitable organization shall also be licensed to hold the special limited games in accordance with KRS 238.545(4).

Section 5. If ~~festival~~ bingo is held at a charity fundraising event licensed under Section 1[(2)] of this administrative regulation, the provisions of KRS 238.545(1) limiting the frequency and duration of bingo shall not apply [are inapplicable].

Section 6. A charity fundraising event licensed under Section 1 of this administrative regulation may be held at a location other than the

location specified on the charitable organization's license to conduct charitable gaming issued under KRS 238.535.

Section 7. A licensed charitable organization shall not be required to obtain a special charity fundraising event license under Section 1 of this administrative regulation in order to conduct a noncash prize wheel if the [where]:

(1) [The] Winner is determined by the spinning of a wheel;

(2) [The] Cost of each chance to win does not exceed two (2) dollars; and

(3) [The] Fair market value of a [any one (1)] noncash prize awarded the winner does not exceed fifty (50) dollars.

Section 8. Incorporation by Reference. (1) "Application for Special Limited Charitable Gaming License/Special Charity Fundraising Event License", CG-Schedule A, (June 1996 Edition), Division of Charitable Gaming, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Division of Charitable Gaming, Justice Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, Monday through Friday, 8 a.m. to 4:30 p.m. [(1) "CG-Schedule A, Application for Special Limited Charitable Gaming License/Special Charity Fundraising Event License (for use with Form CG-1) (6/96)", is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Division of Charitable Gaming, Justice Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, Monday through Friday, 8 a.m. to 4:30 p.m.]

SARAH M. JACKSON, Director

APPROVED BY AGENCY: June 10, 1997

FILED WITH LRC: June 10, 1997 at 4 p.m.

JUSTICE CABINET
Division of Charitable Gaming
(As Amended)

500 KAR 11:090. Special limited charitable games.

RELATES TO: KRS 238.505(17), **238.535(10)**, **238.545(4)**

STATUTORY AUTHORITY: KRS 238.505(17), 238.515(2), (9),
238.535(1), **238.545(4)**

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 238.505(17)** authorizes the division to approve additional games to be classified as special limited charitable games. This administrative regulation establishes those games, the circumstances in which they will be conducted, and reporting requirements. [The Division of Charitable Gaming is authorized to approve games to be included among those classified as "special limited charitable games", to establish circumstances under which such games will be conducted, and to establish reporting requirements.]

Section 1. In addition to the special limited charitable games described in KRS 238.505(17), a game of chance shall be considered a special limited charitable game requiring licensure by the Division of Charitable Gaming if the winner is selected on the spinning of a wheel and the:

(1) Cost of each chance to win exceeds two (2) dollars; or

(2) Fair market value of one (1) noncash prize awarded the winner exceeds \$100.

Section 2. The division shall not issue:

(1) More than one (1) special limited charitable gaming license per week; or

(2) More than seven (7) licenses per year for a location. [In addition to those special limited charitable games described in KRS

238.505(17), all games of chance shall be considered special limited charitable games requiring licensure by the division of charitable gaming where the winner is selected on the spinning of a wheel and:

- (1) The cost of each chance to win exceeds two (2) dollars; or
- (2) The fair market value of any one (1) noncash prize awarded the winner exceeds \$100.

Section 2. The division may not issue more than one (1) special limited charitable gaming license per week and not more than seven (7) such licenses per year for any one (1) location.}]

Section 3. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

SARAH M. JACKSON, Director

APPROVED BY AGENCY: June 10, 1997

FILED WITH LRC: June 10, 1997 at 4 p.m.

TRANSPORTATION CABINET
Department of Highways
Permits Branch
(As Amended)

603 KAR 3:080. Advertising devices.

RELATES TO: KRS 177.830 to 177.890, 23 USC 131, 23 CFR Part 750

STATUTORY AUTHORITY: KRS 177.860, 23 USC 131, 23 CFR Part 750

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.860 authorizes the Department of Highways to establish reasonable standards for advertising devices on or visible from interstate, parkway, and federal-aid primary highways. KRS 177.867 requires the Department of Highways to pay just compensation for the removal of legally-erected advertising devices that are no longer in compliance with state law or administrative regulation. KRS 177.890 authorizes the Commissioner of Highways to enter into agreements with the United States Secretary of Transportation in order to carry out national policy relating to interstate, defense, and federal-aid primary highways within the state. Compliance with the "Highway Beautification Act", 23 USC Section 131 is required to receive federal highway funds. Control of outdoor advertising devices adjacent to the national highway system is required by 23 USC Section 131. 23 USC Section 131(d) conditions retention of additional federal funding on the establishment of controls over the placement of outdoor advertising devices which are more stringent than required by the general federal mandate. Commonwealth v. G.L.G., Inc., Ky., 937 S.W.2d 709 (1997) ruled that the exemption to the billboard advertising prohibition established by KRS 177.860(4) did not require a commercially or industrially developed area in which the billboard was located be zoned commercial or industrial if the billboard otherwise complied with applicable local zoning ordinances. [KRS 177.860 authorizes the Department of Highways to establish reasonable standards for advertising devices on or visible from interstate, parkway and federal-aid primary highways. This administrative regulation is the means used by the Department of Highways to establish those standards. In addition KRS 177.867 requires the Department of Highways to pay just compensation for the removal of legally-erected advertising devices which are not in compliance with current state law or administrative regulation. This administrative regulation sets forth standards for determining when the Department of Highways shall pay just compensation. There are two (2) federal laws which govern the control of outdoor advertising devices. The "Highway Beautification Act", 23 USC Part 131, as amended, is a federal mandate. However, states which comply with

the earlier enacted "Bonus Act" must establish more stringent controls over the placement of outdoor advertising devices than the general federal mandate. Kentucky's authorizing statutes, originally enacted in 1960, require the control of outdoor advertising devices to be consistent with the more stringent "Bonus Act" and Kentucky has entered into an agreement with the Federal Highway Administration setting forth the specific standards for the control of outdoor advertising devices.] [This administrative regulation is consistent with the "Bonus Act" and our bonus agreement with the Federal Highway Administration. The inconsistency resulted from] [A recent Kentucky Supreme Court decision regarding zoning requirements necessitated a change in the administrative regulation. The change in the administrative regulation is consistent with the Supreme Court's decision and, the Transportation Cabinet believes, our Agreement with the Federal Highway Administration. The Federal Highway Administration is evaluating the Supreme Court decision to determine if they agree that consistency with the Bonus Act continues. A recent change in 23 USC Part 131 mandates that outdoor advertising devices be controlled on all road segments on the National Highway System. The few segments of that system on which outdoor advertising devices were not previously controlled have been included in this administrative regulation to comply with the federal mandate.]

Section 1. Definitions. (1) ["Advertising device" or "device" means as defined in KRS 177.830(5):

(2)] "Abandoned" or "discontinued" means that for a period of one (1) year or more that the device has:

- (a) [Has] Not displayed any advertising matter;
- (b) [Has] Displayed obsolete advertising matter; or
- (c) [Has] Needed substantial repairs.

A notice that the device is for sale, rent, or lease shall not be considered advertising matter.

(2) ["Advertising device" or "device" means as defined in KRS 177.830(5):

(3)] "Activity boundary line" means the delineation on a property of those regularly used buildings, parking lots, storage and process areas which are an integral part of and essential [contiguous] to the primary business activity which takes place on the property. In an industrial park, the service road shall be considered within the activity boundary line for the industrial park as a separate entity.

(3) "Advertising device" or "device" means as defined in KRS 177.830(5).

(4) "Allowed" means legal to exist without a permit from the Department of Highways.

(5) "Billboard" or "off-premise advertising device" means a device that contains a message relating to an activity or product that is foreign to the site on which the device and message are located or an advertising device erected by a company or individual for the purpose of selling advertising messages for profit.

(6) "Centerline of the highway" means a line equidistant from the edges of the median separating the main traveled ways of a divided highway, or the centerline of the main traveled way of a nondivided highway.

(7) "Commercial or industrial activities" means as defined in KRS 177.830(9).

(8) "Commercial or industrial enterprise" means any activity carried on for financial gain except that it shall not include:

- (a) Leasing of property for residential purposes;
- (b) Agricultural activity or animal husbandry; or
- (c) Operation or maintenance of an advertising device.

(9) "Commercially or industrially developed area" means[as it is applied to interstate and parkway highways only]:

(a) Any area within 100 feet (thirty and five-tenths (30.5) meters) of, and including any area where there are located within the protected area at least ten (10) separate commercial or industrial enterprises, not one of the structures from which one (1) of the enterprises is being conducted is located at a distance greater than

1620 feet (493.8 meters) from any other structure from which one (1) of the other enterprises is being conducted; and

(b)1. The land use for the area as of September 21, 1959 was clearly established by state law as industrial or commercial; or

2. The land use for the area was within an incorporated municipality as the boundaries existed on September 21, 1959 and is currently zoned for commercial or industrial use at the time of the application for an advertising device permit; and

(c) ~~Not less than ten (10) of the enterprises referred to in paragraph (a) of this subsection are at the time of the permit application and were on March 10, 1960, located in an area governed by state or local zoning laws and in compliance with the state and local zoning laws and administrative regulations. If there was no local zoning ordinance in effect on March 10, 1960 or if there is no local zoning ordinance in effect at the time of the permit application, the provisions of paragraph (a) of this subsection shall not be applicable.~~

(10) [(9)] "Commercial or industrial zone" means as defined in KRS 177.830(7).

(11) [(10)] "Comprehensively zoned" means, as it is applied to FAP highways only, that each parcel of land under the jurisdiction of the zoning authority has been placed in some zoning classification.

(12) [(11)] "Department" means the Department of Highways within the Kentucky Transportation Cabinet.

(13) "Destroyed" means damage to an advertising device in excess of fifty (50) percent of the device:

(a) Including:

1. Supports;

2. Poles;

3. Guys;

4. Struts;

5. Panels;

6. Facing; and

7. Bracing; and

(b) That to be structurally and visually acceptable, requires adding:

1. A guy or strut;

2. New supports or poles by splicing or attaching to an existing support;

3. Separate new auxiliary supports or poles;

4. New or replacement peripheral or integral structural bracing or framing; or

5. New or replacement panels or facing. [(12)] ["Destroyed" means that the advertising device has sustained damage by any means in excess of fifty (50) percent of the entire advertising device which includes supports, poles, guys, struts, panels, facing, and bracing. The damage is such that to be structurally and visually acceptable, one (1) or more of the following remedies is essential:

(a) Adding guys or struts;

(b) Adding new supports or poles by splicing or attaching to existing supports;

(c) Adding separate new auxiliary supports or poles;

(d) Adding new or replacement peripheral or integral structural bracing or framing; or

(e) Adding new or replacement panels or facings.]

(14) "Electronic sign" means an on-premise advertising device whose message may be changed by electrical or electronic process, and includes the device known as the electronically changeable message center for advertising on-premise activities.

(15) [(13)] "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any way bring into being or establish, but it shall not include any of the foregoing activities if [when] performed as an incident to:

(a) The change of an advertising message; or;

(b) Customary maintenance; or

(c) Repair of an advertising device.

(16) [(14)] "Federal-aid primary highway" or "FAP highway" means as defined in KRS 177.830(3) and 23 USC 103(b) and as it existed

on June 1, 1991. [(13)]. [The FAP highways are listed in Section 11 of this administrative regulation.]

(17) [(15)] "Identifiable" means capable of being related to a particular product, service, business or other activity even though there is no written message to aid in establishing the relationship.

(18) [(16)] "Interstate highway" means as defined in KRS 177.830 (2) and 23 USC 131(t).

(19) "Legible" means capable of:

(a) Being read without visual aid by a person of normal visual acuity; or

(b) Conveying an advertising message to a person of normal visual acuity. [(17)] ["Legible" means capable of being read without visual aid by a person of normal visual acuity, or capable of conveying an advertising message to a person of normal visual acuity.]

(20) [(18)] "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, each direction has its own main traveled way. It does not include such facilities as frontage roads, turning roadways, access ramps, or parking areas.

(21) "National highway system" or "NHS" means the Kentucky highways defined in 23 USC 103 excluding the highways which are part of the interstate, parkway, or FAP system of highways.

(22) [(19)] "Nonbillboard off-premise advertising device" means, as it is applicable to FAP and NHS highways only, an advertising device not located on the property which it is advertising and limited to advertising for a city, church, or civic club which includes any nationally, regionally or locally known religious or nonprofit organization.

(23) "Nonconforming advertising device" means an off-premise advertising device that was lawfully erected but:

(a) Does not comply with the provisions of a subsequent:

1. State law; or

2. Administrative regulation; or

(b) Later fails to comply with state law or administrative regulation due to changed conditions similar to the following:

1. Zoning change;

2. Highway relocation;

3. Highway reclassification; or

4. Change in a restriction on size, spacing or distance. [(20)]

["Nonconforming advertising device" means an off-premise advertising device which was lawfully erected but does not comply with the provisions of state law or administrative regulation passed at a later date or which later fails to comply with state law or administrative regulation due to changed conditions similar to the following:

(a) Zoning change [changes];

(b) Highway relocation;

(c) Highway reclassification; or

(d) Change in restriction [Changes in restrictions] on size, spacing or distance.]

(24) "Official sign" means a sign:

(a) Located within the highway right-of-way; and

(b) Installed by or on behalf of:

1. The Department of Highways; or

2. Another public agency having jurisdiction; and

(c) Which meets one (1) of the following purposes:

1. Denotes the location of underground utilities;

2. Is required by a federal, state, or local government to delineate the boundaries of a:

a. Reservation;

b. Park; or

c. District;

3. Identifies the street or highway;

4. Controls traffic; or

5. Is required by state law. [(21)] ["Official sign" means a sign

located within the highway right-of-way installed by or on behalf of the Department of Highways or other public agency having jurisdiction. Included [in these signs] are:

(a) ~~A sign [Signs] denoting the location of underground utilities;~~
 (b) ~~A sign [Signs] required by a federal, state, or local government [governments] to delineate boundaries of a reservation, park, or district [reservations, parks or districts];~~

(c) ~~A street sign [signs] or traffic control sign [signs]; or~~
 (d) ~~A sign [Signs] required by state law.]~~

(25) [(22)] "On-premise advertising device" means an advertising device that contains a message relating to an [the primary] activity conducted or the sale of goods and services [a primary product] within the boundaries of the property on which the device is located. It does not mean a sign which generates rental income.

(26) [(23)] "Parkway" means any highway in Kentucky originally constructed as a toll road whether or not a toll for the use of the highway is currently being collected. As it relates to an advertising device, a parkway [advertising devices, parkways] shall be considered the equivalent of an interstate highway [highways].

(27) [(24)] "Permitted" means legal to exist only if a permit is issued from the Department of Highways.

(28) [(25)] "Primary business or activity" means that the sale of one product or a business activity which takes precedence over ~~[any or all] other product sales or business activities.~~

(29) [(26)] "Protected area" means all areas within the boundaries of this Commonwealth which are adjacent to and within 660 feet (210.17 [200.64] meters) of the state-owned highway right-of-way of the interstate, parkway, NHS, and FAP highways and those areas which are outside urban area boundary lines and beyond 660 feet (210.17 [200.64] meters) from the right-of-way of an [all] interstate, parkway, NHS, or [and] FAP highway [highways] within the Commonwealth. If this highway [Where these highways] terminate at a state boundary which is not perpendicular or normal to the center line of the highway, "protected area" also means all of these areas inside the boundaries of the Commonwealth which are adjacent to the edge of the right-of-way of an interstate highway in an adjoining state.

[(27)] "Public service information" means information allowed on an on-premise advertising device which may be illuminated by any flashing, moving or intermittent light or lights and which shall be limited to time, temperature, date, and current weather conditions.

(28) "Public service sign" means, as it is applicable to FAP highways only, a sign erected or located on a school bus shelter.

(30) [(29)] "Public service message" means a message pertaining to an activity or service which is performed for the benefit of the public and not for profit or gain of a particular person, firm or corporation or information such as time or temperature. [This definition shall apply to signs on school bus shelters on FAP highways only.]

(31) [(30)] "Routine change of message" means, as it relates to a nonconforming advertising device, the message change on an advertising device from one (1) advertised product or activity to another. This includes the lamination or preparation of the existing panels or facings at a plant or factory for the changing of messages when this is the normal operating procedure of a company.

(32) [(31)] "Routine maintenance" means, as it relates to a nonconforming advertising device:

(a) The maintenance of an advertising device which is limited to replacement of nuts and bolts, nailing, riveting or welding, cleaning and painting, or manipulating to level or plumb the device;

(b) The routine change of message; and

(c) The lamination or preparation of existing panels or facings at a location other than that of the advertising device.

(d) Routine maintenance shall not mean:

1. Adding guys or struts for the stabilization of the device or substantially changing the device; or

2. Replacement or repair of panels, poles, or facings or the addition of new panels, poles, or facings;

(33) [(32)] "Traveled way" means the portion of a roadway dedicated to the movement of vehicles, exclusive of shoulders.

(34) [(33)] "Turning roadway" means a connecting roadway for traffic, turning between two (2) intersecting legs of an interchange.

(35) [(34)] "Unzoned commercial or industrial area" means as defined in KRS 177.830(8).

(36) [(35)] "Urban area" means as defined in KRS 177.830(10).

(37) [(36)] "Visible" means capable of being seen, whether or not legible or identifiable without visual aid by a person of normal visual acuity and erected for the purpose of being seen from the traveled way.

Section 2. Signs on Highway Right-of-way. (1) Official signs allowed. An advertising device shall not be erected or maintained within or over the state-owned highway right-of-way except a directional or other official sign or signal [signs or signals] erected by or on behalf of the state or other public agency having jurisdiction.

(2) Types of official signs. The following official signs (with size limitations) may be allowed on state-owned highway right-of-way:

(a) Directional and other official device [devices] including a sign or device [signs or devices] placed by the Department of Highways;

(b) A sign or device [Signs or devices], limited in size to two (2) square feet (0.186 [0.184] square meters), denoting the location of underground utilities; or

(c) A sign [Signs], limited in size to 150 square feet (thirteen and nine-tenths [13.9] [eight-tenths (13.8)] square meters), erected by a federal, state, or local government [governments] to delineate boundaries of a reservation, park, or district [reservations, parks or districts].

Section 3. General Conditions Relating to Advertising Devices. The requirements of this section shall apply to an advertising device [devices] on an interstate, parkway, NHS, and FAP highway [highways].

(1) FHWA/Kentucky [Bonus] agreement for the control of outdoor advertising.

(a) An advertising device which is [devices which are] visible from an interstate highway, parkway, NHS, or FAP highway [highways, parkways, or FAP highways] shall be governed by the provisions of the agreement between the Kentucky Department of Highways and the Federal Highway Administration which was executed on December 23, 1971.

(b) This agreement is authorized by KRS 177.890 and 23 CFR Part 1.35 and required by 23 CFR Parts 190 and 750.

[(c) The agreement is incorporated by reference in Section 13 of this administrative regulation.]

(2) Advertising device allowed if not visible. An advertising device which is not visible from the main traveled way of the interstate, parkway, NHS, or FAP highway shall be allowed in protected areas.

(3) Visible from more than one (1) highway. If an advertising device is visible from more than one (1) interstate, parkway, NHS, or FAP highway on which control is exercised, the appropriate provisions of this administrative regulation or KRS 177.830 through 177.890 [Chapter 177] shall apply to each of these highways.

(4) Nonconforming advertising device may exist. An off-premise nonconforming, but otherwise legal, advertising device may continue to exist until just compensation has been paid to the owner, if [only so long as] it is:

(a) Not destroyed, abandoned or discontinued;

(b) Subjected to only routine maintenance;

(c) In conformance with local zoning or sign or building restrictions at the time of the erection; and

(d) In compliance with the provisions of Section 4(3) of this administrative regulation and KRS 177.863.

(5) Nonroutine maintenance on a nonconforming device. [(e)] Performance of other than routine maintenance on a nonconforming, but otherwise legal, advertising device shall cause it to lose its legal status and to be classified as illegal.

(6) [(5)] Vandalized nonconforming device.

(a) The owner of a nonconforming, but otherwise legal, advertising device destroyed by vandalism or other criminal or tortious act

may apply to the Department of Highways to reerect the advertising device in kind.

(b) The application for the reerection of the advertising device shall:

1. Be on Transportation Cabinet Form TC 99-31; and

2. Contain the following:

a. [1-] Plans and pictures showing the proposed new structure to be as exact a duplicate of the destroyed nonconforming advertising device as possible, including the same number of poles, type of stanchion, supports, material of poles or stanchion, and material of facing;

b. [2-] Sufficient proof that the destruction was the result of vandalism or other criminal or tortious act;

c. [3-] Ownership of the advertising device;

d. [4-] Dimensions of the destroyed advertising device;

e. [5-] Material used in erection of the destroyed advertising device;

f. [6-] Durability of the new device;

g. [7-] Stanchion type; and

h. [8-] Current lease from land owner.

(c) The Department of Highways shall not issue a notice to reconstruct until all of these conditions have been met.

(d) The owner of the vandalized nonconforming advertising device shall not reerect the advertising device until a notice to reconstruct has been issued by the Department of Highways.

(7) [(6)] Required measuring methods.

(a) To establish a protected area, the distance [protected areas, distances] from the edge of a state-owned highway right-of-way shall be measured horizontally along a line at the same elevation and at a right angle to the centerline of the highway for a distance of 660 feet (210.17 [200.64] meters) inside urban area boundaries and to the horizon outside urban area boundary lines.

(b)1. A V-shaped or back-to-back type billboard advertising device [devices] shall not be more than fifteen (15) feet apart at the nearest point between the two (2) sign facings and shall be connected by bracing or a maintenance walkway.

2. The angle formed by the two (2) sign facings shall not be greater than forty-five (45) degrees.

(c) The spacing between advertising devices shall be measured as described in KRS 177.863(2)(c).

(8) [(7)] Criteria for off-premise advertising devices. The following criteria are applicable to any off-premise advertising device located in a protected area:

(a) An off-premise advertising device shall not exceed the maximum size stated in KRS 177.863(3)(a);

(b) A V-shaped, double-faced, or back-to-back billboard advertising device [devices] shall be considered as specified in KRS 177.863(2)(b);

(c)1. A billboard advertising device may contain two (2) messages per direction of travel if the device does not exceed the maximum size stated in KRS 177.863(3)(a);

2. If a billboard advertising device contains two (2) messages on a single facing or panel, each one (1) shall occupy approximately fifty (50) percent of the device;

3. If a billboard advertising device contains two (2) messages in one (1) direction of travel, each on a separate panel or facing where one (1) panel or facing is placed above or beside the other but where the two (2) separate panels or facings are not touching:

a. [(i)] There may be a size differential in the panels if dictated by the terrain of the site of the billboard advertising device and if the differential is approved by the Transportation Cabinet prior to the erection of the device; and

b. [(ii)] The combined size of the two (2) faces or panels of the advertising device shall not exceed the maximum size stated in KRS 177.863(3)(a).

(d) An on-premise advertising device shall not affect spacing requirements for billboard advertising.

(e) If lit, a billboard advertising device shall [may-only] be illuminated by white lights.

(9) [(8)] Criteria for on-premise advertising devices. The following criteria shall be [are] applicable to an [all] on-premise advertising device [devices] located in a protected area:

(a) An on-premise advertising device shall not exceed the maximum size specified in KRS 177.863(3)(a) if it is placed within fifty (50) feet (fifteen and two-tenths (15.2) meters) of the advertised activity boundary line [lines].

(b)1. There shall not be more than one (1) on-premise device [Not more than [Only] one (1) on-premise device may be] located at a distance greater than fifty (50) feet (fifteen and two-tenths (15.2) meters) from the activity boundary line.

2. An individual on-premise business sign erected to advertise one (1) of the businesses in a shopping center, mall, or other combined businesses location shall not be located more than fifty (50) feet (fifteen and two-tenths (15.2) meters) from the activity boundary line of the individual business.

(c) If further than fifty (50) feet from the activity boundary line, an on-premise advertising device shall not exceed:

1. Twenty (20) feet (6.09 meters) in:

a. Length;

b. Width; or

c. Height; or

2. 150 square feet (thirteen and eight-tenths (13.8) square meters) in area:

a. Including border and trim; and

b. Excluding supports. [An on-premise advertising device shall not exceed twenty (20) feet (6.09 [12.08] meters) in length, width, or height or 150 square feet (thirteen and eight-tenths (13.8) square meters) in area including border and trim but excluding supports if it is farther than fifty (50) feet from the activity boundary line.]

(d)1. An on-premise advertising device shall not be located more than 400 feet (121.9 [121.6] meters), measured within the property boundary, from the advertised activity boundary line.

2. If using a corridor to reach the location of the device, the corridor shall be not less than 100 feet (thirty and five-tenths (30.5) [four-tenths (30.4)] meters) in width and shall be contiguous to an integral part of and of the same entitlement as the property on which the advertised activity is located.

3. Any other business activity which is in any manner foreign to the advertised activity shall not be located on or have use of the corridor between the advertised activity and the location of the device.

4. An activity incidental to the primary activity advertised shall not be considered in taking measurements.

5. If [When] taking measurements for the placement of an on-premise industrial park sign as described in paragraph (j) of this subsection, the access road into the industrial park shall be considered an integral part of the property on which the activity is taking place.

6. If [When] taking measurements for the placement of a single on-premise sign advertising a shopping center, mall, or other combined businesses location, the combined parking area shall be considered as within the activity boundary line.

(e) There shall not be requirements for spacing between on-premise advertising devices.

(f) An advertising device other than one (1) listed here shall not be located as to be visible from the main traveled way of an interstate, parkway, NHS, or FAP highway: [Only the following types of an on-premise advertising device [devices] shall be located so that they are visible from the main traveled way of an interstate, parkway, NHS, or FAP highway:]

1. One [Those] indicating the name and address of the owner, lessee or occupant of the property on which the advertising device is located;

2. One [Those] showing the name or type of business or profession conducted on the property on which the advertising device is

located;

3. Information required or authorized by law to be posted or displayed on the property;

4. One [These] advertising the sale or leasing of the property upon which the advertising device is located;

5. One [These] setting forth the advertisement of an activity conducted on or the sale of a product or service [products] on the property where the advertising device is located; or

6. A sign [Signs] with a maximum area of eight (8) square feet (0.743 [0.736] square meters) noting credit card acceptance or trading stamps.

(g) An on-premise advertising device shall not advertise an activity, service, or business other than that [advertise only the [primary] activity, service, or [primary] business] conducted upon the property on which it is located.

(h) An on-premise electronic sign which contains, includes, or is illuminated by a [any] flashing, intermittent, or moving lights shall not [only] be used except to advertise an activity, service, business, or product available on the property on which the sign is located or to present a public service message.

1. The advertising message may contain words, phrases, sentences, symbols, trade-marks, or logos.

2. A single message or segment of a message shall have a display time of at least two (2) seconds including the time needed to move the message onto the sign board, with all segments of the total message to be displayed within ten (10) seconds.

3. A message consisting of [only] one (1) segment may remain on the sign board any amount of time in excess of two (2) seconds.

4. An electronic sign requiring more than four (4) seconds to change from one (1) single message to another shall be turned off during the change interval.

5. A display traveling horizontally across the sign board shall move between sixteen (16) and thirty-two (32) light columns per second.

6. A display may scroll onto the sign board but shall hold for two (2) seconds including the scrolling time.

7. A display shall not include an [any] art animation or graphic that portrays motion, except for movement of a graphic onto or off of the sign board.

(i) A brand or trade name [names] shall not be advertised on an on-premise advertising device if [when] the sale of a product or service [an item] with the brand or trade name is incidental to the primary activity, service, or business.

(ii) A marquee type on-premise advertising device, such as a device at a typical theater or cinema, may change messages from advertising one (1) legitimate on-premise activity to another. The message change shall not occur more than one (1) time per day.

(j) An industrial park type on-premise advertising device [devices] which shall be limited in area to 150 square feet (thirteen and eight-tenths (13.8) square meters) may contain [only] the [following] [messages]:

1. [The] Name of the industrial park;
2. [The] City or county associated with the industrial park; or
3. [The] Name of the individual business or **industry** [industries] located in the industrial park.

(k) A single on-premise sign erected for a shopping center, mall, or other combined businesses location may:

1. Identify each of the individual businesses conducted at the location; or
2. Include a single display area used to advertise on-premise activities.

Section 4. Specific Requirements for Advertising Devices on Interstate and Parkway Highways. (1) Permit if visible. Except for a nonconforming advertising device, an advertising device which is located in a protected area and which is visible from the main traveled way of an interstate or parkway highway shall have an approved

permit from the Transportation Cabinet, Department of Highways to be a legal advertising device. **An advertising device** [Advertising devices] closer than fifty (50) feet (fifteen and two-tenths (15.2) meters) to the edge of the main traveled way of any interstate or parkway highway shall not be issued a permit.

(2) Criteria for billboard advertising devices.

(a) 1. A billboard advertising device [Billboard advertising devices] may be erected or maintained in a protected area of an interstate or parkway highway if:

- a. The area is a commercially or industrially developed area as defined in Section 1 of this administrative regulation; and
- b. The advertising device complies with the following provisions:

(i) KRS 177.830 through 177.890;

(ii) This administrative regulation; and

(iii) Applicable county or city zoning ordinances. [if the area is a commercially or industrially developed area as defined in Section 1 of this administrative regulation and if the advertising device complies with the provisions of KRS 177.830 through 177.890 [Chapter 177] and this administrative regulation as well as applicable county or city zoning ordinances or administrative regulations.]

2. If a business or industry on which the designation as a commercially or industrially developed area was based is terminated or abandoned, leaving less than ten (10) separate enterprises, the billboard advertising device shall be reclassified as nonconforming.

3. If the Department of Highways reclassifies the device as nonconforming, the owner shall be notified.

(b) A billboard advertising device structure designed to be primarily viewed from an interstate or parkway highway shall not be erected within 500 feet (152.4 meters) of any other off-premise advertising device on the same side of the interstate or parkway highway unless separated by a building, natural obstruction or roadway in a [such] manner that only one (1) off-premise advertising device located within the 500 feet (152.4 meters) is visible from the interstate or parkway highway at any one time.

(3) [Prohibited advertising devices:] The erection or existence of an [the following] advertising device [devices] shall not be permitted [or allowed] in a protected area of an interstate or parkway highway if it [areas]:

(a) Advertises [An advertising device which is advertising] an activity that is illegal, pursuant to [under] state or federal law[, or administrative regulation];

(b) Is [An] obsolete [advertising device];

(c) Is not:

1. Clean;

2. Safe; and

3. In good repair; [An advertising device that is not clean, safe, and in good repair;]

(d) [An advertising device that] Is not securely affixed to a substantial structure [which is] permanently attached to the ground;

(e) [An advertising device which] Attempts to:

1. [or appears to attempt to] Direct the movement of traffic; or

2. [which] Interfere with, imitate, or resemble an [any] official traffic sign, signal, or traffic control device;

(f) [An advertising device which] Prevents the driver of a vehicle from having a clear and unobstructed view of:

1. An official sign; [signs] or

2. Approaching or merging traffic;

(g) [An advertising device which contains:] Includes or is illuminated by [any] flashing, intermittent, or moving lights, except for an on-premise device that [which] meets the requirements of Section 3(9)(h) of this administrative regulation [providing public service information];

(h) [An advertising device which] Uses lighting, [in any way] unless it is:

1. [so] Effectively shielded [as] to prevent a beam [beams or rays] of light from being directed at [any portion of] the main traveled

way of a highway; or

2. ~~[unless it is]~~ Of ~~[a]~~ low intensity that will not cause glare or ~~[or a low brilliance so as not to cause glare or not to]~~ impair the vision of ~~a [the] driver or interfere with the [of any motor vehicle or to otherwise interfere with a [any] driver's]~~ operation of a motor vehicle;

(i) ~~[An advertising device which]~~ Moves or has ~~[any]~~ animated or moving parts;

(j) Is:

1. ~~[An advertising device]~~ Erected or maintained upon a tree;

2. ~~[trees or]~~ Painted or drawn on [upon] rocks or another natural feature [features];

(k) Exceeds [An advertising device exceeding] 1,250 square feet ~~(116.1 [445] square meters)~~ in area;

1. Including border and trim; and

2. ~~[but]~~ Excluding supports;

(l) Is [An advertising device] erected upon or overhanging the right-of-way of a [any] highway; or

(m) ~~[An advertising device which]~~ Interferes with an [any] official;

1. Sign;

2. Signal; or

3. Traffic control device.

(4)(a) To measure distances for the identification of a commercial-ly or industrially developed area, two (2) lines shall be drawn perpendicular to the center line of the controlled interstate or parkway highway, extending from each side of the controlled highway.

(b) The first perpendicular line shall be drawn 100 feet from the outer edge of the first-encountered separate establishment which is within the area being considered as a commercially or industrially developed area.

(c) The second perpendicular line shall be drawn 100 feet from the outer edge of the last-encountered separate establishment which is within the area being considered as a commercially or industrially developed area.

(d) The distance between the first-encountered establishment and the last encountered establishment shall not exceed 1620 feet.

(e) Each perpendicular line shall extend for a distance of 660 from each edge of the right-of-way of the controlled highway.

(f) All area within the confines of the lines perpendicular to the center line of the highway shall be considered when establishing a commercially and industrially developed area.

(g) An enterprise or structure on either side of the controlled interstate or parkway highway within the confines of the lines perpendicular to the centerline of the highway may be counted as part of the ten (10) needed.

(h) A pictorial representation of an eligible commercially or industrially developed area is on the Transportation Cabinet document entitled "Measurement of Commercially or Industrially Developed Area". [The provisions of KRS 177.860(4) shall not be applicable to an advertising device erected or proposed to be erected in the protected area of an interstate or parkway highway unless it is in an area which is a commercially or industrially developed area as defined in Section 1 of this administrative regulation.]

Section 5. Specific Requirements for Advertising Devices on Federal-aid Primary and National Highway System Highways. (1) Billboard advertising devices on NHS and FAP highways. A billboard advertising device [Billboard advertising devices] may be permitted in a protected area of an NHS or FAP highway if it is [protected areas of FAP highways if they are] located in an unzoned commercial or industrial area [areas] or a commercial or industrial zone [zones] and if the device complies [devices comply] with applicable state, county, or city zoning ordinances or administrative regulations.

(a)1. It shall be legal to have a permitted billboard advertising device in an unzoned commercial and industrial area of an NHS or FAP highway if [as long as] there is a commercial, business, or industrial activity in the area.

2. Upon the termination or abandonment of the business or

industry on which the unzoned commercial or industrial area was based, the billboard advertising device shall be reclassified as nonconforming.

3. If the Department of Highways reclassifies the device as nonconforming, the owner shall be notified.

(b) Except for a nonconforming advertising device, a billboard advertising device which is visible from the main traveled way of an NHS or FAP highway and in a protected area shall have an approved permit from the Department of Highways.

(c) An unzoned commercial or industrial area shall not be created when a commercial or industrial activity is located more than 300 feet (ninety-one and four-tenths (91.4) meters) from the right-of-way of the NHS or FAP highway.

(d)1. Minimum spacing between billboard advertising devices in an unzoned commercial or industrial area [areas] shall be 300 feet (ninety-one and four-tenths (91.4) [two-tenths (91.2)] meters) unless separated by a building, roadway, or natural obstruction in a manner that only one (1) device located within the required spacing is visible from the highway at any time.

2. The minimum spacing requirement shall be reduced to 100 feet (thirty and four-tenths (30.4) meters) within an incorporated municipal-ity which does [municipalities which do] not have comprehensive zoning.

(e) Minimum spacing between billboard advertising devices in any comprehensively zoned commercial or industrial area shall be 100 feet (thirty and four-tenths (30.4) meters) unless separated by a building, roadway or natural obstruction in a manner that only one (1) sign located within the required spacing is visible from the highway at any time.

(f) An advertising device [Advertising devices] which meet the criteria set forth in KRS 177.863(1) shall be prohibited.

(2) Establishing limits of an unzoned commercial or industrial area.

(a) In measuring distances for the determination of an unzoned commercial or industrial area near an NHS or FAP highway [high-ways], two (2) lines shall be drawn from the activity boundary line perpendicular to the centerline of the main traveled way to encompass the greatest longitudinal distance along the center line of the highway.

(b) Measurements for establishing unzoned commercial or industrial areas shall begin at the outside edge of the activity boundary lines and shall be measured 700 feet (213.4 [212.8] meters) in each direction.

(3) Nonbillboard off-premise advertising devices on NHS and FAP highways permitted.

(a) The owner of a nonbillboard off-premise advertising device shall apply for a permit in accordance with the procedures set forth in Section 6 of this administrative regulation. A metal tag corresponding to the permit shall not be issued by the Department of Highways.

(b) A nonbillboard off-premise advertising device shall not be permitted on or over the state-owned right-of-way of a NHS or [any] FAP highway.

(c) More than one (1) nonbillboard off-premise advertising device relating to a particular city, church, or civic organization shall not be erected in each direction of travel on a NHS or FAP highway. [Only one (1) nonbillboard off-premise advertising device relating to a particular city, church, or civic organization may be erected in each direction of travel on any one (1) NHS or FAP highway.]

(d) Spacing between two (2) nonbillboard off-premise advertising devices shall be 100 feet (thirty and four-tenths (30.4) meters).

(e) A nonbillboard off-premise advertising device shall not affect the spacing requirements for billboards.

(f) A church or civic club type nonbillboard advertising device [devices] which shall be limited in area to eight (8) square feet (0.743 [0.736] square meters) shall not contain a message other than the following: [may contain only the following messages:]

1. Name and address of the church or civic club;
2. Location and time of meetings, and a directional arrow; or
3. Special events such as Vacation Bible School, revival, etc.

These temporary messages shall be in lieu of the original or a part of the original message and shall not exceed the maximum of eight (8) square feet (0.743 [0.736] square meters) in area.

(4) Public service sign criteria. A public service sign [signs] may be allowed on school bus shelter if it conforms [if they conform] to the following requirements:

(a) The maximum size for a public service sign shall be thirty-two (32) square feet (2.97 [2.944] square meters) in area including border and trim.

(b)1. The public service sign shall contain a message of benefit to the public which occupies not less than fifty (50) percent of the area of the sign.

2. The remainder of the sign may identify the donor, sponsor or contributor of the school bus shelter.

3. The sign shall not contain any other message.

(c) Only one (1) public service sign on each school bus shelter shall face in any one (1) direction of travel.

Section 6. Required Permits for Advertising Devices. (1) Permit required.

(a) Except for a nonconforming advertising device, a permit shall be required from the Department of Highways for any off-premise advertising device located in a protected area of an interstate, parkway, NHS, or FAP highway route.

(b) A permit shall be required for each on-premise advertising device on interstate and parkway highway routes.

(c) Compliance with the provisions of this administrative regulation shall be [is] required for an on-premise advertising device [devices] on NHS and FAP routes.

(d) By January 1, 1994 each permitted off-premise advertising device shall have a metal tag supplied by the department attached to the device.

(2) Application for an advertising device permit.

(a)1. Application for an advertising device permit shall be made on Transportation Cabinet form TC 99-31 as revised in August [March] 1997 [December 1995]. The application form, completed in triplicate, shall be submitted to the jurisdictional highway district office of the proposed advertising device. [The application form is hereby incorporated by reference in Section 13 of this administrative regulation.]

2. The issuance of approved advertising device applications as they relate to the required spacing between billboards shall be determined on a "first-come, first-served" basis.

(b) The application for an advertising device permit shall be accompanied by the following:

1. Vicinity map;
2. Applicant's plot plan;
3. Location, milepoint and sign plans for the advertising device;
4. A copy of all applicable local permits;
5. A copy of the executed lease or ownership of the proposed billboard site, if applicable; and

6. If the request is for an on-premise advertising device, the application shall include a detailed description of the exact wording of the message to be conveyed on the device. This information may be furnished either by photograph, [or] drawing, or illustration.

(c) The applicant shall submit three (3) copies of all required documentation.

(3) An approved advertising device application shall be valid for [only] one (1) year. If the device has not been constructed and inspected for compliance in that year, the applicant shall apply for renewal of the approved application prior to the end of the year of validity.

Section 7. Illegal or Unpermitted Advertising Devices. (1)

Unpermitted advertising devices. The jurisdictional chief district engineer or his representative shall notify the sign and property owner of an unpermitted or illegal advertising device by registered letter that the advertising device is in violation of Kentucky's advertising device laws or administrative regulation under the following conditions:

(a) The advertising device which is not located on state-owned highway right-of-way has not been issued a permit; or

(b) The advertising device which is not located on state-owned highway right-of-way for which a permit has been issued is found in violation of state law or this administrative regulation.

(2) Content of notice.

(a)1. If the advertising device appears to be eligible for a permit, the owner shall be given a period of ten (10) days from the date of notification by registered letter, to make application for a permit.

2. If by the end of the ten (10) days the owner does not submit a completed application to the Department of Highways, the owner shall be sent a new notice allowing him a period of thirty (30) days from the date of the second notice to remove the device.

(b) If an advertising device previously issued a permit is changed after the device received approval from the Department of Highways, the owner shall be allowed a period of thirty (30) days from the date of notification by registered letter for making the adjustments or corrections necessary to bring the advertising device into compliance with state law or administrative regulation.

(c) If a permit is not necessary for a particular advertising device but the advertising device is not in compliance with KRS Chapter 177 or this administrative regulation, the owner shall be allowed a period of thirty (30) days from the date of notification by registered letter for making any necessary adjustments or corrections to the advertising device.

(d) An advertising device which is ineligible for a permit or otherwise in violation of KRS Chapter 177 or this administrative regulation shall be declared to be a public nuisance and the advertising device shall be removed by the permittee or owner within thirty (30) days after written notification that the advertising device is in violation.

(e) If after the thirty (30) days the noncompliant advertising device remains, the Department of Highways shall notify the owner or permittee of the action which it intends to take to have the noncompliant advertising device removed or otherwise brought into compliance.

(3) Request for reconsideration. [Appeal of notice:

(a) If the permittee or owner disagrees with a [any] notice received from the Department of Highways, within twenty (20) days of receipt of the notice, he may:

(a) Contact the person who sent the notice to:

1. Request reconsideration;

2. [unofficially protest the notice and to] Attempt to correct a problem [any problems] with his advertising device; or

3. [to] Provide additional information to the Department of Highways.

(b) File an appeal in accordance with Section 9 of this administrative regulation. [If the owner or permittee is not satisfied with the result of his action taken pursuant to paragraph (a) of this subsection, he may appeal to the Transportation Cabinet, Office of General Counsel, 501 High Street, 10th Floor, State Office Building, Frankfort, Kentucky 40622, within twenty (20) days of the date of the Department of Highway's written response:

(c) The owner or permittee may appeal directly to the Transportation Cabinet, Office of General Counsel at the address set forth in paragraph (b) of this subsection without following the procedure set forth in paragraph (a) of this subsection.]

Section 8. Just Compensation for the Removal of an Advertising Device. (1) Payment of just compensation shall be determined by:

(a) An appraisal; or

(b) A value finding;

(2) A nonconforming advertising device shall not qualify for just compensation if it:

(a) Is:

1. Destroyed;

2. Abandoned; or

3. Discontinued;

(b) Receives more than routine maintenance; or

(c) Does not comply with the provisions of:

1. Section 4(3) of this administrative regulation; or

2. KRS 177.863. [(1) Buying rights, title, etc. When the Transportation Cabinet determines that it is necessary to remove either a legal or nonconforming advertising device, just compensation shall be paid for the following:

(a) The taking from the owner of the advertising device all right, title, leasehold and interest in the advertising device; or

(b) The taking from the owner of the real property on which the advertising device is located or the right to erect and maintain the advertising device thereon.

(2) Just compensation procedures:

(a) Payment of just compensation shall be determined by an appraisal or value finding:

(b) A nonconforming advertising device shall not qualify for just compensation if:

1. It is destroyed, abandoned, or discontinued;

2. It receives more than routine maintenance; or

3. It does not comply with the provisions of Section 4(3) of this administrative regulation and KRS 177.863.]

Section 9. Appeal Procedure. (1)(a) A [Any] party aggrieved by the action of the Transportation Cabinet pursuant to the provisions of this administrative regulation within twenty (20) days of the date of the notice or action may file a written appeal with the Office of General Counsel in the Transportation Cabinet, 501 High Street, Frankfort, Kentucky 40622.

(b) The appeal shall set forth the nature of the complaint and the grounds for the appeal.

(2) The administrative hearing and subsequent procedures shall be conducted pursuant to the provisions of KRS Chapter 13B.

~~[(3) If the appellant wishes to continue the appeal after the administrative hearing set forth in KRS Chapter 13B, the court of proper jurisdiction for the filing of an appeal shall be Franklin Circuit Court.]~~

Section 10. Scenic Byways. (1) On any NHS, FAP, interstate, or parkway highway designated by the Transportation Cabinet as a scenic byway pursuant to 603 KAR 3:090, additional outdoor advertising devices shall not be erected, allowed or permitted after the date of the designation of the highway as scenic.

(2) The outdoor advertising devices legally in existence at the time of designation of the highway as scenic may continue to have routine maintenance.

(3) The sponsor of a scenic byway application ~~[pursuant to 603 KAR 3:090]~~ for a highway which is not an NHS, FAP, interstate, or parkway highway may petition the Transportation Cabinet to impose the outdoor advertising device restrictions set forth in this section.

(4) The following NHS and FAP highways in Kentucky have been designated as scenic byways ~~[pursuant to 603 KAR 3:090]~~:

	From	To Milepoints
(a) Cordell Hull Highway in Barren County:		
KY 70 - From I-65 overpass to KY 90.	5.118	5.359
KY 90 - From KY 70 at Cave City via Happy Valley Road to US 31E (Glasgow Bypass).	.000	9.923
US 31E - From KY 90 to US 68.	14.849	14.258
US 31EX - From US 68 to Washington Street around Courthouse Square in Glasgow.	<u>1.386</u> [1.516]	<u>1.516</u> [1.384]
<u>US 68 - From US 31E to US 31EX.</u>	<u>11.741</u>	<u>12.577</u>
(b) Old Kentucky Turnpike in Larue County:		
US 31E - From the entrance to the Abraham Lincoln Birthplace National Historic Site via Hodgenville to the Nelson County Line.	7.3 <u>0</u> [00]	20.725
(c) Old Kentucky Turnpike in Nelson County:		
US 31E - From the Larue County Line to US 62 in Bardstown.	.000	14.205
US 62 - From US 31E to US 150.	14.294	14.653
US 150 - From US 62 to entrance of My Old Kentucky Home State Park.	0.000	0.240 <u>0</u> [375]
(d) Shakertown Road in Mercer County:		
US 68 - From 1.2 miles east of Shaker Village to 1.2 miles west of Shaker Village.	15.652	13.252
(e) Duncan Hines Scenic Highway in Warren County:		
KY 101 - From US 31W (south) to Edmonson County Line.	11.641	12.850
US 31W [E] - From Duncan Hines former home to KY 446 overpass.	16.559	17.569
(f) Duncan Hines Scenic Highway in Edmonson County:		
KY 101 - From Warren County Line to KY 259 at Rhoda.	0.000	4.131
KY 259 - From KY 101 at Rhoda to KY 70 (east).	9.242	12.096
KY 70 - From KY 259 (south) to KY 259 (north).	12.388	9.939
KY 259 - From KY 238 at Bee Spring to KY 738.	18.998	17.568
(g) Great River Road in Fulton County:		
KY 239 - From Hickman County Line to KY 94 in Cayce.	6.379	3.617
KY 94 - From the Tennessee State Line to KY 1099 west of Hickman.	0.000	10.902
KY 94 - From KY 1099 east of Hickman to KY 239 in Cayce.	13.642	22.121
(h) Great River Road in Hickman County:		
KY 239 - From Fulton County Line to KY 123.	0.000	3.753
KY 123 - From KY 239 to Proposed FAP 94 at Hailwell.	10.048	15.788
KY 123 - From Bottery Road in South Columbus to KY 58.	20.882	21.787
(i) Pine Mountain Road in Letcher County:		

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US 119 - From KY 15 in Whitesburg to KY 806 near Oven Fork.	17.308	9.155
(j) US 68 Segment 1 in Boyle County:		
US 68 - From US 150 in Perryville to US 150 in Perryville.	7.369	7.475
(k) US 68 Segment 1 in Jessamine County:		
US 68 - From Mercer County Line to 0.5 miles south of KY 1980.	0.000	11.610
(h) US 68 Segment 1 in Mercer County:		
US 68 - From US 127 at Mooreland Avenue to Jessamine County Line.	6.752	20.104
(i) <u>US 68 Segment 1 in Jessamine County:</u>		
<u>US 68 - From Mercer County Line to 0.5 miles south of KY 1980.</u>	<u>0.000</u>	<u>10.610</u>
(m) <u>US 68 Segment 2 in Fayette County:</u>		
<u>US 68 - From Swigert Avenue to Bourbon County Line.</u>	<u>10.565</u>	<u>15.767</u>
(n) US 68 Segment 2 in Bourbon County:		
US 27/68 - From Fayette County Line to US 68X in Paris.	0.000	6.765
US 68X - From 10th Street to 8th Street in Paris.	1.366	1.487
US 68X - From Paris Bypass to North Middletown Road in Paris.	2.583	2.772
US 68 - From US 68X to the Nicholas County Line.	2.360	10.814
(o) [(n)] US 68 Segment 2 in Nicholas County:		
US 68 - From Bourbon County Line to KY 32/36.	0.000	3.717
(p) [(o)] US 68 Segment 3 in Nicholas County:		
US 68 - From the Licking River Bridge to the Robertson County Line.	11.687	12.211
(q) [(p)] US 68 Segment 3 in Robertson County:		
US 68 - From Nicholas County Line to the Fleming County Line.	0.000	1.357
(r) [(q)] US 68 Segment 3 in Fleming County:		
US 68 - From Robertson County Line to the Mason County Line.	0.000	5.423
(s) [(r)] US 68 Segment 3 in Mason County:		
US 68 - From Fleming County Line to US 62 in Washington.	0.000	11.854
US 62 - From KY 2515 to Ohio State Line.	13.381	18.000
(t) <u>KY 89 (US 421 in Jackson County:</u>		
<u>US 421 - From the junction with KY 89 north to the junction with KY 89 south.</u>	<u>14.261</u>	<u>14.808</u>

Section 11. Identification of NHS and FAP Highways. The following are the FAP highway segments as designated on June 1, 1991 and the current NHS highway segments which are governed by the provisions of this administrative regulation. If in existence, a noncardinal, one (1) way couplet shall also be part of the NHS and FAP system.

	Milepoint	
	From	To
(1) Adair County:		
KY 55 - From Cumberland Parkway in Columbia to the Taylor County Line.	10.059	19.006
KY 80 - From KY 55 (Courthouse Square) via Burkesville RD in Columbia to KY 61 N.	11.775	12.282
KY 61 - From KY 80 in Columbia to Green County Line.	15.248	23.997
(2) Allen County:		
US 231 - From US 31E northwest of Scottsville to Warren County Line.	.000	9.075
US 31E - From Tennessee State Line via Scottsville Bypass to Barren County Line.	.000	19.189
(3) Anderson County:		
US 127 - From Mercer County Line to US 127 Bypass.	.000	2.535
US 127B - From US 127 south of Lawrenceburg to US 127 north of Lawrenceburg.	.000	6.656
US 127 - From US 127 Bypass to Franklin County Line.	8.897	11.120
KY 151 - From US 127 Bypass to Franklin County Line.	.000	4.587
(4) Ballard County:		
US 51 - From Carlisle County Line via 4th Street in Wickliffe to Illinois State Line.	.000	8.297
US 60 - From Green Street in Wickliffe via 4th Street and Lee Street via Barlow and Kevil to McCracken County Line.	.000	16.937
KY 121 - From Carlisle County Line to 4th Street in Wickliffe.	.000	8.609
(5) Barren County:		
KY 70 - From I 65 at Cave City to KY 90.	5.118	5.359
US 68 - From US 31E (South Green Street) to KY 90 at Broadway.	12.577	12.650
KY 90 - From KY 70 at Cave City via Happy Valley Road to US 31E (Glasgow Bypass).	.000	9.923
KY 90 - From US 68 (Broadway) in Glasgow to Metcalfe County Line.	9.923	22.022
US 68 - From US 31E (Glasgow Bypass) via Main Street to US 31EX (Business) (N Race).	11.741	12.577
US 31EX - From Washington Street in Glasgow via South Green Street to US 68 (E Main St).	1.384	1.461
US 31EX - From US 68 (East Main Street) via West Main Street to North Race Street.	1.461	1.516
US 31E - From Allen County Line via Glasgow Bypass to KY 90.	.000	14.849
(6) Bell County:		
US 25E - From <u>Tennessee</u> [Virginia] State Line to Knox County Line.	.000	<u>18.711</u>
		[19.714]
US 119 - From US 25E to Harlan County Line.	.000	15.756

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<u>KY 3085 - From KY 2014 via Old US 25E to Knox County Line.</u>	.000	2.025
(7) Bourbon County:		
US 27 - From Fayette County Line via Lexington Road and Paris Bypass to Harrison County Line.	.000	15.435
US 68 - From US 27 in Paris via Paris Bypass to Nicholas County Line.	.000	10.814
US 460 - From Scott County Line to Paris Bypass.	.000	7.696
US 68X - From 10th Street via Main Street to 8th Street in Paris.	1.366	1.487
US 68X - From Paris Bypass via Carlisle Road to North Middletown Road in Paris.	2.583	2.772
US 460 - From US 68X (Carlisle Road) via North Middletown Road to the Montgomery County Line.	9.150	21.933
KY 627 - From Clark County Line via 10th Street to US 68X (Main Street).	.000	9.511
US 460 - From US 68X (Main Street) via 8th Street to US 27 (Paris Bypass).	7.696	9.150
(8) Boyd County:		
US 23 - From Lawrence County Line via Court Street in Catlettsburg, and Greenup Avenue and Winchester Avenue in Ashland to Greenup Co. Line.	.000	21.042
KY 180 - From south limits of I-64 Interchange to US 60.	.627	2.518
US 60 - From KY 180 near Cannonsburg via 13th Street to Winchester Avenue in Ashland.	4.023	12.198
US 23S - From US 60 (Winchester Avenue) via 13th Street Bridge to Ohio State Line.	.000	.591
(9) Boyle County:		
KY 34 - From US 150 (Main Street) in Danville via Lexington Road to Garrard County Line.	12.406	17.770
KY 52 - From US 150 to Garrard County Line.	.000	5.114
US 127 - From Lincoln County Line to US 150 (3rd and Main Street intersection).	.000	5.440
<u>US 127 - From US 127B near KY 2186 to Mercer County Line.</u>	<u>8.083</u>	<u>10.319</u>
existing alignment near Bonta Lane.	.000	2.000
US 127 - From proposed alignment near Bonta Lane to south urban limits of Danville.	1.864	2.972
US 127B - From US 127 via the Danville Bypass to US 127 near [at] KY 2168.	.000	5.270
US 127 - From KY 2168 to Mercer County Line.	7.867	9.849
US 127 - From US 127B in Danville via 4th and 3rd Streets to US 150 (Main Street).	2.972	4.957
US 150 - From Washington County Line to US 68 in Perryville.	.000	4.495[504]
US 68 - From US 150 in Perryville to US 150 in Perryville.	7.369	7.475
US 150 - From US 68 in Perryville to Lincoln County Line.	4.495	18.766
US 127 - From US 150 at Maple Street Intersection via Main St. to US 150 at 3rd Street Intersection.	<u>5.978</u>	<u>5.440</u>
	[5.495]	[4.957]
US 150B - From US 127 (Hustonville Road) to US 150 (Standford Road).	.000	2.272
(10) Bracken County:		
KY 9 - From Mason County Line to Pendleton County Line.	.000	19.857
(11) Breathitt County:		
KY 15 - From Perry County Line to Wolfe County Line.	.000	27.505
(12) Breckinridge County:		
KY 259 - From Grayson County Line to KY 79.	.000	7.901
KY 79 - From KY 259 to US 60.	5.294	14.990
KY 3199 - From Hancock County Line to US 60X (Business).	.000	1.260[056]
US 60X - From KY 3199 to US 60 west.	.000	2.500
US 60 - From US 60X (Business) via the <u>Cloverport and Hardinsburg Bypass</u> to the Meade County Line.	3.500	31.788
(13) Bullitt County:		
US 31E - From Spencer County Line <u>via the Harold Bradley Allgood Memorial Highway to the Jefferson County Line.</u>	<u>.000</u>	<u>5.185</u>
[to US 31E Mainline (Main St in Mt. Washington.)]	.000	2.913
US 150 - From point on US 31E Mainline via Mt. Washington Bypass to another point on US 31E Mainline.	.000	2.000
US 31E - From proposed Mt. Washington Bypass to Jefferson County Line.	5.320	5.465
(14) Caldwell County:		
US 641 - From Lyon County Line to Crittenden County Line.	.000	4.269
(15) Calloway County:		
KY 121 - From US 641 to Graves County Line.	14.075	24.156
US 641 - From Tennessee State Line via Murray to Marshall County Line.	.000	17.444
(16) Campbell County:		
US 27 - From Pendleton County Line to US 27 South.	.000	22.250
US 27 - From <u>Pendleton County Line [US 27 South (York St.)]</u> via new bridge to Ohio State Line.	.000	<u>22.622</u> [.400]
<u>KY 8 - From the Kenton County Line to the I-471 underpass.</u>	<u>.000</u>	<u>.998</u>
KY 1120 - From Kenton County Line to York Street.	.000	.668
KY 1998 - From US 27 to KY 8.	2.813	5.014
KY 471 - From US 27 to I-471 (Eastbound I-275 Overpasses).	.000	.729
KY 9 - From Pendleton County Line to north limits of I-275 Interchange.	.000	17.978
(17) Carlisle County:		
US 51 - From Hickman County Line to proposed location of the Great River Road.	.000	10.725
US 51 - From a point on US 51 Mainline via the proposed Great River Road to the Ballard County Line.	.000	1.800
US 94 - From Hickman County Line via the proposed Great River Road to proposed US 51.	.000	9.000

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KY 121 - From Graves County Line to Ballard County Line.	.000	9.714
(18) Carter County:		
KY 7 - From Elliot County Line to US 60 in Grayson.	.000	10.865
KY 1 - From US 60 to KY 9.	10.646	11.934
KY 9 - From KY 1 and KY 7 to Lewis County Line.	.000	18.262
(19) Casey County:		
US 127 - From Russell County Line to Lincoln County Line.	.000	23.715
(20) Christian County:		
US 41A - From Tennessee State Line to end of north exit ramp of Pennyryle Parkway.	.000	13.611
US 41LP - From KY 107 to northwest urban limits of Hopkinsville at KY 91/1682.	.000	5.100
KY 3493 - From US 41A at a point south of Hopkinsville to KY 107.	.000	1.892
US 41 - From Todd County Line to southbound exit ramp of the Pennyryle Parkway.	.000	10.325
US 41 - From US 68 to US 68 in Hopkinsville.	11.909	12.441
US 68 - From Trigg County Line to Todd County Line.	.000	21.126
KY 1682 - From US 68 to Pennyryle Parkway.	.000	3.904
(21) Clark County:		
KY 627 - From Madison County Line to KY 1958.	.000	6.360
KY 1958 - From KY 627 to north limits of the I-64 interchange.	.000	2.860
KY 627 - From southern limits of I-64 Interchange to Bourbon County Line.	9.154	14.812
(22) Clay County:		
KY 80 - From south limits of interchange ramps of Daniel Boone Parkway to US 421.	7.101	7.537
US 421 - From KY 80 to Jackson County Line.	16.915	32.841
(23) Clinton County:		
KY 90 - From Cumberland County Line to Wayne County Line.	.000	12.816
US 127 - From Tennessee State Line to Russell County Line.	.000	20.967
(24) Crittenden County:		
US 60 - From Livingston County Line to Union County Line.	.000	23.018
US 641 - From Caldwell County Line to US 60.	.000	7.494
(25) Cumberland County:		
KY 90 - From Metcalfe County Line to Clinton County Line.	.000	22.450
KY 61 - From Tennessee State Line to KY 90 West.	.000	13.701
(26) Daviess County:		
Proposed FAP 10 - From US 60 near Maceo to Indiana State Line.	.000	3.800
US 60 - From Owensboro Beltline to US 60 (Lewisport Road).	.000	2.600
US 60 - From US 60 Bypass West of Owensboro to Hancock County Line.	10.179	27.979
US 60B - From US 60 to US 60 (Lewisport Road).	.000	10.212
US 60S - From KY 54 to Owensboro Beltline.	.000	.500
KY 54 - From US 431 (Frederica Street) east limits of US 60 Bypass Interchange.	.000	2.663
US 431 - From McLean County Line to 2nd Street.	.000	14.670
KY 2245 - From US 431 (Frederica Street) via 5th Street to US 631 (Lewis Street).	.000	.246
US 231 - From US 60 Bypass via Hartford Road, Breckinridge Street, 5th Street, Lewis Street and Ohio River Bridge to Indiana State Line.	11.243	15.721
KY 2235 - From US 60 via Triplet Street to US 60.	.000	.145
KY 1467 - From US 231 (5th Street) via Breckinridge Street and Leitchfield Road to 2nd Street.	.000	.234
(27) Edmonson County:		
KY 101 - From Warren County Line to KY 259 at Rhonda.	.000	4.131
KY 259 - From KY 101 at Rhonda to KY 70 eastbound.	9.242	12.096
KY 70 - From KY 259 southbound to KY 259 northbound.	9.939	12.388
KY 259 - From KY 70 westbound to Grayson County Line.	12.096	22.692
(28) Elliott County:		
KY 7 - From Morgan County Line to Carter County Line.	.000	19.312
(29) Fayette County:		
US 27 - From Jessamine County Line via Nicholasville Road, South Limestone, Euclid Avenue, South Upper, Bolivar, [and South] Broadway, and Paris Pike to Bourbon County Line.	.000	15.767
[to US 25.	.000	6.941]
US 25 - From Main Street (US 421) via Newtown Pike to KY 922 at Georgetown Street.	14.632	15.237
KY 4 - The entire length of New Circle Road.	.000	19.283
KY 922 - From US 25 (Georgetown Road) via Newtown Pike to north limits of I-75 Interchange.	.000	3.055
[US 27 - From KY 4 (New Circle Road) via Paris Pike to Bourbon County Line.	8.450	15.767]
US 60 - From Woodford County Line to I-75	.000	12.805
[US 27/68.	.000	8.162]
US 68 - From southeast urban limits of Lexington at Jessamine County Line via Harrodsburg Road to KY 4.	.000	3.110
US 421 - From KY 4 via West Main Street to US 25.	.000	1.798
US 25 - From KY 418 via Richmond Road, East Main Street, and West Main Street to US 421.	8.244	14.632
KY 418 - From US 25 to southeast limits of I-75 Interchange.	.000	2.602
(30) Fleming County:		

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KY 32 - From Rowan County Line to KY 11 at a point southwest of Flemingsburg.	10.615	28.293
KY 11 - From junction with KY 32 at point southwest of Flemingsburg to Mason County Line.	<u>10.630</u>	<u>17.105</u>
	(10.860)	17.263
US 68 - From Robertson County Line to Mason County Line.	.000	5.423
(31) Floyd County:		
KY 114 - From Magoffin County Line to KY 1428 in Prestonsburg.	.000	12.430
US 23 - From Pike County Line to <u>Johnson County Line.</u>	<u>.000</u>	<u>21.878</u>
[KY 114 ramp.]	.000	15.389
KY 80 - From Knott County Line to US 23.	.000	14.435
KY 1428 - From KY 114 in Prestonsburg to KY 321 in Prestonsburg.	15.605	16.091
KY 321 - From KY 1428 in Prestonsburg to <u>KY 3 [US-23] south of Auxier.</u>	.000	4.278
<u>KY 3 - From KY 321 south of Auxier to KY 321 near Auxier.</u>	<u>1.060</u>	<u>2.672</u>
<u>KY 321 - From KY 3 to Johnson County Line.</u>	<u>4.278</u>	<u>5.172</u>
[US 23 - From KY 321 south of Auxier to Johnson County Line.]	21.502	24.014
(32) Franklin County:		
US 127 - From Anderson County Line via Capital Plaza-West Frankfort Connector Wilkerson Boulevard to Owen County Line.	.000	<u>21.507</u>
		[22.098]
US 421 - From US 127 (Owenton Road) via Thornhill Bypass to US 460 (Georgetown Road).	3.072	4.523[0]
KY 151 - From Anderson County Line to I-64.	.000	2.222
US 60 - From US 460 at Georgetown Road in Frankfort via Versailles Road to Woodford County Line.	10.716	14.038
US 421 - From US 127 to Henry County Line.	4.523[0]	17.886
US 460 - From US 60 at Versailles Road in Frankfort via Georgetown RD to Scott County Line.	.000	6.114
KY 676 - From US 127 (Lawrenceburg Road) via East-West Connector in Frankfort to US 60 (Versailles Road).	.000	5.287
(33) Fulton County:		
US 51 - From <u>south limits of</u> Purchase Parkway to Hickman County Line.	.000	5.472
KY 239 - From Hickman County Line to KY 94 in Cayce.	6.379	3.617
KY 94 - From the Tennessee State Line to KY 1099 west of Hickman.	0.000	10.902
KY 94 - From KY 1099 east of Hickman to KY 239 in Cayce.	13.642	22.121
KY 1099 - Fulton Bypass from KY 94 west of Hickman to KY 94 east of Hickman.	.000	2.966
(34) Gallatin County:		
KY 35 - From Owen County Line at Sparta to I-71.	.000	2.128
(35) Garrard County:		
US 27 - From Lincoln County Line to Jessamine County Line.	.000	16.510
KY 34 - From Boyle County Line to US 27.	.000	1.610
KY 1295 - From KY 52 to Madison County Line.	.000	6.928
KY 52 - From Boyle County Line to KY 954.	.000	13.476
KY 954 - From KY 52 to Madison County Line.	.000	7.564
(36) Graves County:		
US 45 - From southern interchange of Purchase Parkway to McCracken County Line.	18.950	31.580
KY 80 - From Purchase Parkway via West Broadway to US 45 at 7th Street in Mayfield.	9.638	11.461
KY 58 - From US 45 at 7th Street via East Broadway to Marshall County Line.	5.530	14.881
KY 121 - From Calloway County Line via Murray Road and 5th Street to KY 58 at Broadway.	.000	10.623
US 45 - From KY 80 at Broadway via North 8th Street to KY 121 at Housman Street.	17.219	17.952
KY 121 - From US 45 (North 8th Street) via Housman Street to Carlisle County Line.	10.623	22.559
(37) Grayson County:		
KY 259 - From Edmonson County Line to US 62 westbound.	.000	12.954
US 62 - From KY 259 southbound to KY 259 northbound.	20.787	21.296
KY 259 - From US 62-Eastbound to Breckinridge County Line.	12.954	21.459
(38) Green County:		
KY 61 - From Adair County Line to US 68.	.000	8.194
US 68 - From KY 61 southbound via West Hodgenville Avenue in Greensburg.	11.954	13.616
KY 61 - From KY 88 north of Greensburg to Larue County Line.	9.796	24.344
(39) Greenup County:		
KY 8 - From Lewis County Line to KY 8 Spur at South Portsmouth.	.000	1.956
US 23 - From Boyd County Line to south end of US Grant Bridge.	.000	28.760
KY 8 - From KY 8 Spur to US 23 at south limits of U.S. Grant Bridge in South Portsmouth.	1.956	3.023
KY 8S - From KY 8 via Carl Perkins Bridge to Ohio State Line.	.000	.610
KY 10 - From Lewis County Line to the second landward pier from river's edge in Ohio.	.000	12.844
(40) Hancock County:		
US 60 - From Daviess County Line to KY 3199 in Hawesville.	.000	10.782
KY 3199 - From US 60 in Hawesville to another junction with US 60.	.000	3.301
US 60 - From KY 3199 to Squirrel Tail Hollow Road.	13.666	<u>14.270</u>
		[15.220]
KY 3199 - From another junction with US 60 to the Breckinridge County Line.	3.301	5.558

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KY 69 - From US 60 at Hawesville to Indiana State Line.	13.080	13.972
	[14.126]	15.018]
(41) Hardin County:		
US 31WB - From Western Kentucky Parkway to US 31W.	.202	3.704
US 31W - From US 31W Bypass to Meade County Line.	18.818	33.040
US 31W - From Meade County Line to Jefferson County Line.	33.040	37.143
KY 61 - From Larue County Line to US 31W.	.000	5.309
(42) Harlan County:		
US 119 - From Bell County Line <u>along existing and [to] proposed routes [relocation east of Cumberland</u>	.000	38.082
US 119 - <u>From a point on the US 119 Mainline near Cumberland]</u> to Letcher County Line.	.000	39.182
		[1.100]
US 421 - From Virginia State Line to Leslie County Line.	.000	27.632
(43) Harrison County:		
US 27 - From Bourbon County Line to Pendleton County Line.	.000	19.472
(44) Henderson County:		
US 41 - From Pennyrlie Parkway to Indiana State Line (north urban limits of Henderson).	13.414	21.193
US 41A - From Dixon Street to the northern most loop of the interchange with US 41.	13.235	17.760
US 60 - From Union County Line to <u>US 41A (Dixon Road) [Henderson Bypass].</u>	.000	10.435
		[8.712]
KY 425 - From US 60 (Morganfield Road) via Henderson Bypass to end of the northbound ramp junction with the Pennyrlie Parkway.	.000	6.201
(45) Henry County:		
KY 55 - From Shelby County Line to KY 22 west in Eminence.	.000	1.408
KY 22 - From KY 55 south to KY 55 north.	7.420	7.522
KY 55 - From KY 22 east to US 421.	1.408	4.490
US 421 - From Franklin County Line to Shelby County Line at Pleasureville.	.000	6.434
US 421 - From Shelby County Line near Pleasureville to Trimble County Line.	6.434	25.144
(46) Hickman County:		
US 51 - From Fulton County Line to Carlisle County Line.	.000	14.451
KY 239 - From Fulton County Line to KY 123.	0.000	3.753
KY 123 - From KY 239 to Proposed FAP 94 at Hailwell.	10.048	15.788
KY 123 - From Bottery Road in South Columbus to KY 58.	20.882	21.787
Proposed FAP 94 - From KY 123 at Hailwell <u>along Cole and Chalk Bluff Roads to KY 123 at South Columbus.</u>	.000	6.000
[to ??]	.000	19.095]
KY 58 - From KY 123 to KY 80 at Columbus.	0.573	0.761
KY 80 - From KY 58 to KY 123.	0.000	1.526
KY 123 - From KY 80 to Carlisle County Line.	21.787	22.958
(47) Hopkins County:		
KY 281 - From east limits of interchange ramps of Pennyrlie Parkway to US 41.	.000	.712
US 41A - From US 41 and KY 281 to Webster County Line.	.000	13.278
(48) Jackson County:		
KY 30 - From Laurel County Line to Owsley County Line.	.000	20.919
US 421 - From Clay County Line to Rockcastle County Line.	.000	29.585
(49) Jefferson County:		
US 31W - From Hardin County Line via Dixie Highway, Bernheim Lane, 22nd Street, Dumesnil Street and 21st Street <u>[to Main Street.</u>	.000	20.292
US 31W - <u>From 21st Street via Market Street]</u> to US 31 east [3E] at Main and 2nd Streets.	.000	22.135
	[20.292]	22.135]
US 150 - From Main Street via 21st Street and 22nd Street to I-64.	.000	.741
US 150T - From 22nd Street to 21st Street.	.000	.089
US 31 - From US 31E (Main Street) via George Rogers Clark Bridge to 0.02 mile north of 4th Street in Jeffersonville, Indiana.	.000	1.122
US 31E - From Bullitt County Line to US 31W at Main and 2nd Streets.	.000	17.987[814]
US 42 - From Baxter Avenue to US 60.	.000	.805
US 42 - From I-264 to KY 841.	5.779	8.951
KY 841 - From US 31W at Dixie Highway via Gene Snyder Freeway to I-65.	.000	10.250
KY 841 - From I-71 ramps to US 42.	34.758	37.006
KY 1934 - From KY 1230 (Cane Run Road) to I-264.	.000	7.593
US 60 - From US 42 to Story Avenue.	.000	.123
(50) Jessamine County:		
US 27 - From the Garrard County Line to Fayette County Line.	.000	15.070
US 68 - From Mercer County Line to Fayette County Line.	.000	12.060
(51) Johnson County:		
US 23 - From Floyd County Line to Lawrence County Line.	.000	18.386
US 460 - From Magoffin County Line to US 23 near Paintsville.	.000	7.809
KY 321 - From Floyd County Line to US 23 north of Paintsville.	.000	9.562

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KY 40 - From US 460 to KY 321.	8.741	9.293
	[.000]	[7.700]
(52) Kenton County:		
KY 8 - From 4th Street to the Campbell County Line.	6.434	7.662
KY 1120 - From I-75 to Campbell County Line.	.000	1.212
(53) Knott County:		
KY 15 - From Letcher County Line to Perry County Line.	.000	9.380
KY 80 - From Perry County Line to Floyd County Line.	.000	20.093
(54) Knox County:		
US 25E - From Bell County Line to Laurel County Line.	.000	26.571
KY 90 - From Whitley County Line to 1.621 miles south of US 25E at KY 3041 (Proposed).	.000	2.100
KY 3041 - From 1.621 miles south of US 25E to US 25E.	.000	1.621
KY 3085 - From Bell County Line via Old US 25E to junction with US 25E.	.000	2.140
(55) Larue County:		
KY 61 - From Green County Line via Hodgenville Bypass to Hardin County Line.	.000	13.603
US 31E - From KY 61 south via Hodgenville to Nelson County Line.	6.900	20.725
(56) Laurel County:		
US 25E - From Knox County Line in Corbin to west limits of I-75 ramps.	.000	2.024
US 25 - From Daniel Boone Parkway in London to KY 490.	13.612	16.315
KY 490 - From US 25 to KY 30 at East Bernstadt.	.000	.877
KY 30 - From KY 490 to Jackson County Line.	1.404	9.806
KY 80 - From Pulaski County Line to the Daniel Boone Parkway and US 25 near London.	.000	11.083
KY 192 - From west ramps of I-75 to the Daniel Boone Parkway east of London.	18.190	22.041
(57) Lawrence County:		
US 23 - From Johnson County Line to Boyd County Line.	.000	28.947
KY 645 - From US 23 to Martin County Line.	.000	5.205
(58) Lee County:		
KY 11 - From Owsley County Line via Beattyville to Wolfe County Line.	.000	14.845
(59) Leslie County:		
US 421 - From Harlan County Line via Main Street in Hyden to KY 118 (Hyden Spur).	.000	22.613
KY 118 - From US 421 in Hyden via Hyden Spur to Daniel Boone Parkway.	.000	3.524
(60) Letcher County:		
KY 15 - From US 119 at Whitesburg to KY 7 North at Isom.	.000	9.230
KY 7 - From KY 15 to KY 15.	13.497	14.157
KY 15 - From KY 7 South in Isom to Knott County Line.	9.230	10.675
US 23 - From Virginia State Line along existing and proposed alignment [to US 119] to Pike County Line.	.000	7.07[0]0
US 119 - From Harlan County Line to proposed US 23 near Virginia State Line.	.000	27.798
(61) Lewis County:		
KY 9 - From Carter County Line to Mason County Line.	.000	31.218
KY 8C - From KY 10 to KY 8 south of Quincy.	.000	.127
KY 8 - From KY 8C south of Quincy to Greenup County Line.	28.575	36.910
KY 10 - From KY 9 Greenup County Line.	6.788	19.834
(62) Lincoln County:		
US 27 - From Pulaski County Line via Stanford to Garrard County Line.	.000	21.982
US 127 - From Casey County Line via Hustonville to Boyle County Line.	.000	10.847
US 150 - From Boyle County Line to US 150 Bypass.	.000	4.347
US 150B - From US 150 to US 150.	.000	3.522
US 150 - From US 150/US 150 Bypass near Preacherville Road to Rockcastle County Line.	8.705	19.665
(63) Livingston County:		
US 60 - From McCracken County Line via Smithland, Burna, and Salem to Crittenden County Line.	.000	29.059
US 62 - From Marshall County Line via Lake City to Lyon County Line.	.000	2.854
(64) Logan County:		
US 79 - From Todd County Line via Clarksville Road and 9th Street to US 431 North.	.000	12.135
US 68 - From Todd County Line via Hopkinsville Road, 4th Street and Franklin Street to Warren County Line.	.000	26.567
US 431 - From Tennessee State Line to Muhlenberg County Line.	.000	31.898
US 68X - From US 68 west of Auburn via Old US 68 to US 60 east of Auburn.	.000	3.035
KY 3172 - From KY 73 via Old US 68 to Warren County Line.	.000	2.515
(65) Lyon County:		
US 62 - From Livingston County Line to US 641 at Fairview.	.000	10.465
US 641 - From US 62 at Fairview to Caldwell County Line.	.000	5.715
(66) McCracken County:		
US 45 - From Graves County Line via Lone Oak Road and Jackson Street to US 60 East (Jackson Street).	.000	10.820
US 60 - From Ballard County Line via Hinkleville Road and Park Avenue to US 45 (28th Street) at Laclede.	.000	13.544
US 60 - From US 45 (28th Street) via Jackson Street, 21st Street, Bellline Highway, and Division Street		

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to the Livingston County Line.	13.544	20.028
US 62 - From US 60 to US 68.	12.881	15.513
US 68 - From US 62 to Marshall County Line.	.000	2.677
(67) McCreary County:		
US 27 - From Tennessee State Line to Pulaski County Line.	.000	22.252
KY 90 - From US 27 to Whitley County Line.	.000	11.920
(68) McLean County:		
US 431 - From Muhlenberg County Line to Daviess County Line.	.000	11.573
(69) Madison County:		
KY 1295 - From Garrard County Line to KY 52.	.000	4.529
KY 52 - From KY 1295 via Lancaster Avenue to KY 876.	5.444	10.910
KY 954 - From Garrard County Line to KY 21.	.000	.139
KY 21 - From KY 954 via Lancaster Road and Chestnut Street in Berea to US 25 at Mt. Vernon Road.	6.176	9.115
US 25 - From KY 21 West via Chestnut Street in Berea to KY 21 East.	2.863	3.810
KY 21 - From US 25 at Estill Street via Prospect Street and Big Hill Road in Berea to US 421.	9.115	14.196
KY 876 - From west limits of I-75 interchange in Richmond to KY 52 (Irvine Road).	7.097	10.755
US 25 - From US 421 via Big Hill Avenue to KY 876.	11.960	15.500
US 421 - From US 25 to Rockcastle County Line.	.000	13.031
US 421S - From KY 52 (Irvine Road) to north urban limits of Richmond at US 25.	.000	3.900
US 25 - From proposed Richmond Bypass to northwest limits of I-75 interchange at Richmond.	19.188	20.158
KY 627 - From US 25 west of I-75 to Clark County Line.	.000	6.118
(70) Magoffin County:		
US 460 - From Mountain Parkway to KY 114.	12.546	14.635
KY 114 - From US 460 to Floyd County Line.	.000	5.026
US 460 - From Morgan County Line to [Mountain Parkway West.	.000	12.546
US 460 - From KY 114 to Johnson County Line.	.000	20.426
	[14.635	20.426]
(71) Marion County:		
US 68 - From Taylor County Line to KY 55 (Walnut St.).	.000	10.690
KY 55 - From US 68 (Main Street) via Walnut Street to KY 49 (St. Marys Road).	.000	.389
KY 49 - From KY 55 (St. Marys Road) via Walnut Street to KY 49 (Proctor Knott Avenue).	17.815	17.968
KY 55 - From KY 55 (Proctor Knott Avenue) via Walnut and Spalding Avenue to Washington County Line.	.389	4.669
(72) Marshall County:		
KY 58 - From Graves County Line to KY 80.	.000	2.156
KY 80 - From KY 58 to US 68.	.000	16.926
US 68 - From McCracken County Line to Trigg County Line.	.000	28.085
US 641 - From Calloway County Line to US 62.	.000	19.422
US 62 - From I-24 to Livingston County Line.	8.805	12.081
US 641S - From US 641 to Purchase Parkway.	.000	3.519
<u>KY 348 - From Purchase Parkway to US 641.</u>	<u>7.448</u>	<u>8.325</u>
(73) Martin County:		
KY 645 - From KY 40 at a point west of Inez Bypass to KY 3 northbound south of Inez.	4.682	6.605
KY 3 - From KY 645 westbound via Inez Bypass to KY 645 eastbound.	9.709	10.019
KY 645 - From KY 3 southbound via Inez Bypass to KY 40 southeast of Inez.	6.605	7.632
KY 40 - From KY 645 southeast of Inez to West Virginia State Line.	11.900	20.280
KY 645 - From Lawrence County Line to KY 40 at a point west of Inez.	.000	4.682
(74) Mason County:		
KY 11 - From Fleming County Line to KY 9.	.000	8.452
US 68 - From Fleming County Line to US 62 in Washington.	.000	11.854
US 62 - From US 68 in Washington via Lexington Road, Forest Avenue, and Aberdeen Bridge to Ohio State Line.	12.672	18.000
KY 9 - From Lewis County Line to Bracken County Line.	.000	19.554
KY 546S - From KY 9 to Ohio State Line via proposed New Bridge.	.000	4.600
(75) Meade County:		
US 31W - From Hardin County Line to Hardin County Line.	.000	3.827
US 60 - From Breckinridge County Line to US 31W.	.000	15.644
KY 144 - From US 60 to KY 448 near Buck Grove.	25.390	28.665
KY 448 - From KY 144 to KY 1051 (Brandenburg Bypass).	.000	4.392
KY 1051 - From KY 448 via Brandenburg Bypass to KY 79.	.000	2.218
KY 79 - From KY 1051 via Brandenburg Bypass to Indiana State Line.	8.237	9.912
(76) Menifee County:		
US 460 - From Montgomery County Line to Morgan County Line.	.000	19.750
(77) Mercer County:		
US 127 - From Boyle County Line via Danville Road to US 68.	.000	4.402
US 68 - From US 127 at Mooreland Avenue to Jessamine County Line.	6.752	20.104
US 127 - From US 68 to Anderson County Line.	4.402	17.150

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(78) Metcalfe County:		
KY 90 - From Barren County Line to Cumberland County Line.	.000	11.719
(79) Montgomery County:		
US 460 - From Bourbon County Line to KY 686 (Mount Sterling Bypass).	.000	8.281[9]
KY 686 - From US 460 (Maysville Road) via Mount Sterling Bypass to US 460 (Frenchburg Road) at south urban limits of Mount Sterling.	.000	3.460
US 460 - From south urban limits of Mount Sterling to Menifee County Line.	10.702	22.151
(80) Morgan County:		
KY 7 - From US 460 in West Liberty to Elliot County Line.	.000	11.683
KY 203 - From Wolfe County Line to US 460.	.000	3.761
US 460 - From Menifee County Line via West Liberty to Magoffin County Line.	.000	28.634
(81) Muhlenberg County:		
US 431 - From Logan County Line to McLean County Line.	.000	27.779
(82) Nelson County:		
US 31E - From Larue County Line via New Haven Road, Cathedral Street, and Stephen Foster Avenue to Spencer County Line.	.000	27.588
US 62 - From US 31E to US 150.	14.294	14.653
US 150 - From US 62 to Washington County Line.	.000	7.682
(83) Nicholas County:		
US 68 - From Bourbon County Line to Robertson County Line.	.000	12.211
(84) Owen County:		
US 127 - From Franklin County Line to KY 35 at Bromley.	.000	24.687
KY 35 - From US 127 to Gallatin County Line.	.000	4.132
(85) Owsley County:		
KY 30 - From Jackson County Line to KY 11-North.	.000	11.206
KY 11 - From KY 30 to Lee County Line.	14.227	17.307
(86) Pendleton County:		
US 27 - From Harrison County Line to Campbell County Line.	.000	19.422
KY 9 - From Bracken County Line to Campbell County Line.	.000	4.339
(87) Perry County:		
KY 15 - From Knott County Line at Vicco to Breathitt County Line.	.000	25.179
KY 80 - From KY 15 to Knott County Line.	7.910	15.862
(88) Pike County:		
US 23 - From Letcher County Line along proposed and existing alignments to [four lane east of Dorton.	.000	4.200
US 23 - From KY 610 at Dorton via Pikeville to] Floyd County Line.	.000	35.123
	[6.589	35.123]
US 119 - From US 23 north of Pikeville to West Virginia State Line.	.000	29.748
US 460 - From US 23 north of Shelbiana to Virginia State Line.	.000	24.865
		[25.445]
(89) Powell County:		
KY 11 - From Wolfe County Line to Mountain Parkway.	.000	3.504
(90) Pulaski County:		
US 27 - From McCreary County Line to Lincoln County Line.	.000	30.693
KY 80B - From US 27 to KY 80.	.000	2.315
KY 80 - From KY 80 Bypass to Laurel County Line.	21.636	40.393
KY 90 - From Wayne County Line to US 27.	.000	4.169
KY 461 - From KY 80 to Rockcastle County Line.	.000	8.441
(91) Robertson County:		
US 68 - From Nicholas County Line to Fleming County Line.	.000	1.357
(92) Rockcastle County:		
US 150 - From Lincoln County Line to US 25 in Mount Vernon.	.000	10.511
US 25 - From I-75 to US 150.	11.764	13.882
US 421 - From Jackson County Line to Madison County Line.	.000	.601
KY 461 - From Pulaski County Line to US 25.	.000	9.404
US 25 - From KY 461 to I-75.	15.018	15.678
(93) Rowan County:		
KY 32 - From Fleming County Line to south limits of I-64 interchange.	.000	5.784
(94) Russell County:		
US 127 - From Clinton County Line to Casey County Line.	.000	26.998
(95) Scott County:		
US 460 - From Franklin County Line to proposed Georgetown Bypass near Great Crossings.	.000	7.100
Proposed Georgetown Bypass - From US 460 Mainline near Great Crossings to US 25.	.000	3.400
US 460B - From US 25 via US 460 (Georgetown Bypass) to US 62/US 460.	.000	2.891
US 460 - From US 62/US 460B to Bourbon County Line.	8.583	15.421
(96) Shelby County:		
KY 55 - From I-64 [to southwest urban limits of Shelbyville] via Taylorsville Road to US 60	6.246	7.898
KY 55 - From KY 43/KY 2268 to Henry County Line.	9.131	17.850

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[and Boone Station Road to Henry County Line.	6.246	17.850]
US 60 - From KY 55 South (Taylorsville Road) via Midland Trail and Main Street to KY 55 North (Boone Station Road).	8.589	11.398
<u>KY 2268 - From south end of Clear Creek Bridge via 7th Street and Pleasureville Road to KY 55.</u>	<u>0.000</u>	<u>1.308</u>
KY 53 - From I-64 to US 60 (Frankfort Road) via Mt Eden Road.	6.188[9]	7.978
US 421 - From Henry County Line to Henry County Line.	.000	.661
(97) Simpson County:		
US 31W - From south limits of I-65 Interchange to KY 100.	2.300	6.252[488]
KY 100 - From US 31W Mainline to the I-65 ramps east of I-65.	9.675	12.875
(98) Spencer County:		
US 31E - From Nelson County Line to Bullitt County Line.	.000	2.433
(99) Taylor County:		
KY 55 - From Adair County Line to US 68 (Broadway).	.000	10.293
US 68 - From KY 55 via Broadway to Marion County Line.	4.939	13.600
(100) Todd County:		
US 41 - From Tennessee State Line to Christian County Line.	.000	12.458
US 79 - From Tennessee State Line to Logan County Line.	.000	10.606
US 68 - From Christian County Line to Logan County Line.	.000	14.060
(101) Trigg County:		
US 68 - From Marshall County Line to Christian County Line.	.000	<u>28.115</u>
<u>US 68X - From US 68 west of Cadiz to US 68 east of Cadiz.</u>	<u>0.000</u>	<u>4.519</u>
<u>KY 3468 - From US 68 east of Cadiz via Old US 68 to US 68 west of I-24.</u>	<u>0.000</u>	<u>2.840</u>
		[28.224]
(102) Trimble County:		
US 421 - From Henry County Line to US 42 South.	.000	6.704
US 42 - From US 421 South in Bedford to US 421 North in Bedford.	8.078	8.249
US 421 - From US 42 North to Indiana State Line.	6.704	19.287
(103) Union County:		
KY 56 - From Illinois State Line to proposed Morganfield Bypass.	.000	11.600
KY 56 - From existing US 56 via proposed Bypass to US 60.	.000	1.400
US 60 - From Crittenden County Line to proposed Morganfield Bypass.	.000	15.500
US 60 - From existing US 60 via proposed Bypass to US 60 east of Morganfield.	.000	2.900
US 60 - From proposed Bypass east of Morganfield to Henderson County Line.	18.100	26.069
KY 109 - From Webster County Line to US 60.	.000	1.536
(104) Warren County:		
KY 101 - From I-65 to US 31W.	7.861	11.641
US 31W - From KY 101 south to KY 101 north.	27.869	28.557
KY 101 - From US 31W to Edmonson County Line.	11.641	12.850
US 68 - From Logan County Line to US 31W.	.000	13.060
US 31W - From US 68 to KY 446 Overpass.	14.670	17.569
KY 446 - From US 31W to I-65.	.000	1.090
KY 880 - From KY 185 to US 68.	.000	5.128
KY 185 - From KY 880 to US 68.	.000	.292
US 231 - From Allen County Line to I-65.	.000	9.106
<u>KY 3172 - From Logan County Line via Old US 68 to KY 240.</u>	<u>.000</u>	<u>0.300</u>
(105) Washington County:		
KY 55 - From Marion County Line to US 150.	.000	4.551
KY 555 - From US 150 to north end of Bluegrass Parkway Interchange.	.000	14.738
US 150 - From Nelson County Line to Boyle County Line.	.000	21.359
(106) Wayne County:		
KY 90 - From Clinton County Line to Pulaski County Line.	.000	25.235
(107) Webster County:		
US 41A - From Hopkins County Line to KY 670.	.000	1.324
KY 670 - From US 41A to KY 109.	.000	2.712
KY 109 - From KY 670 to Union County Line.	2.876	14.664
(108) Whitley County:		
KY 90 - From McCreary County Line to US 25W.	.000	8.328
US 25W - From KY 90 to east limits of I-75 ramps.	22.183	29.677
KY 90 - From US 25W along proposed alignment to Knox County Line.	.000	2.000
(109) Wolfe County:		
KY 15 - From Breathitt County Line to KY 191.	.000	9.515
KY 15S - From KY 15 to westbound <u>land of</u> Mountain Parkway.	.000	1.054
KY 11 - From Lee County Line to Powell County Line.	.000	5.317
KY 191 - From KY 15 Spur to KY 203.	.000	10.342
KY 203 - From KY 191 to Morgan County Line.	.000	1.323
(110) Woodford County:		
US 60 - From Franklin County Line to Fayette County Line.	.000	13.039

Section 12. No Encroachment Permits for Vegetation Control. An encroachment permit shall not be issued pursuant to the provisions of 603 KAR 5:150 for the clearing or trimming of [any] vegetation on state-owned right-of-way which is in front of an outdoor advertising device.

Section 13. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "The FHWA/Kentucky [Bonus] Agreement for the Control of Outdoor Advertising" between the Kentucky Department of Highways and the Federal Highway Administration, executed December 23, 1971; and

(b) "Application for an Advertising Device Permit," Form TC 99-31, August [March] 1997 [December 1995] edition;

(c) "Measurement of Commercially or Industrially Developed Area," a Transportation Cabinet document effective March 1997.

(2) Material incorporated by reference as a part of this administrative regulation may be viewed, copied, or obtained from the Transportation Cabinet, Permits Branch, 11th Floor, State Office Building, 501 High Street, Frankfort, Kentucky 40622. The telephone number is (502) 564-4105. The business hours are 8 a.m. to 4:30 p.m. eastern time on weekdays.

J.M. YOWELL, P.E., State Highway Engineer

JAMES C. CODELL, III, Secretary

APPROVED BY AGENCY: August 5, 1997

FILED WITH LRC: August 5, 1997 at 11 a.m.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(As Amended)

704 KAR 20:670. Kentucky teaching certificates.

RELATES TO: KRS 158.6451, 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020

requires that a teacher [teachers] and other professional school personnel hold a certificate [certificates] of legal qualifications for the [their] respective position [positions] to be issued upon completion of a program [programs] of preparation prescribed by the Education Professional Standards Board. Additionally, KRS 161.028, requires a teacher education institution [institutions] be approved for offering the preparation program [programs] corresponding to a particular certificate [certificates] on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes the Kentucky certification to be issued for classroom teaching positions and the new teacher standards for preparation and certification.

Section 1. Definitions. (1) "Approved program of preparation" means a program which has been approved by the Education Professional Standards Board for a specific certification or which has been approved for certification by the state education agency of another state.

(2) "Assessments" means the tests of knowledge and skills authorized by KRS 161.030.

(3) "Beginning teacher internship" means one (1) year of supervision, assistance, and assessment required by KRS 161.030.

(4) "Experienced teacher standards" means the standards established in 704 KAR 20:021 that identify what an effective experienced teacher shall know and do.

(5) "New teacher standards for preparation and certification" means the standards that describe what a first-year teacher shall know and be able to do in an authentic teaching situation.

(6) "Professional teaching certificate" means the document issued to an individual upon successful completion of the beginning teacher internship and to an applicant for whom the testing and internship requirement is waived under KRS 161.030 based on preparation and experience completed outside Kentucky.

(7) "Provision teaching certificate" means the document issued to an individual for the duration of the beginning teacher internship program.

(8) "Statement of eligibility" means the document issued to an applicant upon completion of an approved program of preparation and successful completion of the assessments. ["New teacher standards for preparation and certification" means the standards that describe what first-year teachers shall know and be able to do in authentic teaching situations.

(2) "Experienced teacher standards" means the standards set forth in 704 KAR 20:021 that identify what effective experienced teachers shall know and do.

(3) "Approved program of preparation" means one (1) which has been approved by the Education Professional Standards Board for a specific certification or which has been approved for certification by the state education agency of another state.

(4) "Statement of eligibility" means the document issued to an applicant upon completion of an approved program of preparation and successful completion of the assessments.

(5) "Assessments" mean the tests of knowledge and skills authorized by KRS 161.030.

(6) "Provisional teaching certificate" means the document issued to individuals for the duration of the beginning teacher internship program.

(7) "Beginning teacher internship" means one (1) year of supervision, assistance, and assessment required by KRS 161.030.

(8) "Professional teaching certificate" means the document issued to individuals upon successful completion of the beginning teacher internship and to applicants for whom the testing and internship are waived under KRS 161.030 based on preparation and experience completed outside Kentucky.]

Section 2. Certificate Issuance. (1) A statement of eligibility for a provisional teaching certificate shall be issued to an applicant who has successfully completed:

(a) 1. A bachelor's degree; or

2. As required by Section 4(7)(e) and (8)(e) of this administrative regulation, a master's degree;

(b) An approved program of preparation; and

(c) The assessments corresponding to the certificate identified in Section 4 of this administrative regulation for which application is being made. [A statement of eligibility for a provisional teaching certificate shall be issued to an applicant who has successfully completed a bachelor's degree, or a master's degree as set forth in Section 4(7)(e) and (8)(e) of this administrative regulation from an institution defined in KRS 161.010; an approved preparation program and assessments corresponding to the certificate identified in Section 4 of this administrative regulation for which application is being made.]

(2) Upon confirmation of employment in an assignment for the grade level and specialization identified on a valid statement of eligibility, a Provisional Teaching Certificate shall be issued for the duration of the beginning teacher internship established under KRS 161.030.

(3) Upon successful completion of the internship, a Professional Teaching Certificate shall be issued, valid for a four (4) year period.

Section 3. Certificate Renewal. (1) The renewal shall require completion of a fifth-year program of preparation which is consistent with the experienced teacher standards or with standards adopted by the Education Professional Standards Board for a particular profes-

sional education specialty as defined in 704 KAR 20:021.

(2) The first five (5) year renewal shall require completion of a minimum of fifteen (15) semester hours of credit applicable to the fifth-year program as defined in 704 KAR 20:021 by September 1 of the year of expiration.

(3) The second five (5) year renewal shall require completion of the fifth-year program as defined in 704 KAR 20:021 by September 1 of the year of expiration.

(4) Each subsequent five (5) year renewal shall require completion of three (3) years of successful teaching experience or completion of at least six (6) semester hours of credit related to the profession of teaching by September 1 of the year of expiration.

Section 4. Grade Levels and Specializations. Preparation for a certificate ~~[all-certificates]~~ shall ensure that a teacher has ~~[teachers have]~~ the knowledge and skills for the instruction of all children including an ~~an~~ intellectually gifted and talented child or a child with a disability; is ~~[children and those with disabilities; are]~~ proficient in the use of technology and in the instruction for multiage and multiability grouping; and has the ~~[have]~~ knowledge and skills to implement the goals for the schools of the Commonwealth specified in KRS 158.6451. A teaching certificate ~~[Teaching-certificates]~~ shall be issued specifying one (1) or more of the following grade level and specialization authorizations:

(1) Interdisciplinary early childhood education, birth to primary, 704 KAR 20:084;

(2) Elementary school: primary through grade five (5) to include preparation in the academic disciplines taught in the elementary school;

(3)(a) Middle school: grades five (5) through nine (9) with two (2) middle school teaching fields to be selected from:

1. English and communications;
2. Mathematics;
3. Science; or
4. Social studies;

(b) Candidates who choose to simultaneously prepare for teaching in the middle school and for teaching exceptional children as provided in subsection (7) of this section shall be required to complete ~~[only]~~ one (1) middle school teaching field;

(4) Secondary school: grades eight (8) through twelve (12) with one (1) or more of the following specializations:

- (a) English;
- (b) Mathematics;
- (c) Social studies;
- (d) Biological science; or
- (e) Physical science;

(5) Grades five (5) through twelve (12) with one (1) or more of the following specializations:

- (a) Agriculture;
- (b) Business and marketing education;
- (c) Home economics; or
- (d) Industrial technology;

(6) All grade levels with one (1) or more of the following special-

- ties:
- (a) Art;
- (b) A foreign language;
- (c) Health;
- (d) Physical education;
- (e) Music; or
- (f) School media librarian;

(7) Grades primary through twelve (12) for teaching exceptional children and for collaborating with teachers to design and deliver programs for preprimary children, for one (1) or more of the following disabilities:

- (a) Learning and behavior disorders;
- (b) Moderate and severe disabilities, 704 KAR 20:251;
- (c) Teacher of deaf and hard of hearing;

(d) Visually impaired; or

(e) Communication disorders, valid at all grade levels for the instruction of exceptional children and youth with communication disorders, and requires a master's degree in communication;

(8) Endorsements to certificates identified in subsections (1) through (7) of this section, valid for all grade levels, for the following:

- (a) Computer science;
- (b) English as second language;
- (c) Gifted education;
- (d) Driver education; or

(e) Reading and writing and requires a master's degree in reading.

Section 5. Additional Certification. A candidate who holds ~~[Candidates who hold]~~ a certificate ~~[certification]~~ valid for classroom teaching shall ~~[may]~~ qualify for additional certification upon:

(1) The recommendation of an approved institution of higher education, which shall include consideration of the performance standards; and

(2) The successful completion of each required Education Professional Standards Board assessment applicable to the additional certification being sought. ~~[recommendation by an institution of higher education which shall include consideration of the performance standards and the assessments applicable to the additional certification sought.]~~

Section 6. New Teacher Standards for Preparation and Certification. The approved program of preparation for each certification shall be designed to address the student academic expectations as provided by 703 KAR 4:060; to meet the content standards provided by 704 KAR 20:696 ~~[20:695]~~; to prepare a candidate ~~[candidates]~~ to teach children, including a child from a ~~[children from]~~ culturally diverse background ~~[backgrounds]~~, and manage tasks identified in the following teacher performance standards:

(1) New Teacher Standard I, designs and plans instruction. The teacher designs and plans instruction and learning climates that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(2) New Teacher Standard II, creates and maintains learning climates. The teacher creates a learning climate that supports the development of student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(3) New Teacher Standard III, implements and manages instruction. The teacher introduces, implements, and manages instruction that develops student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(4) New Teacher Standard IV, assesses and communicates learning results. The teacher assesses learning and communicates results to students and others with respect to student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(5) New Teacher Standard V, reflects and evaluates teaching and learning. The teacher reflects on and evaluates specific teaching and learning situations and programs;

(6) New Teacher Standard VI, collaborates with colleagues, parents, and others. The teacher collaborates with colleagues, parents, and other community agencies to design, implement, and support learning programs that develop student abilities to use communication skills, apply core concepts, become self-sufficient individuals, become responsible team members, think and solve problems, and integrate knowledge;

(7) New Teacher Standard VII, engages in professional development. The teacher evaluates his overall performance with respect to

modeling and teaching Kentucky's learning goals established in KRS 158.6451, refines the skills and processes necessary, and implements a professional development plan; and

(8) New Teacher Standard VIII, content knowledge. The teacher demonstrates a current and sufficient academic knowledge of certified content areas to develop student knowledge and performance in those areas.

Section 7. Effective Dates. (1) The provisions for the issuance of a teaching certificate [teaching certificates] for each grade level and for each specialization identified in this administrative regulation shall become effective for all students admitted to the specific program of preparation beginning January 1, 1998.

(2) A candidate [Candidates] admitted prior to January 1, 1998, under one (1) or more of the following administrative regulations shall complete the program by September [January] 1, 2000: 704 KAR 20:057, 20:070, 20:075, 20:076, 20:078, 20:080, 20:095, 20:105, 20:115, 20:135, 20:145, 20:146, 20:159, 20:160, 20:161, 20:175, 20:180, 20:229, 20:230, 20:235, 20:255, 20:275, 20:280, 20:290, 20:340, 20:500, 20:520, and 20:570.

(3) A candidate who fails [Candidates who fail] to complete the program by September [January] 1, 2000, and does not apply for the certification by January [September] 1, 2001 [2000] shall be required to qualify for the certification identified in this administrative regulation.

(4) The Education Professional Standards Board shall communicate to the Kentucky a college or university [colleges and universities] approved for these programs the effective date for admission to each new program identified in this administrative regulation and the date by which a candidate shall complete the former program. Colleges and universities shall take adequate steps to inform a candidate in the program [candidates in these programs] regarding the deadline dates.

ROSA WEAVER, Chair

APPROVED BY AGENCY: April 30, 1997

FILED WITH LRC: June 27, 1997 at 3 p.m.

**WORKFORCE DEVELOPMENT CABINET
State Board for Adult and Technical Education
Department for Adult Education and Literacy
(As Amended)**

785 KAR 1:010. Testing program.

RELATES TO: KRS 151B.023, 151B.110, 151B.125, 151B.410

STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 151B.125, 151B.410

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.110 requires [delegates to] the State Board for Adult and Technical Education to be responsible [the responsibility] for adult education programs and services in Kentucky. KRS 151B.023(4) provides that the Department for Adult Education and Literacy shall be [is] the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. KRS 151B.125 recognizes the General Educational Development (GED) test for high school equivalency purposes in Kentucky. This administrative regulation establishes the procedure for testing an adult at an official GED testing center to determine his [means whereby adults may be tested by official GED testing centers to determine their] eligibility for receiving a high school equivalency diploma.

Section 1. (1) The GED test shall provide a valid means of measuring the educational achievement of an adult who is a nonhigh school graduate and of comparing the adult's competency with that of high school graduates. The test shall be a high school level battery

consisting of five (5) comprehensive examinations:

- (a) Test 1: Writing Skills Test (Parts I and II);
- (b) Test 2: Social Studies Test;
- (c) Test 3: Science Test;
- (d) Test 4: Interpreting Literature and the Arts Test; and
- (e) Test 5: Mathematics Test.

(2) An applicant shall be certified as test-ready. An applicant presenting a GED-on-TV voucher from Kentucky Educational Television study shall not be required to meet the test-readiness prerequisite.

(3) The GED test shall be administered to an applicant with a Kentucky address, officially withdrawn from school, who has reached his nineteenth (19) birthday. An officially withdrawn an applicant who is at least seventeen (17) years of age and whose last enrolled class has graduated or who has been out of formal classroom for a period of one (1) year may be administered the GED test. An applicant, officially withdrawn from school, who is sixteen (16) years of age shall meet one (1) of the following criteria:

- (a) Committed or placed in state correctional facility; or
- (b) Completed Job Corps Program of instruction.

(4)(a) An applicant at least sixteen (16) years of age who believes exigent circumstances exist and who does not meet the conditions of subsection (3)(a) or (b) of this section may request an exemption from the local school superintendent or designee in the district where the applicant resides.

(b) An exemption granted on the basis of exigent circumstances or a denial shall be in writing. A copy of the decision shall be mailed or faxed within five (5) working days to the state GED administrator. Dissatisfaction resulting from a denial may be appealed to the Commissioner of the Department for Adult Education and Literacy.

(c) Exigent circumstances shall [may] include:

- 1. Sentenced by a court to an educational program and program completed; or
- 2. Admission to a postsecondary program which is contingent upon earning a high school equivalency diploma (GED).

(5) An official GED testing center [centers] shall be established under contract with the GED Testing Service of the Commission on Accreditation with the location [locations] authorized by the State Board for Adult and Technical Education. A GED testing service for an individual [services for individuals] confined to a state correctional or [and] health institution [institutions] shall be approved by the State Board for Adult and Technical Education.

(6) The testing fee shall be [Testing fees shall be established by the State Board for Adult and Technical Education at] a uniform fee of thirty (30) [twenty-five (25)] dollars or six (6) [five (5)] dollars per subtest. The Department for Adult Education and Literacy shall not charge a fee for testing services provided for an individual [individuals] confined to a state correctional or [and] health institution [institutions].

(7) An applicant seeking a high school equivalency diploma shall complete the appropriate application form provided for this purpose prior to taking the GED test. This form shall be available from a local adult education provider [providers], local school superintendent [superintendents] or the Department for Adult Education and Literacy. Military personnel shall not be required to complete the application form prior to taking the test. Military personnel shall complete an application form before a high school equivalency diploma shall be issued. Military personnel may use the Military GED Application (Form 300-M).

(8) If an applicant passes the five (5) subtests with a minimum standard test score of forty (40) but does not attain an average standard score of forty-five (45), he shall be eligible to retake a subtest in an attempt to raise the overall standard score. The testing center proctor shall recommend which subtest may be retaken.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "GED Testing Application (DAEL-6)", revised 10/96 edition, Cabinet for Workforce Development, Department for Adult Education and Literacy; and

(b) "Application for High School Equivalency Diploma or Certificate (Military GED Application) (Form 300-M)", revised 7/85 edition, GED Testing Service, Washington, D.C.

(2) This material may be inspected, copied, or obtained at the Department for Adult Education and Literacy, Capital Plaza Tower, Third Floor, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

J. LARRY STINSON, Chairman

RODNEY S. CAIN, Secretary

APPROVED BY AGENCY: May 15, 1997

FILED WITH LRC: July 15, 1997 at 11 a.m.

WORKFORCE DEVELOPMENT CABINET
State Board for Adult and Technical Education
Department for Adult Education and Literacy
(As Amended)

785 KAR 1:020. High school equivalency diploma.

RELATES TO: KRS 151B.023, 151B.110, 151B.125, 151B.410
 STATUTORY AUTHORITY: KRS 151B.023, 151B.110, 151B.125,

151B.410

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.110 requires [~~delegates to~~] the State Board for Adult and Technical Education to be responsible [~~the responsibility~~] for adult education programs and services in Kentucky. KRS 151B.023 provides that the Department for Adult Education and Literacy shall be [~~is~~] the agency solely designated for the purposes of adopting state plans required for federal adult education programs and services in Kentucky. KRS 151B.125 recognizes the General Educational Development (GED) test for high school equivalency purposes in Kentucky and authorizes a fee to be assessed for a duplicate equivalency diploma [~~diplomas~~]. This administrative regulation establishes the procedure for issuance of [~~means whereby~~] a high school equivalency diploma [~~shall be issued~~] through the Department for Adult Education and Literacy to an adult who passes [~~adults who pass~~] the GED test.

Section 1. The GED test scanner sheet from an [~~sheets from~~] official testing center [~~centers~~] shall be sent to the Department for Adult Education and Literacy for scoring. The Department for Adult Education and Literacy shall provide a high school equivalency diploma to an applicant who has taken the GED test and who has scored at least forty (40) [~~thirty-five (35)~~] on each of the five (5) GED sub-tests and has an overall average standard score of forty-five (45) on the five (5) subtests.

Section 2. A GED test score [~~scores~~] shall be accepted as official [~~only~~] if reported by:

- (1) A state, territorial, or provincial department of education;
- (2) A GED testing center;
- (3) The Educational Testing Service (as the repository of score reports issued by the U.S. Armed Forces Institute); or
- (4) The GED testing service.

Section 3. [~~There shall be no charge for the issuance of an initial high school equivalency diploma or initial transcript.~~] A five (5) dollar fee shall be collected for the issuance of a duplicate GED diploma or duplicate transcript. [~~Fees shall be used to support the adult education program.~~] A request for a score [~~Requests for scores~~] shall be in writing and shall carry the signature, birth date and Social Security number of the examinee.

J. LARRY STINSON, Chairman

RODNEY S. CAIN, Secretary

APPROVED BY AGENCY: May 15, 1997

FILED WITH LRC: July 15, 1997 at 11 a.m.

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

806 KAR 13:130. Experience modification factors for workers' compensation insurers.

RELATES TO: KRS 304.13-011(9), 304.13-057, 304.13-091, 304.13-415

STATUTORY AUTHORITY: KRS 304.13-415

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.13-415 requires that for each workers' compensation policy issued or renewed on or after May 1, 1997, insurers or licensed advisory organizations shall provide policyholders with written explanations of the policyholders' experience modification factor and the data and methodology utilized in the calculation of the factor. KRS 304.13-415 also provides that the commissioner shall establish guidelines for application of experience modification factors to be used in developing workers' compensation insurance rates. This administrative regulation establishes guidelines for the application of experience modification factors, and for the written explanations to policyholders regarding how the factors were calculated.

Section 1. Workers' compensation insurers that use experience modification factors shall develop an experience modification factor for each insured in accordance with the following provisions:

- (1) The experience modification factor shall be based upon three (3) full years of experience ending one (1) year prior to the effective date of the modification;
- (2) The experience modification factor shall be developed on an annual basis and shall remain effective for twelve (12) months;
- (3) Only one (1) experience modification shall apply to a given risk at any time and shall apply to all operations of the risk;
- (4) In developing premium for the experience modification factor, insurers shall:

(a) Apply the experience modification factor to the carrier's rates in force on the effective date of the experience modification factor; and

(b) Base the premium upon state qualifying premium amounts and the predetermined state limits, as both are identified in an advisory organization's publications approved by the commissioner; and

(5) An experience modification factor may be determined for a risk if [~~when~~] the risk has developed sufficient qualifying premium based on payroll and other exposures reported in accordance with the [~~an advisory organization's~~] publications of the National Council on Compensation Insurance. [~~approved by the commissioner.~~]

Section 2. Each insurer or advisory organization using experience modification factors shall provide the policyholder with a written explanation of the policyholder's experience modification factor in language reasonably calculated to inform the policyholder of the data and methodology utilized in the calculation of the factor, including [~~but not limited to~~] the information specified [~~referenced~~] in Section 1 of this administrative regulation.

Section 3. Incorporation by Reference. (1) "Experience Rating Plan Manual for Workers Compensation and Employers Liability Insurance", The National Council on Compensation Insurance, is

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incorporated by reference.

(2) This material may be inspected, copied or obtained at the Kentucky Department of Insurance, 215 W. Main Street, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.

GEORGE NICHOLS III, Commissioner

LAURA M. DOUGLAS, Secretary

APPROVED BY AGENCY: June 20, 1997

FILED WITH LRC: June 25, 1997 at 9 a.m.

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

806 KAR 13:140. Notice of right to seek review of application of workers' compensation insurance rates.

RELATES TO: KRS 304.13-057, 304.13-161, 304.13-415, Chapter 342 et seq.

STATUTORY AUTHORITY: KRS 304.13-161

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.13-161 provides that each insurer or agent shall notify in writing each insured at the time a workers' compensation policy is issued or renewed, on or after May 1, 1997, of the insured's right to seek a review of the manner in which the rating system was applied. KRS 304.13-161 requires the commissioner to promulgate an administrative regulation setting forth the manner and format of the written notice. This administrative regulation prescribes the manner and format of this notice.

Section 1. With every workers' compensation insurance policy issued or renewed on or after May 1, 1997, insurers or agents shall include the following written "Notice of Insured's Rights" at the time the policy is issued or renewed. If the policy is [in the case of] a new policy, the notice shall be provided with the policy. If a policy is renewed [in the case of renewal], the notice shall be provided at the time of renewal.

Section 2. The notice shall clearly state in substance:

NOTICE OF INSURED'S RIGHTS

If you are insured under a workers' compensation insurance policy and believe that the rates or the rating system have been incorrectly or improperly applied, you may request a review of the manner in which the rate or rating system has been applied. You must make your request in writing to the insurance company or advisory organization. The insurance company or advisory organization has thirty (30) days to grant or reject your request for a review and to notify you in writing whether your request has been granted or rejected. If your request is granted, the insurance company or advisory organization shall conduct the review within ninety (90) days of receiving your request. If your request is rejected or if you are dissatisfied with the results of the review, you may appeal to the commissioner for further review. You must make your appeal within thirty (30) days of receipt of the rejection or of the results of the review. Your appeal is to be sent to:

Legal Division
Department of Insurance
P.O. Box 517
Frankfort, KY 40602

Your request for an appeal should include a statement of the facts and how the rates or rating system were incorrectly or improperly applied. Also, enclose copies of the results of the review and any

other correspondence from the insurance company or advisory organization. If your appeal shows good cause, the commissioner shall hold a hearing. The commissioner may after the hearing issue a final order affirming, modifying, or reversing the action of the insurance company or advisory organization.

GEORGE NICHOLS III, Commissioner

LAURA M. DOUGLAS, Secretary

APPROVED BY AGENCY: June 20, 1997

FILED WITH LRC: June 25, 1997 at 9 a.m.

COMPILER'S NOTE: The following administrative regulation, 807 KAR 5:063, was amended by the promulgating agency and the Interim Joint Committee on Local Government, and became effective on August 27, 1997.

PUBLIC PROTECTION AND REGULATION CABINET Public Service Commission (As Amended)

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) [(5)] 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;

(h) [(8)] A site development plan or survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures on the property on which the tower will be located;

(i) [(9)] A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;

(j) [(10)] The tower and foundation design plans and a description of the standard according to which the tower was designed, signed and sealed by a professional engineer registered in Kentucky;

(k) [(11)] A map, drawn to a scale no less than one (1) inch equals 200 feet, that identifies every structure and every owner of real estate within 500 feet of the proposed tower;

(l) [(12)] A statement that every person who owns property [or who resides] within 500 feet of the proposed tower has been:

1. Notified by certified mail, return receipt requested, of the proposed construction;

2. [has been] Given the commission docket number under which the application will be processed; and

3. [has been] Informed of his right to request intervention;

(m) [(13)] A list of the property owners [and residents] who received the notice, together with copies of the certified letters sent to listed property owners [and residents];

(n) [(14)] A statement that the local planning unit or, if none, the county judge executive, has been:

1. Notified by certified mail, return receipt requested, of the proposed construction;

2. [has been] Given the commission docket number under which the application will be processed; and

3. [has been] Informed of its, or his, right to request intervention;

(o) [(15)] A copy of the notice sent to the local planning unit or, if none, to the county judge executive;

(p) [(16)] A statement that:

1. Two (2) written notices meeting the requirements of subsection (2) of this section have been posted, one (1) in a visible location on the proposed site and one (1) on the nearest public road; and

2. ~~The [that these] notices shall remain [so] posted for at least two (2) weeks after the application has been filed; [-The notice posted on the site shall be at least two (2) inches by four (4) inches feet in size and shall state: "(Name of utility) proposes to construct a telecommunications ("tower" or "monopole") on this site. If you have questions, please contact (name and address of utility) or the Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602. Please refer to (assigned docket number) in your correspondence." The notice posted on the nearest public road shall be identical except that it shall state that the utility proposes construction "near this site." In both posted notices, the word "tower" or "monopole" shall be printed in letters at least four (4) inches high.]~~

(q) [(17)] A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed.

(r) [(18)] A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the zoning classification and existing land use for the specific property involved; and

(s) [(19)] A statement that the utility has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more [the proposed site is the most] suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to colocate, including a statement indicating that the utility attempted to colocate on towers designed to host multiple wireless service providers' facilities or existing structures, such as a telecommunications tower, or another suitable structure

capable of supporting the utility's facilities.

(2)(a) The notices required by subsection (1)(p) of this section shall:

1. Be at least two (2) feet by four (4) feet in size; and

2. Except as provided by paragraph (b) of this subsection, state: "(Name of utility) proposes to construct a telecommunications ("tower" or "monopole") on this site. If you have questions, please contact (name and address of utility) or the Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602. Please refer to (assigned docket number) in your correspondence."

(b) The notice posted on the nearest public road shall state: "(Name of utility) proposes to construct a telecommunications ("tower" or "monopole") near this site. If you have questions, please contact (name and address of utility) or the Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602. Please refer to (assigned docket number) in your correspondence."

(c) In both posted notices, the word "tower" or "monopole" shall be printed in letters at least four (4) inches high.

Section 2. To apply for a certificate of public convenience and necessity, a utility proposing to construct a telecommunications antenna tower in a county containing a city of the first class shall file with the Public Service Commission the following information:

[(1)] All documents and information required by 807 KAR 5:001, Sections 8 and 9(2)(a), (b), (c), (d) and (g);

(1) [(2)] All documents and information required by Section 1(1)(a) through (m), (p), and (q) [(k)] [(2) through (11)] of this administrative regulation, except that in public notices required by Section 1(1)(l), (p), and (q), the utility shall include the following sentence: "The Public Service Commission in its review of the proposed construction shall not consider the character of the general area concerned or the likely effects of the installation on nearby land uses and values, as these matters are decided by the local planning unit"; [and]

(2) [(3)] A statement that the proposal has been submitted to the planning commission of the affected planning unit, the date upon which the proposal was submitted, and a copy [copies] of all documents submitted to the planning commission; [and]

(3)(a) If the planning commission has made its decision regarding the proposal, a copy of the final decision of the planning commission; or

(b) If the planning commission has not made its decision and sixty (60) days have passed since the submission of the proposal, a statement that:

1. Sixty (60) days have passed since submission of the proposal to the planning commission; and

2. The planning commission has not taken final action in regard to the proposal;

(4) A statement that a copy of the statement submitted pursuant to subsection (3)(b) of this subsection has been sent to the affected planning commission.

Section 3. ~~[After the planning commission has made its decision regarding a proposal to construct a telecommunications antenna tower in a county containing a city of the first class, or after sixty (60) days have passed since submission of the proposal without final action having been taken by the planning commission, the utility shall file a copy of the final decision of the planning commission, or a statement that sixty (60) days have passed since its submission of the proposal to the planning commission and the planning commission has taken no action in regard to the proposal.~~

Section 4. If the planning commission rejects a proposal to construct a telecommunications antenna tower in a county containing a city of the first class, and the utility wishes to request the commission to override the decision of the planning commission, the utility

shall file a statement that there is no acceptable alternative site, together with supporting evidence that includes an affidavit [including, but not limited to, affidavits] or other documentation regarding attempts by the utility to secure an alternative site to provide service to the area. A copy of the statement with supporting documentation shall also be sent to the affected planning commission and to those persons who, according to the records of the affected planning commission, submitted testimony to the planning commission during its review of the proposed facility.

LINDA K. BREATHITT, Chairman

LAURA DOUGLAS, Secretary

APPROVED BY AGENCY: May 9, 1997

FILED WITH LRC: May 12, 1997 at 9 a.m.

CABINET FOR HEALTH SERVICES
Department For Public Health
Division of Health Systems Development
(As Amended)

902 KAR 14:084. Class III ground ambulance providers.

RELATES TO: KRS 211.950 to 211.956, 216B.015(9), 216B.105(1), 216B.410, 216B.990(1), (2)

STATUTORY AUTHORITY: KRS Chapter 13B, 211.952, 216B.042, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services. KRS 216B.042 requires that the Cabinet for Health Services regulate health facilities and health services. KRS 211.952(2)(c) requires the cabinet to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers. This administrative regulation provides for the minimum licensing requirements for Class III ground ambulance providers.

Section 1. Definitions. (1) "Advanced life support" (ALS) means a Class III ground ambulance provider which:

(a) Utilizes certified and licensed emergency medical professionals to provide interfacility medical care between hospitals such as:

1. Basic life support services (BLS);
2. Advanced airway management such as endotracheal intubation;
3. Defibrillation; and
4. Administration of intravenous fluids and pharmaceuticals under the authority of a physician; and

(b) Meets the requirements established in this administrative regulation and is licensed by the cabinet to provide health care.

(2) "Base station" means the primary business location where administrative and personnel records are kept.

(3) "Class I ground ambulance provider" means an ambulance provider licensed under 902 KAR 14:070 who meets the requirements of 902 KAR 14:080.

(4) "Class II ground ambulance provider" means an ambulance provider licensed under 902 KAR 14:070 which meets the requirements of 902 KAR 14:082.

(5) "Continuing education" means the provision of information or training within the scope of an individual's level of certification which is required for recertification or relicensure.

(6) "Critical care experience" means specific patient population experience, specialized training, and current competency in emergency and critical care consistent with approved medical protocols and the patient population to be served.

(7) "Dispatch center" means the location where incoming calls are initially received requesting an ambulance.

(8) "Employee" means personnel who may be paid or volunteer, full time or part time.

(9) "Licensing agency" means the Cabinet for Health Services, Department for Public Health.

(10) "Medical attendant" means a licensed medical doctor, registered nurse, paramedic, or certified respiratory therapist who meets the respective requirements specified for a medical attendant in Section 5(8) and (9) of this administrative regulation.

(11) "Medical control" means the process of performing actions to ensure that:

(a) Care taken on behalf of an ill or injured patient:

1. Is medically appropriate; and
2. Includes the prospective, concurrent, and retrospective aspects of mobile intensive care; and

(b) Includes the following:

1. Quality assurance;
2. Development and approval of medical protocols; and
3. Continuing education.

(12) "Mobile intensive interfacility care" means medical care provided during transport between hospitals utilizing sophisticated medical equipment and supplies and specially trained health care providers operating under approved medical protocols which exceed the normal scope of service of the [a] Class I ground ambulance provider within the service area.

(13) "Mutual aid agreement" means a formal written agreement with another licensed Class III provider for backup assistance in the event the provider is unable to respond to a request for a mobile intensive interfacility transfer or the request exceeds the capacity of the provider.

(14) "Nurse" means a registered nurse licensed by the Kentucky Board of Nursing (KBN).

(15) "Paramedic" means a person so certified by the Kentucky Board of Medical Licensure (KBML).

(16) "Physician" means a medical doctor licensed by the KBML.

(17) "Provider" means a Class III ground ambulance provider.

(18) "Sharps" means a portion, or the whole unit, of medical supplies used in treatment procedures that may puncture the skin such as needles and glass ampules.

Section 2. Licensing Requirements. (1) Except as provided in subsection (2) of this section, a person shall not provide, advertise, or profess to engage in the provision of Class III ground ambulance services where the original point of patient contact is in Kentucky without having first obtained:

(a) A certificate of need; and

(b) A license from the cabinet pursuant to 902 KAR 14:070.

(2) A provider currently licensed under 902 KAR 14:070 and 902 KAR 14:080, Section 11, as a specialized ground ambulance provider or specialized Class I ground ambulance provider may be licensed as a Class III provider without obtaining a new certificate of need if:

(a) The provider has previously been approved by the cabinet to provide neonatal transfers and other critical care transfers between hospitals;

(b) Makes application to the cabinet within one (1) year from the effective date of this administrative regulation; and

(c) Meets the requirements of this administrative regulation.

(3) A Class III provider shall not be permitted to convert their license to:

(a) A Class I ground ambulance provider;

(b) A Class II ground ambulance provider; or

(c) An air ambulance provider licensed under 902 KAR 14:070 without first obtaining a new certificate of need.

(4) A provider shall:

(a) Comply with local, state, and federal statutes and regulations;

and

(b) Be established and operated by:

1. A licensed hospital; or

2. A person as defined in KRS 216B.010(15) who is operating under a contract or an affiliation agreement with a licensed hospital.

(5) A provider may request:

(a) To narrow and restrict their scope of service consistent with their approved certificate of need to serve a particular patient population such as:

1. Neonatal;
2. Pediatric;
3. High risk obstetrics; or
4. Adult cardiac or trauma; and

(b) Variances in equipment, supplies, or personnel unique to that patient population.

(6) Prior to being licensed, a provider shall submit the following for review and approval by the licensing agency:

(a) The name and qualifications of the provider medical director and arrangements for medical direction at times when the medical director is unavailable;

(b) The medical protocols and utilization criteria to be utilized by the provider;

(c) The qualifications of the medical attendants in terms of:

1. Critical care experience;
2. Specialized training; and
3. Evidence of clinical competency;

(d) The list of proposed additional equipment, supplies, and medications necessary for the monitoring and treatment of patients having critical conditions; and

(e) A written contingency plan in place to obtain assistance to the Class III provider in the event of a mechanical breakdown during transport.

(7) The licensing agency shall utilize the Kentucky Emergency Medical Services Council to review the materials described in subsection (6) of this section and make recommendations to the licensing agency based on:

(a) The scope of service to be provided;

(b) The patient populations to be served; and

(c) The types of medical conditions and treatments which are contained in the protocols.

(8) If any of the materials described in subsection (6) of this section are to be changed or modified by the provider after review and approval by the licensing agency, the licensing agency shall be notified in writing. Such changes or modifications shall not be implemented without:

(a) Review by the Kentucky Emergency Medical Services Council; and

(b) Approval of the licensing agency.

(9) The license shall be displayed in a prominent place at the service base station. The following information shall be included on the license:

(a) Identity and location of the base station; and

(b) Designation of the geographic area to be served by the licensee.

(10) A Class III provider shall not be precluded from providing mutual aid assistance, within their scope of service pursuant to subsection (5) of this section, to a Class I ground ambulance service outside of the geographic service area ~~[of the Class III provider in unusual circumstances such as disaster assistance]~~.

(11) Except for disaster assistance, a Class III provider shall not make an emergency scene run.

Section 3. Management Requirements. A provider shall:

(1) Establish lines of authority and an organizational chart to include the designation of:

(a) An administrator responsible for assuring compliance with this administrative regulation during the daily operation of the service; and

(b) A designee who shall serve if necessary in the absence of the administrator;

(2) A provider shall keep accurate records and reports concerning

the transportation of a patient between hospitals which shall be maintained at the base station of the licensee and shall be available for periodic review as deemed necessary by the licensing agency;

(3) A provider shall provide a full record to the receiving facility of treatment administered at the pickup location and during transit. Required records and reports shall include:

(a) The "Kentucky Emergency Medical Service Ambulance Run Report", Form EHS-8A, incorporated by reference; or

(b) An equivalent provider specific transport record acceptable to the licensing agency;

(4) Copies of completed run report forms shall be kept as required by KRS 216B.410(1) in a manner of confidentiality and safekeeping for a minimum of five (5) years from the date on which the service was rendered, or in the case of a minor, until five (5) years after the minor reaches eighteen (18) years of age;

(5) A copy of the run form, or electronic equivalent, shall be forwarded to the cabinet within thirty (30) days following the end of the month in which the run occurred;

(6) Personnel files on each ambulance driver and attendant shall be maintained for:

(a) A minimum of five (5) years following termination or retirement from employment; or

(b) Five (5) years following the demise of the employee;

(7) Individual ambulance driver and attendant personnel files shall contain evidence of:

(a) Training;

(b) Experience;

(c) Current credentials including proof of:

1. CPR certification; and

2. Appropriate licensure or certification for medical attendants; and

(d) Current and valid driver's license for ambulance drivers;

(e) A preemployment criminal and Department of Transportation driver's records check for each individual driver or attendant; and

(f) Health records to include:

1. Written evidence of a preemployment health assessment having been conducted by a physician or a licensed advanced registered nurse practitioner (ARNP) stating the employee is capable of performing assigned job duties; and

2. Health records which meet the requirements of KRS 216B.410(3);

(8)(a) A provider shall maintain and follow written policies and procedures that are reviewed on an annual basis by the provider in order to assess their effectiveness.

(b) The policies and procedures shall include the following areas:

1. Organizational structure, staffing, and allocation of responsibility and accountability;

2. Mutual aid agreements with other ambulance providers which include contingency plans for completion of transport in the event of a mechanical failure in the Class III vehicle;

3. Personnel performance guidelines;

4. A plan to assure that a continuing education program shall be provided for its staff. The program shall include:

a. Evidence of continuing education for staff regarding acquired immune deficiency syndrome (AIDS) and infection control, including the handling of infectious waste in accordance with Centers for Disease Control guidelines; and

b. Patient care in the transportation environment;

(9) A plan for the protection and decontamination of, the patient, ambulance, equipment, and staff if called upon to transport a patient exposed to hazardous chemicals;

(10) A plan for assessing all other staff continuing education needs, with a coordinated development of methods to meet those needs;

(11) The maintenance of training rosters or other written records to support continuing education conducted by, or at the request of the licensee;

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(12) A plan for the quality assessment of patient care including a periodic review of ambulance run report forms, and evaluation of staff performance related to patient care; and

(13) Policies and procedures concerning:

- a. Vehicle maintenance;
- b. Standard operating procedures (SOPS);
- c. Patient protocols;
- d. Ambulance response;
- e. Transport limitations; and
- f. Patient destination.

Section 4. Operating Requirements. (1) A provider shall have a mutual aid agreement with another Class III provider or an ALS air ambulance provider which is to be enacted if the provider:

(a) Is unable to respond to a request for a mobile intensive interfacility transfer; or

(b) Receives and declines a request for a mobile intensive interfacility transfer.

(2) If none of the mutual aid providers are willing or able to accept the mobile intensive interfacility transfer, any licensed Class III provider or an ALS air ambulance provider may accept the transfer.

(3) An ambulance used in the provision of Class III ground ambulance services shall:

- (a) Be maintained in good operating condition and in full repair;
- (b) Be designed to provide for the medical care and transportation of a patient consistent with the mission statement of the service;
- (c) Have interior lighting adequate to ensure complete observation of the patient;

(d) Have the capability of shielding the cab from light in the patient care area during night operation;

(e) Have an electric inverter or generator, with two (2) outlets, to convert direct current (DC) to alternating current (AC) for operation of specialized equipment, such as an isolette or intra-aortic balloon pump.

(f) Except for color and provider identification, comply fully with ambulance design criteria contained in "Federal Specifications for Ambulances", KKK-A-1822 D (11/94) General Services Administration (GSA) federal specifications in effect at the time the ambulance is manufactured; and

(g) Comply with KRS 189.910 through 189.950 regarding the use of lights and siren.

(4) The provider shall require that a certification decal or sticker be supplied by the manufacturer of newly purchased ambulances, indicating that the ambulance met GSA federal specifications on the date it was manufactured. The certification decal shall be located on a permanent surface, such as in the ambulance oxygen tank compartment, or as later identified in a GSA federal specification revision.

(5) For an ambulance that is later modified, a provider shall require the conversion company to supply a letter to verify the modification meets or exceeds the GSA federal specification requirements, except for color or provider identification, as incorporated in the GSA federal specifications on the ambulance original date of manufacture.

(6) In addition to the GSA federal specifications, the following state licensing requirements shall be maintained:

(a) When providing patient care, the heating system shall maintain a temperature of not less than sixty-five (65) degrees Fahrenheit in the driver and patient compartments in winter weather conditions; and

(b) When providing patient care, the air conditioning system shall maintain a temperature of not more than eighty-five (85) degrees Fahrenheit in the driver and patient compartments in summer weather conditions.

(7) The name of the provider and the affiliated hospital shall appear on the exterior surface of the ambulance.

(8) A preventive maintenance program for each ambulance and its equipment shall be developed and implemented to keep them in

optimum working order.

(9) Documentation shall be maintained by the provider to support evidence of:

- (a) Inspection;
- (b) Calibration;
- (c) Maintenance; and

(d) Operation of the ambulance and its equipment in accordance with:

1. The requirements and maintenance schedule of the manufacturer; or

2. Other regulatory agencies.

(10) Unless precluded by emergency conditions, the interior of the ambulance and its equipment shall be checked after each use to ensure that they are kept and maintained in a clean and sanitary condition.

Section 5. Class III Personnel. (1) There shall be no more patients, personnel, or other persons than can be safely secured by means of seat safety belts or similar devices in the ambulance during transportation.

(2) All personnel shall:

(a) Be capable of performing their job duties, and shall not cause the patient or other personnel any undue jeopardy; and

(b) Receive, on an annual basis, orientation on safe patient transport and patient care in the transport environment.

(3) The driver on each Class III ambulance run shall:

(a) Have a current motor vehicle operator's license;

(b) Have at least two (2) years of experience as a licensed driver or operator; and

(c) Complete a defensive driving training program that is developed by the provider or in conjunction with another agency or organization which has developed a program.

(4) The training program shall be:

(a) Repeated for each driver at least every four (4) years; and

(b) Consist of at least four (4) hours review of driving a vehicle under emergency conditions;

(5) Documentation shall be available to support training in the following areas:

a. Review of KRS 189.910 through 189.950 regarding emergency vehicles.

b. Forward and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose; and

c. Review of defensive driving techniques and procedures by hands-on experience or exposure by visual aids, such as video tapes, slides, or planned demonstrations.

(6) Unless one (1) of the medical attendants on the run is a Kentucky certified paramedic, the driver shall be a Kentucky certified emergency medical technician (EMT).

(7) Except as provided in subsection (10) of this section, a provider shall be staffed to provide, at least two (2) medical attendants for each run.

(8) One (1) ambulance medical attendant on each Class III run shall:

(a) Have at least two (2) years critical care experience;

(b) Be certified or licensed for one (1) of the following levels:

1. Physician licensed by the Kentucky Board of Medical Licensure (KBML); or

2. Registered nurse (RN) licensed by the Kentucky Board of Nursing (KBN); and

(c) Show evidence of successful completion, within the last two (2) years of one (1) of the following:

1. American Heart Association (AHA) Advanced cardiac life support (ACLS) provider course for adult patients;

2. AHA Pediatric advanced life support (PALS) course for pediatric patients; or

3. AHA Neonatal resuscitation provider (NRP) course for

neonates.

(9) The second medical attendant shall have certification or licensure for one (1) of the following levels:

(a) Paramedic. If paramedics are utilized, a provider shall provide evidence that the qualifications of the medical director and medical protocols have been approved by the KBML;

(b) RN licensed by the KBN who has at least two (2) years critical care experience;

(c) Respiratory therapist certified by the Kentucky Board of Respiratory Care who has at least two (2) years critical care experience; or

(d) Physician licensed by the KBML.

(10) A provider, who's mission is to provide critical care and transport of the neonatal infant, shall be allowed to return the neonatal patient in an isolette nonemergently to the referring facility nursery with one (1) ambulance medical attendant who meets the personnel requirements set forth in subsection (8) of this section.

(11) A provider desiring variations in personnel shall submit a request in writing for consideration and approval by the cabinet.

Section 6. Basic Life Support (BLS) Equipment and Supplies. Unless a variance is approved by the cabinet, at the time of patient transport, a provider shall carry and maintain in full operational order the following BLS equipment and supplies in sizes which are applicable to the age and patient population served by the provider:

(1) Fixed and portable suction apparatus including:

(a) Rigid tonsillar catheters; and

(b) Flexible catheters;

(2) Disposable bag-valve-mask ventilation units;

(3) Nasopharyngeal and oropharyngeal airways;

(4) A cuff and stethoscope, or equivalent device for measuring blood pressure.

(5) Oxygen equipment including:

(a) Fixed and portable oxygen tanks with a filled, minimum size D, secured spare portable cylinder;

(b) Pressure gauge and flow rate regulator with a range of zero to fifteen (15) liters per minute;

(c) Oxygen humidifier attachment for use on the fixed oxygen tank;

(d) Adapter and tubing;

(e) Transparent simple oxygen masks;

(f) Transparent nonrebreather oxygen masks; and

(g) Nasal cannulas;

(6) Bandages and tape to include:

(a) Two (2) sterile universal dressings;

(b) Twenty-five (25) sterile gauze pads, four (4) inches by four (4) inches;

(c) Six (6) soft roller self-adhering bandages in various sizes;

(d) Four (4) rolls of adhesive tape in at least two (2) sizes; and

(e) One (1) sterile burn sheet;

(7) One (1) roll of aluminum foil, or an occlusive substitute;

(8) Shears for bandages;

(9) Hand held flashlight;

(10) Two (2) penlights;

(11) One (1) sterile obstetrical kit;

(12) If stocked on the ambulance, sterile irrigation fluids with current expiration date, shall be obtained and maintained according to local, state, and federal statutes and regulations.

(13) Splints and immobilization devices including:

(a) Lower extremity traction splint, or equivalent;

(b) Splints for arm, leg, and foot such as inflatable air splints, padded boards, ladder splints, or similar substitute;

(c) Short spine board or other similar extrication device;

(d) Long spine board or orthopedic scoop stretcher with cervical immobilization accessories; and

(e) Rigid, stiff cervical collars;

(14) Two (2) five (5) pound size, ABC multipurpose fire extin-

guishers, approved by Underwriters Laboratory, Coast Guard, or Factory Mutual. One (1) shall be located in the driver compartment and one (1) shall located in the patient compartment;

(15) Multiposition stretcher or isolette with wheels and a mechanism to secure the stretcher or isolette while in transit;

(16) One (1) pocket mask with an isolation valve per patient attendant;

(17) One (1) clean scrub gown or substitute, such as disposable coveralls, a disposable mask, and a pair of gloves per patient attendant;

(18) One (1) particulate filter face mask per attendant meeting federal standards set by the Occupational Safety and Health Administration (OSHA) and one (1) face mask per patient meeting OSHA standards for use during transport of patients known to be infected with tuberculosis;

(19) A means of cleansing the hands shall be provided, such as the provision of a solution or disposable towelettes;

(20) Hospital type disinfectants;

(21) Plastic bags for disposal of waste materials;

(22) If sharps are carried, a puncture resistant container for disposal of sharp objects;

(23) Two (2) sets of clean blankets, sheets, and pillowcases; and

(24) An emesis container or similar substitute;

(25) A provider whose exclusive mission is to provide critical care and transport of infants shall not be required to carry the following adult specific equipment:

(a) Rigid tonsillar catheters as required in subsection (1)(a) of this section;

(b) One (1) sterile obstetrical kit as required in subsection (11) of this section; and

(c) Splints and immobilization devices as required in subsection (13)(a),(b),(c), and (d) of this administrative regulation.

Section 7. ALS Equipment and Supplies. (1) At the time of patient transport, a provider shall carry on each vehicle, and maintain in full operational order, the following ALS supplies and equipment and additional supplies and equipment as provided for in protocols established in Section 9(1)(a) of this administrative regulation, in sizes which are applicable to the age and patient population served by the provider:

(a) An endotracheal intubation set consisting of:

1. Laryngoscope handle;

2. Straight laryngoscope blades;

3. Curved laryngoscope blades;

4. Extra batteries and bulbs for blades and handles; and

5. Endotracheal tubes for oral and nasal placement;

(b) Stylettes;

(c) Magill forceps;

(d) One-half (1/2) inch wide twill tape or functional equivalent for securing endotracheal tubes;

(e) Water soluble lubricant for lubrication of endotracheal and nasotracheal tubes;

(f) Bite block;

(g) A portable monitor defibrillator that:

1. Provides a visual display of cardiac electrical activity;

2. Provides a hard copy of cardiac electrical activity measure;

3. Delivers direct current energy over a variable range which is suitable for pediatric and adult usage;

4. Has adult and pediatric external paddle electrodes for immediate monitoring of heart activity and delivery of countershock in both the adult and pediatric patient;

5. May be operated from internal rechargeable batteries;

6. Has synchronized countershock capability for cardioversion and external pacing;

7. Has a patient monitoring cable which has the following accessories:

a. Electrode paste or gel or equivalent;

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b. Electrode pads or functional equivalent for use with the patient monitoring cable; and

c. One (1) additional roll of paper for hard copy printout.

(h) Three (3) sizes in eighteen (18) through twenty-five (25) gauge sterile, disposable needles;

(i) Three (3) sizes in one (1) cc to thirty (30) cc sizes disposable syringes;

(j) If blood samples are to be drawn, containers for the collection of blood samples shall be available;

(k) Tourniquet for use with venipuncture procedure;

(l) Dextrostix® or functional equivalent for the measure of blood glucose levels;

(m) Disposable, individually packaged antiseptic wipes;

(n) Intravenous fluids, macrodrip and microdrip fluid sets, extension sets and accessory items;

(o) Intravenous catheter over needle devices in twelve (12) through (24) gauge;

(p) Butterfly needles in nineteen (19) through twenty-five (25) gauge;

(q) Intraosseous needles;

(r) Pediatric drug dosage tape or equivalent which shall provide easy reference for pediatric and infant treatment and drug dosages;

(s) Nasogastric tubes in size five (5) 5F, eight (8) F pediatric sizes, sizes ten (10) to eighteen (18) French adult, and sizes fifty (50) or sixty (60) cc catheter tipped syringes or equivalent; and

(t) Pulse oximeter or other device capable of determining blood oxygen saturation.

(2) A provider whose exclusive mission is to provide critical care and transport of infants shall be not be required to carry the following adult specific equipment:

(a) Bite block as required in subsection (1)(f) of this section; and

(b) Nasogastric tubes in sizes:

1. Ten (10) to eighteen (18) French adult; and

2. Fifty (50) or sixty (60) cc catheter tipped syringes or functional equivalent tubes as required in subsection (1)(s) of this section.

(3) A provider shall stock and maintain drugs and medications as required by:

(a) Protocols established in accordance with Section 9(1)(a) of this administrative regulation; and

(b) Local, state, and federal statutes and regulations;

(4) Controlled drugs shall be stored in a locked compartment or equivalent approved by the cabinet.

(5) A provider who stores and utilizes controlled substances shall have protocols approved by the cabinet's Drug Control Branch.

(6) In addition to the standard ALS equipment listed above, each Class III ground ambulance shall have additional equipment, supplies, and medications as necessary for the monitoring and treatment of patients having critical conditions consistent with the mission of the service, the population to be served, and the approved patient care protocols.

Section 8. Communication System. (1) A communications system shall be developed, coordinated, and maintained by each provider.

(2) A provider shall:

(a) Be equipped with two (2) way radio communication equipment capable, under normal conditions, of contacting the ambulance dispatch center, medical control, or the receiving hospital;

(b) Have an acceptable plan to assure that all calls are promptly answered, and runs are dispatched in an expedient manner; and

(c) Provide annual orientation to all drivers and attendants related to communication protocols that have been established by the service.

Section 9. Medical Director. (1) A provider shall have a written agreement with a physician medical director who shall:

(a) Develop protocols and provide medical consultation to and supervision of the ambulance personnel in accordance with the

written agreement between the provider and the physician medical director;

(b) Grant authority for certified and licensed ambulance personnel to perform certain skills and procedures according to protocols;

(c) Retain and exercise authority to limit, suspend, or terminate approval of ambulance medical personnel to perform skills and procedures previously granted under the established protocols;

(d) In his absence, approve or transfer authority for a supervising physician to temporarily act as medical director on the behalf of the Class III ambulance service during the period of his absence;

(e) Participate in the continuing education of the ambulance service medical personnel; and

(f) Participate in the development and implementation of monthly quality improvement utilization and review plans described in Section 10 of this administrative regulation.

(2) The medical director shall:

(a) Have completed a residency program in emergency medicine or other specialty appropriate to the mission statement of the provider:

(b) Be a physician who:

1. Has completed, or is in the process of completing the AHA ACLS provider course; and

2. Has certification in advanced trauma life support or basic trauma life support; or

3. Is a physician who has on file written approval from the licensing agency or lead agency which has been granted based on the physician's ability to document qualification by:

a. Patient population;

b. Experience; and

c. Current competency in patient care consistent with the mission statement of the provider.

(c) The medical director for a provider who exclusive mission is to provide critical care and transport of the neonatal infant shall:

1. Have completed fellowship training in neonatology;

2. Have completed a neonatal resuscitation provider (NRP) course; and

3. Be affiliated with a hospital or medical facility providing neonatal intensive care.

Section 10. Utilization Standards and Review. (1) A provider shall:

(a) Have utilization criteria or protocols of Class III transport; and

(b) Have policies and procedures concerning:

1. Patient population such as:

a. Adult;

b. Pediatric;

c. Obstetric; or

d. Neonate;

2. Patient destination;

3. Transport limitations; and

4. Availability of services.

(2) A Class III ambulance shall not be utilized for the transport of a patient unless:

(a) A request for transport has been made by the referring hospital; and

(b) The physician medical director or medical control physician has:

1. Reviewed the known medical information of the patient; and

2. Deemed that Class III ambulance transportation meets the utilization criteria or protocol of the service.

(3) A provider shall develop, implement and maintain records of a review process or quality improvement program to determine appropriate utilization of services.

(4) The review shall include the following:

(a) The extent or severity of patient injury or illness;

(b) Interventions performed or maintained;

(c) Transport outcome of the patient;

(d) Timeliness of the transport; and

(e) Conditions that may have greatly delayed or prevented Class

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I [~~or Class II~~] provider transportation, to the detriment of the patient. Documentation of the unavailability of appropriate Class I [~~or Class II~~] provider transportation as determined by the sending facility or the sending physician shall be maintained as part of the review; or

(f) The need for a higher level of care than was available at the referring facility or location or during Class I or Class II provider transportation to the receiving facility.

(5) A semiannual cumulative report of the findings of the review of Class III ambulance utilization shall be on file at the Class III ambulance service base station.

Section 11. Material Incorporated by Reference. The following material is incorporated by reference and may be inspected, obtained, or copied at the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. to 4:30 p.m., Monday through Friday:

(1) Form EHS-8A, "Kentucky Emergency Medical Service Ambulance Run Report", (2/91).

(2) "Federal Specifications for Ambulances", KKK-A-1822 D (11/94), General Services Administration, Federal Supply Service, Washington, D.C. 20406.

RICE C. LEACH, Commissioner

JOHN MORSE, Secretary

APPROVED BY AGENCY: July 10, 1997

FILED WITH LRC: July 15, 1997 at 11 a.m.

CABINET FOR HEALTH SERVICES Department For Public Health Division of Health Systems Development (As Amended)

902 KAR 14:100. Advanced life support (ALS) medical first response providers.

RELATES TO: KRS 211.950 to 211.956

STATUTORY AUTHORITY: KRS 211.952, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services. KRS 211.952(2)(c) authorizes the cabinet to promulgate administrative regulations for the licensing, inspection, and regulation of medical first response providers. This administrative regulation provides for the minimum licensing requirements for ALS medical first response providers.

Section 1. Definitions. (1) "ALS" means the utilization of certified and licensed emergency medical professionals to provide advanced prehospital medical care such as:

(a) Advanced airway management such as endotracheal intubation;

(b) Cardiac monitoring, interpretation, defibrillation, cardioversion, and pacing; and

(c) Administration of pharmaceuticals and intravenous fluids under the authority of a physician.

(2) [~~"Affiliate ambulance service" means a Class I ground ambulance provider who has entered into a formal written agreement with an ALS medical first response provider to jointly respond to a prehospital medical emergency for coordinated medical care and transportation.~~]

(3) [~~"Base station" means the primary business location of a provider where administrative and personnel records are kept.~~]

(3) **"Cabinet" means the Cabinet for Health Services, Department for Public Health.**

(4) "Class I ALS ground ambulance provider" means an ambulance provider licensed under 902 KAR 14:070 which meets the

requirements for an advanced life support service under 902 KAR 14:080.

(5) "Continuing education" means the provision of information or training within the scope of an individual's level of certification which is required for recertification or relicensure.

(6) "Dispatch center" means the location where:

(a) Incoming calls are initially received requesting emergency medical services; and

(b) Contact is made with the appropriate responding provider for direction to the patient scene.

(7) "Employee" means medical personnel who may be paid or volunteer, full time or part time.

(8) [~~"Licensing agency" means the Cabinet for Health Services, Department for Public Health.~~]

(9) [~~"Mutual aid agreement" means a formal written agreement with another licensed provider or licensed ALS ground ambulance provider for backup assistance in the event that the provider is unable to respond to an emergency request for assistance or the emergency exceeds the capacity of the provider.~~]

(9) [(10)] "Paramedic [(EMT-P)]" means a person certified pursuant to KRS 311.650 through 311.658.

[(11)] [~~"Prehospital care" means emergency health care provided to a patient before and during transportation to a hospital.~~]

(10) [(12)] "Provider" means an ALS medical first response provider licensed to provide ALS care.

(11) [(13)] "Response time" means the time from which a call is dispatched, until a provider arrives at the patient scene.

(12) [(14)] "Service" means an ALS medical first response provider licensed to provide ALS care.

(13) [(15)] "Sharps" means a portion, or the whole unit, of medical supplies used in treatment procedures that may puncture the skin (e.g., needles, glass ampules, etc.).

Section 2. Licensing Requirements. The following licensing requirements shall apply to ALS medical first response providers:

(1) A person shall not provide, advertise, or profess to engage in the provision of ALS medical first response in Kentucky unless:

(a) An on-site inspection by a representative of the cabinet has determined that he has complied with the requirements of Section 3 of this administrative regulation; and

(b) Has been granted a license to operate a Kentucky ALS medical first response service. [without having first obtained a License to Operate a Kentucky ALS Medical First Response Service; Form EMS-5, incorporated by reference.]

(2) The following situations shall be exempt from the provisions of this administrative regulation:

(a) First aid or transportation provided in accordance with KRS 216B.020(3)(f); or

(b) A provider serving during a major catastrophe;

(3) A provider shall:

(a) Comply with applicable local, state, and federal requirements relating to ALS medical first response providers [statutes and regulations]; and

(b) Be established and operated by one (1) of the following organizations:

1. A city;

2. A county;

3. State government;

4. An ambulance taxing district established under KRS 108.100;

5. A fire department established under KRS Chapter 75;

6. A rescue squad established under KRS Chapter 39;

7. A licensed hospital or primary care center which:

a. Has an emergency room equipped and staffed to evaluate and treat patients with life threatening conditions; and

b. Has a radio communication system which is compatible with the radio system used by the service that will allow the provider to communicate with the transporting ambulance to provide medical

direction or receive prearrival information; or

8. A corporation which is operating under contract or affiliation agreement with at least one (1) of the entities specified in this paragraph ~~[above organizations]~~.

(4) The license shall be displayed in a prominent place at the service base station.

(5) The following information shall be included on the license:

(a) Identity and location of the base station;

(b) Designation of the geographic area to be served by the licensee.

1. A service area shall not exceed a fifteen (15) mile radius from the base station allowing for a twenty (20) minute initial response time from a base station for ninety-five (95) percent of the calls received requesting assistance.

2. This does not preclude the service from providing mutual aid in unusual circumstances such as disaster assistance outside the geographic service area.

(6) An applicant for a license shall file a "Kentucky Application for an ALS Medical First Response Provider" ~~[-Form EMS-4 (7/97); incorporated by reference]~~.

(7) An applicant for a license shall, as a condition precedent to licensing or relicensing, be in compliance with the applicable requirements of this administrative regulation.

(8) The licensee shall, as a condition of licensing or relicensing, be in compliance with the reporting requirements established by the cabinet ~~[licensing agency]~~, unless otherwise exempted by statute:

(9) A license shall expire one (1) year following the date of issuance ~~[-unless otherwise provided in the license certificate]~~.

(10) A license ~~shall~~ may be renewed upon:

(a) Payment of the prescribed fee; and

(b) Verification of compliance with the provisions for licensing through an on-site inspection conducted by a representative of the cabinet in accordance with the procedures established by Section 3 of this administrative regulation.

(11) A license to operate shall be issued only for the person, service area, and premises listed in the application.

(12) A license shall not be transferable.

(13)(a) A new application shall be filed if a change of ownership occurs.

(b) A change of ownership for licenses shall be deemed to occur if more than fifty (50) percent of the:

1. Assets;

2. Capital stock; or

3. Voting rights of a corporation is:

a. Purchased;

b. Transferred;

c. Leased; or

d. Acquired by comparable arrangement by one (1) person from another.

(14) Upon filing a new application for a license due to change of ownership:

(a) The new license shall be automatically issued for the remainder of the current licensure period; and

(b) No additional fee shall be charged for the remainder of the licensure period.

(15) A provider shall notify the cabinet of any changes in the information contained in the application form. ~~[There shall be full disclosure to the licensing agency of the changes, such as name and address, of:~~

~~(a) A person having direct or indirect ownership interest of five (5) percent or more in the service;~~

~~(b) Officers and directors of the corporation, if a service is organized as a corporation; and~~

~~(c) Partners, if a provider is organized as a partnership.]~~

Section 3. Licensing Inspections. (1) Compliance with licensing under this administrative regulation shall ~~[may]~~ be ascertained

through on-site inspections of the provider by representatives of the cabinet ~~[licensing agency]~~.

(2) Representatives of the cabinet ~~[licensing agency]~~ shall have access to the service during hours the service operates.

(3) A regulatory violation identified during an inspection shall be transmitted in writing to the provider by the cabinet ~~[licensing agency]~~.

(4)(a) The provider shall submit a written plan for the elimination or correction of a regulatory violation to the cabinet ~~[licensing agency]~~ within ten (10) days of receipt of the statement of violation.

(b) The plan shall specify the date by which the violation shall be corrected.

(5) Following a review of the plan, the cabinet ~~[licensing agency]~~ shall notify the provider in writing whether or not ~~[of the acceptability of]~~ the plan is accepted as providing for the elimination or correction of the violation.

(a) The cabinet ~~[licensing agency]~~ may conduct a follow-up visit to verify compliance with the plan.

(b) If a portion or all of the plan is unacceptable:

1. The cabinet ~~[licensing agency]~~ shall specify why the plan cannot be accepted ~~[reason for the unacceptability]~~; and

2. The provider shall modify or amend the plan and resubmit it to the cabinet ~~[licensing agency]~~ within ten (10) days after receipt of notice that the plan is unacceptable.

(6) Unannounced inspections may be conducted for a:

(a) Complaint allegation;

(b) Follow-up visit; and

(c) Relicensing inspection.

(7) The cabinet ~~[licensing agency]~~ may:

(a) Deny;

(b) Revoke;

(c) Modify; or

(d) Suspend the license of a provider which:

1. Fails to submit, amend, or modify a plan of correction in order to eliminate or correct regulatory violations;

2. Fails to eliminate or correct regulatory violations;

3. Falsifies an application for licensing;

4. Changes a license issued by the cabinet ~~[licensing agency]~~;

5. Attempts to obtain or obtains a license by:

a. Fraud;

b. Forgery;

c. Deception;

d. Misrepresentation; or

e. Subterfuge; or

6. Provides false or misleading advertising;

7. Falsifies, or causes to be falsified:

a. A patient record; or

b. Service run report;

8. Provides an unauthorized level of service;

9. Has a history of staff violations which have resulted in disciplinary action under 902 KAR 13:090 or 201 KAR 9:141;

10. Fails to provide the cabinet ~~[licensing agency]~~ or its representative with [true] information upon request, or obstructs an investigation regarding alleged or confirmed violations of administrative regulations promulgated under:

a. KRS 211.950 to 211.958;

b. KRS 211.960 to 211.968;

c. KRS 211.990(5);

d. KRS Chapter 216B; and

e. KRS 311.654; or

f. Issues a check for a license on an invalid account or an account with insufficient funds to pay the fee specified in subsection (11) of this section.

(8) If the cabinet ~~[licensing agency]~~ has reasonable cause to believe that the service creates imminent danger to the health and safety of the public, the cabinet ~~[licensing agency]~~ may issue an order directing a provider to immediately cease and desist providing

services.

- (9) The cabinet [licensing agency] may:
- Deny;
 - Revoke;
 - Modify; or
 - Suspend the license of a provider if an owner of the service is convicted of obtaining a fee by:
 - Fraud or misrepresentation; or
 - Submitting fraudulent or misleading claims for reimbursement to:
- An individual;
 - A private insurance company; or
 - A governmental agency.

(10) The cabinet [licensing agency] shall provide notice and an opportunity for an administrative hearing related to denial, revocation, modification, or suspension of a license in accordance with the provisions of [KRS Chapter 13B and] 902 KAR 1:400.

- (11) The fee for initial and annual [licensing fee, including] renewal of licensure, shall be as follows:
- A nonvolunteer service: eighty (80) dollars;
 - A volunteer service in which a majority of the runs are made by an attendant who does not receive compensation: twenty (20) dollars.

Section 4. ALS Medical First Response Operating Requirements.

(1) Except as provided in this section and in Section 9 of this administrative regulation, a provider shall provide ALS emergency care on a twenty-four (24) hour, seven (7) days a week, basis.

(2) This provision may be met through a call system or by a written mutual aid agreement with a Kentucky licensed Class I ALS ground ambulance provider or another ALS medical first response provider.

(3) The cabinet [In order to foster development of full-time ALS coverage in counties where ALS services have not been previously available, the licensing agency] may grant a waiver of subsection (1) of this section to a new ALS medical first response provider serving an area where ALS services have not been previously available.

(4) [(a)] A waiver shall not exceed a period of twelve (12) months. [(b)] If requested by the provider, and approved by the licensing agency, additional waivers may be granted for just cause, such as inability to obtain certified paramedics.]

(5) [(4)] The following priorities shall be followed for establishing a mutual aid agreement with another provider:

- An ALS medical first response provider or Class I ALS ground ambulance provider which is licensed to serve the same service area;
- An ALS medical first response provider or Class I ALS provider ground ambulance provider which serves part of the same service area or a contiguous service area.

(6) [(5)] If a provider is unable to respond to an emergency call, the provider shall activate their mutual aid agreement [for mutual assistance] with the closest available ALS medical first response provider or Class I ground ambulance provider.

(7) An ALS [(6) In order to provide for the coordinated delivery of emergency medical services and the orderly transfer of a patient, a] medical first response provider shall enter into an affiliation agreement with at least one (1) Class I provider which serves all or part of the ALS medical first response provider's service area to:

- Jointly respond to prehospital emergency scenes;
- Provide coordinated patient care at the scene; and
- Provide patient transportation.

(8) The affiliation [(7) An affiliate] agreement shall be in writing and shall address the following:

- Level of training and provision for joint in-service training where appropriate for personnel of both providers;
- Response vehicles and ambulances, including unit identifiers and the station or location from which the vehicles will be operated;
- How and in what manner the mutual aid agreement shall be

activated including dispatch and notification procedure;

- Radio and other communication procedure between the medical first response provider and the ambulance provider;
- On-scene coordination and scene control including medical direction when several agencies respond to same incident;
- Exchange of patient information, records, and reports; and
- Terms of the agreement including effective date and provision for amendment or termination.

(9) [(8)] A vehicle used in the provision of ALS medical first response services shall:

- Be maintained in proper mechanical operating condition with documentation maintained attesting to proper repair and condition;
- Comply with KRS 189.910 through 189.950 regarding the use of lights and sirens.

(10) [(9)] The name of the ALS medical first response provider shall appear on the exterior surface of the vehicle.

(11) [(10)] A preventive maintenance program for each vehicle and its equipment shall be developed and implemented to keep them in optimum working order.

(12) [(11)] Documentation shall be maintained by the provider to support evidence of inspection, calibration, maintenance or operation of the vehicle and its equipment in accordance with:

- The requirements of the manufacturer;
- Other regulatory agencies; or
- The maintenance schedule of the provider.

(13) [(12)] The interior of the vehicle and its equipment shall be checked after each use to ensure that they are kept and maintained in a clean and sanitary condition, unless precluded by an emergency situation.

(14) [(13)] A vehicle used to provide medical first response service shall be insured by the employee or through the insurance policies of the medical first response provider.

(15) [(14)] A communication system shall be developed, coordinated, and maintained by each provider; and shall meet the following requirements:

(a) If a local or regional dispatch center or 911 arrangement exists for all or part of the service area of a provider, the provider shall have a signed affiliation agreement with the dispatch center for coordination of emergency calls;

(b) A medical first response vehicle shall be equipped with:

- Two (2) way radio communication equipment; and
- One (1) portable communication device per vehicle capable of contacting:

- The dispatch center;
 - An affiliate Class I ground ambulance service; and
 - The receiving hospital;
- (c) A provider shall:

1. Have a plan to assure that all calls are promptly answered and dispatched in an expedient manner in accordance with subsection (1) of this section; and

2. Provide orientation to all response personnel related to communication protocols that have been established by the service.

Section 5. ALS Medical First Response Personnel. (1) An ALS medical first response service shall be staffed to provide on each run at least:

- One (1) paramedic certified by the Kentucky Board of Medical Licensure (KBML); or
- One (1) physician licensed by the KBML who has evidence on file of successful completion within the last two (2) years of advance cardiac life support (ACLS) training sponsored by the American Heart Association.

(2) Personnel shall be capable of performing their job duties, and shall not cause the patient or other personnel any undue jeopardy.

(3) The driver on each medical first response run shall:

- Have a current motor vehicle operator's license;
- Have at least two (2) years of licensed driver or operator

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experience;

(c) Complete a defensive driving training program that is developed by the provider or in conjunction with another provider or organization which has developed a program.

(14) The defensive driving training program shall consist of at least four (4) hours and shall include:

(a) A review of driving a vehicle under emergency conditions;

(b) A review of KRS 189.910 through 189.950 regarding emergency vehicles.

(c) Forward and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose; and

(d) A review of defensive driving techniques and procedures by hands-on experience or exposure by visual aids, such as video tapes, slides, or planned demonstrations.

Section 6. Equipment and Supplies. (1) ALS medical first response personnel shall carry and maintain in full operational order the following minimum BLS equipment and supplies:

(a) One (1) portable, manual, or electric suction with two (2) yankauer and 6F, 8F, 10F, and 14F flexible catheters;

(b) Oropharyngeal and nasopharyngeal airways, set of six (6) different sizes;

(c) A portable oxygen tank with a filled, minimum size D, secured spare portable cylinder;

(d) Masks and nasal cannulas, disposable oxygen delivery devices with supply tubing;

(e) Disposable, clear faced bag valve mask ventilation units in 250 ml and 1000 ml with oxygen reservoir with adult and infant size masks capable of use with oxygen;

(f) One (1) bite stick;

(g) Adult, obese adult, child and infant sphygmomanometer cuffs and stethoscope. A permanently mounted sphygmomanometer shall not satisfy this requirement;

(h) Rigid, stiff cervical collars in large, medium, small, no-neck and pediatric sizes;

(i) One (1) penlight;

(j) One (1) flashlight;

(k) Two (2) sterile universal dressings ten (10) inches by thirty (30) inches;

(l) Occlusive dressings or sterile foil;

(m) Twenty-five (25) Sterile gauze pads, four (4) inches by four (4) inches;

(n) Six (6) soft roller self-adhering bandages, various sizes;

(o) Two (2) rolls of adhesive tape;

(p) Cold pack, chemical;

(q) Four (4) triangular bandages;

(r) Sterile obstetrical (OB) kit;

(s) Bandage shears;

(t) Blanket;

(u) Thermometer;

(v) Disposable gloves;

(w) One (1) clear eye protection per crew member;

(x) One (1) face mask per responding crew member;

(y) One (1) protective gown or coat per responding crew member; and

(z) one (1) sharps container per vehicle and three (3) red disposable biohazard bags.

(2) At the point of patient contact, an ALS medical first response provider shall carry on each vehicle ~~and maintain in full operational order~~ the supplies and equipment as provided for in protocols established in Section 8(3) of this administrative regulation, and shall include the following:

(a) An endotracheal intubation set consisting of:

1. Laryngoscope handle compatible with [in] adult and pediatric blades [sizes];

2. Straight laryngoscope blades in sizes 0, 1, and 2;

3. Curved laryngoscope blades in sizes 3 and 4;

4. Extra batteries and bulbs for blades and handles; and

5. Endotracheal tubes for oral and nasal placement in adult and pediatric sizes:

a. Uncuffed tube sizes 3.0, 3.5, 4.0, 4.5, 5.0, and 5.5; and

b. Cuffed tube sizes 5.5, 6.0, 6.5, 7.0, 7.5, and 8.0;

(b) Stylettes in adult and pediatric sizes;

(c) Magill forceps in adult and pediatric sizes;

(d) One-half (1/2) inch wide twill tape or equivalent for securing endotracheal tubes;

(e) Water soluble lubricant for lubrication of endotracheal and nasotracheal tubes;

(f) A portable monitor defibrillator that:

1. Provides a visual display of cardiac electrical activity;

2. Provides a hard copy of cardiac electrical activity;

3. Delivers direct current energy over a variable range which is suitable for pediatric and adult usage;

4. Has adult and pediatric external paddle electrodes for immediate monitoring of heart activity and delivery of countershock in both the adult and pediatric patient;

5. May be operated from internal rechargeable batteries;

6. Has transthoracic pacing, and synchronized countershock capability for cardioversion. This requirement applies only to equipment purchased after the effective date of this administration regulation;

7. Has a patient monitoring cable which has the following accessories:

a. Electrode paste or gel or equivalent;

b. Electrode pads or equivalent for use with the patient monitoring cable; and

c. One (1) additional roll of paper for hard copy printout.

(g) Needles, sterile, disposable: minimum of three (3) sizes shall be maintained in 18 to 25 gauge;

(h) Syringes, disposable: minimum three (3) sizes shall be maintained in 1cc to 30cc sizes;

(i) Containers for the collection of blood samples;

(j) Tourniquet for use with venipuncture procedure;

(k) Dextrostix or equivalent for the measure of blood glucose levels;

(l) Disposable, individually packaged antiseptic wipes;

(m) Intravenous fluids, macrodrip and microdrip fluid sets, extension sets and accessory items;

(n) Intravenous catheter over needle devices in 12 to 24 gauge;

(o) Butterfly needles in 19 and 23 gauge;

(p) Intraosseous needles;

(q) Pediatric drug dosage tape or equivalent which shall provide easy reference for pediatric and infant treatment and drug dosages;

(r) Nasogastric tubes in size 5F, 8F pediatric sizes, sizes 10 to 18 French adult, and sizes 50 or 60 cc catheter tipped syringes or equivalent; and

(s) Infant or neonate suction apparatus.

(3) A provider shall stock and maintain drugs and medications as required by:

(a) Protocols established in accordance with Section 8 of this administrative regulation; and

(b) Local, state, and federal statutes and regulations;

(4) A provider which stores and utilizes controlled substances shall:

(a) Have protocols approved by the cabinet's Drug Control Branch; and

(b) Shall store controlled drugs and substances in a locked compartment or equivalent approved by the cabinet.

(5) With the exception of the supplies or equipment listed in subsection (2)(p), (q), (r), and (s) of this section, and supplies and equipment listed in this section which require specific sizes to accommodate adult, pediatric, and infant patients, nothing in this administrative regulation shall be construed to require a provider to

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maintain the equipment required in this section if the equipment is not required by the medical protocols of the provider established in Section 8 of this administrative regulation.

(6) Drugs, IV fluids, medical devices and batteries shall be stored and maintained in accordance with manufacturer's recommendations.

Section 7. Extrication Equipment. For response to trauma scenes, a provider shall:

(1) Have an affiliation agreement to provide extrication equipment with:

- (a) A fire department;
- (b) Rescue squad; or
- (c) A Class I ambulance provider; or

(2) Provide and maintain in full operational order the extrication equipment required for Class I ground ambulance services in 902 KAR 14:080, Section 7.

Section 8. Medical Director. (1) A medical first response provider shall have a written agreement with a physician medical director.

(2) The medical director shall:

- (a) Be a physician licensed by the KBML;
- (b) Have qualifications which have been reviewed by the KBML to assure compliance with 201 KAR 9:171, Section 2(6);
- (c) Have completed a residency program in emergency medicine approved by the Accreditation Committee for Graduate Education; or
- (d) Be a physician who holds, or is in the process of completing within one (1) year, certification in advanced cardiac life support, and certification in advanced trauma life support or basic trauma life support; or

(e) Have on file written approval from the KBML;

(f) Assume responsibilities in accordance with 201 KAR 9:171, Sections 2(1) through (5); and

(g) Assume other responsibilities as agreed upon between the medical director and the director of the service.

(3) The qualifications of the medical director and the medical protocols shall be approved by the cabinet [licensing-agency] only after being reviewed by the Kentucky Emergency Medical Services Council and its Medical Standards and Delegated Practice Committee.

Section 9. Specialized ALS Medical First Response Providers. (1)

The cabinet shall license a specialized ALS medical first response provider such as those based at:

- (a) An industry;
- (b) An amusement park;
- (c) A college or university campus;
- (d) A special event; or
- (e) A sports stadium [~~shall not provide prehospital emergency care to the general public~~].

(2) A specialized ALS medical first response provider shall not provide emergency prehospital care to the general public other than employees or patrons normally served by the entities listed in subsection (1) of this section.

(3) A specialized ALS medical first response provider which complies with Sections 1 through 9 of this administrative regulation may, with prior approval by the cabinet [licensing-agency], be allowed variances as provided in this section.

(4) [(3)] A specialized ALS medical first response license shall specify the limitations of the provider which shall be approved by the cabinet.

(5) [(4)] In reference to Section 4(1) of this administrative regulation, a specialized ALS medical first response provider shall not be required to provide emergency care on a twenty-four (24) hour, seven (7) days a week basis.

(6) [(5)] In reference to Section 4(7) [(6)] of this administrative regulation, a specialized ALS medical first response provider shall not be required to have an affiliation agreement with a local or

regional dispatch center or 911 service.

(7) [(6)] A specialized ALS medical first response provider shall be required to meet the equipment, supplies, and personnel requirements as listed in Sections 6, and 7 of this administrative regulation, with variances approved by the cabinet in accordance with approved medical protocols in Section 8 of this administrative regulation.

(8) [(7)] A specialized provider desiring variations in equipment, supplies, or personnel shall submit the requests in writing for consideration and approval by the cabinet.

Section 10. ALS Medical First Response Management Requirements. A provider shall:

(1) Establish lines of authority and an organizational chart to include the designation of:

(a) An administrator responsible for assuring compliance with this administrative regulation during the daily operation of the service; and

(b) A designee who shall serve if necessary in the absence of the administrator.

(2) A provider shall develop a run form or an electronic equivalent reporting mechanism to be completed for each run where contact with a patient is made. The reporting mechanism shall contain the Kentucky emergency medical services (EMS) data elements for ALS medical first response providers [(04/16/97), which is incorporated by reference].

(3) A copy of the data elements for each run shall be:

(a) Provided to the affiliate ambulance service which transports the patient;

(b) Kept and available for inspection or reporting to the cabinet [licensing-agency] according to guidelines established by the cabinet [licensing-agency] and in a manner of confidentiality and safekeeping for a minimum of five (5) years from the date on which the service was rendered, or in the case of a minor, until five (5) years after the minor reaches eighteen (18) years of age; and

(c) Forwarded to the cabinet within thirty (30) days following the end of the month in which the run was made. The data may be reported on a form or in an electronic equivalent format which is compatible with the cabinet's EMS information system.

(4) Employee files shall be maintained for:

(a) A minimum of five (5) years following termination, or retirement from employment; or

(b) Five (5) years following the demise of the employee.

(5) Individual personnel files shall contain evidence of:

- (a) Training;
- (b) Experience; and
- (c) Current credentials including proof of:

1. Paramedic certification with corresponding number and expiration date; or

2. Physician's license;

(d) Current and valid driver's license;

(e) A preemployment criminal and Department of Transportation driver's records check for each employee;

(f) Health records to include:

1. Written evidence of a preemployment health assessment having been conducted by a physician or a licensed advanced registered nurse practitioner (ARNP) stating the employee is capable of performing assigned job duties; and

2. Health records including records including records of all illnesses or injuries occurring while on duty.

(5) Maintain and follow written administrative, personnel, medical, and other operational policies and procedures that are reviewed on an annual basis by the provider in order to assess their effectiveness. The policies and procedures shall be developed to include the following areas:

(a) Organizational structure, staffing, and allocation of responsibility and accountability;

(b) Mutual aid agreements and agreements with other providers;

(c) Personnel performance guidelines; and

(d) A plan to assure that a continuing education program shall be provided for its staff. The program shall include:

1. Evidence of continuing education for staff regarding acquired immune deficiency syndrome (AIDS), hazardous materials awareness training, and infection control, including the handling of infectious waste in accordance with Centers for Disease Control guidelines.

2. A plan for response to, and the protection and decontamination of, the patient, equipment, and staff if called upon to respond to a patient exposed to hazardous chemicals;

3. A plan for assessing all other staff continuing education needs, with a coordinated development of methods to meet those needs; and

4. The maintenance of training rosters or other written records to support continuing education conducted by, or at the request of, the licensee.

(e) A plan for the quality assessment of patient care including a periodic review of run report forms, and evaluation of staff performance related to patient care.

(f) Policies and procedures concerning:

1. Standard operating procedures (SOPS);

2. Patient protocols; and

3. Medical response.

Section 11. Material Incorporated by Reference. The following material is incorporated by reference and may be inspected, obtained, or copied at the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. to 4:30 p.m., Monday through Friday:

- (1) Form EMS-5, "License to Operate a Kentucky ALS First Response Service", (7/97).

- (2) Form EMS-4, "Kentucky Application for an ALS Medical First Response Service Licensing", (7/97).

- (3) Kentucky EMS Data Elements for ALS First Response (4/16/97).

RICE C. LEACH, M.D., Commissioner

JOHN MORSE, Secretary

APPROVED BY AGENCY: June 9, 1997

FILED WITH LRC: June 13, 1997 at 11 a.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Licensing
Department of Fiscal Management
Division of Audit Review
(Amended After Hearing)

601 KAR 9:135. Apportioned registration.

RELATES TO: KRS 186.020, 186.050, 49 USC Chapter 317
[Chapter 186]

STATUTORY AUTHORITY: KRS 186.050(13)

NECESSITY, FUNCTION, AND CONFORMITY: 49 USC Chapter 317 requires each state to participate in the International Registration Plan. KRS 186.050(13) requires the Transportation Cabinet to promulgate administrative regulations concerning the registration of commercial motor vehicles under the Articles of the International Registration Plan. This administrative regulation sets forth the procedures to be followed in registering a commercial motor vehicle under the provisions of the International Registration Plan. It further clarifies when a vehicle licensed under the provisions of KRS 186.050(13) shall be deemed to be licensed under the provisions of other sections of KRS 186.050. The administrative regulation provides for the recordkeeping standards required for apportionable vehicles, auditing of the records by the Transportation Cabinet, and the appeal procedure when a disagreement occurs. There are no requirements in this administrative regulation which are more stringent than the federal mandate.

Section 1. Definitions. (1) [~~"Fleet" shall mean one (1) or more apportionable vehicles;~~

(2)] "Apportionable vehicle" means [shall mean] any vehicle except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, and government owned vehicles, used or intended for use in two (2) or more jurisdictions that allocate or proportionally register vehicles and is used for the transportation of persons for hire or designed, used or maintained primarily for the transportation of property; and

(a) Is a power unit having a gross weight or registered gross weight in excess of 26,000 pounds; or

(b) Is a power unit having three (3) or more axles, regardless of weight; or

(c) Is used in combination and the weight of the combination exceeds 26,000 pounds gross vehicle weight.

(2) "Base jurisdiction" means the state where:

(a) The registrant has an established place of business;

(b) Mileage is accrued by the registrant's fleet; and

(c) Operational records of the fleet are maintained or can be made available for audit.

(3) "Established place of business" means a physical structure:

(a) Owned, leased, or rented by the fleet registrant;

(b) Designated by a street number or road location;

(c) Open during normal business hours;

(d) In which is located;

1. A telephone publicly listed in the name of the registrant;

2. A person conducting the fleet registrant's business; and

3. The operational records of the fleet or where the records are made available for audit.

(4) "Fleet" means one (1) or more apportionable vehicles;

(5) "International registration plan" or "IRP" means the interstate agreement on apportioning vehicle registration fees paid by motor carriers which was developed by the American Association of Motor Vehicle Administrators.

(6) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or a state, province, or territory of a country.

(7) "Operational records" means source documents supporting miles traveled in each jurisdiction and total miles traveled such as fuel reports, trip sheets, and logs.

Section 2. Governing Material. (1) The "International Registration Plan, With Official Commentary" effective February 14, 1997 [September 17, 1996] and issued by the International Registration Plan, Inc. shall govern Kentucky's participation in IRP.

(2) The "Uniform Operation Audit Procedure Guidelines" effective March 1, 1993 and issued by the Audit Committee of the International Registration Plan, Inc. shall govern the recordkeeping requirements of registrants and the Kentucky Transportation Cabinet's audit responsibilities under the IRP.

(3) The "Kentucky 1997 International Registration Plan, Apportioned Registration Policies and Procedures Instructional Manual" effective January 1, 1997 and issued by the Transportation Cabinet shall be followed by all operators or owners of apportionable vehicles whose base jurisdiction is Kentucky.

(4) The "International Registration Plan Policies and Procedures Manual" effective April 1994 shall be followed by the Kentucky Transportation Cabinet in administering the apportioned registration program.

Section 3. [Section 2.] Application for Apportioned Registration.

(1) The operator of an apportionable vehicle [A commercial vehicle operator] who operates in more than one (1) licensing jurisdiction shall [may] apply for apportioned [proportional] registration of his fleet in those jurisdictions in which he operates and which are members of the International Registration Plan unless he purchases a trip permit from a jurisdiction for each trip into the jurisdiction.

(2) Vehicles, or combinations of power unit and trailers, having a gross vehicle weight of 26,000 pounds or less and two (2) axle vehicles may be apportioned registered at the option of the registrant.

(3) If Kentucky is the base jurisdiction for an [the] operator of an apportionable vehicle [is based in Kentucky], he shall apply for his apportioned registration in Kentucky.

[(2) The registration year is from April 1 of each year through the following March 31. An applicant for proportional registration of a fleet or other vehicle to be effective April 1 shall submit his application prior to March 1 of the same calendar year. The application shall be made on forms prescribed and furnished by the Department of Vehicle Regulation. This form, TG-96-301, IRP Apportioned Registration, Schedule A, effective August, 1991, is incorporated by reference as a part of this administrative regulation.

(3) The form, TG-96-301, may be obtained from the Transportation Cabinet's Division of Motor Vehicle Licensing, Second Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622 from 8 a.m. until 4:30 p.m., local prevailing time, on regular work days of state government.]

Section 4. [3.] Apportioned Mileage Reporting and Recordkeeping. (1)(a) The fleet miles required to be reported on the application for apportioned [proportional] registration shall be the fleet miles traveled from July 1 through June 30 of the year immediately preceding the registration year.

(b) The mileage shall be distributed by jurisdiction. For each jurisdiction, whether or not a member of the International Registration Plan, all miles traveled in that jurisdiction by any apportioned power unit, whether the vehicle is empty or loaded, shall be reported.

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(c) The mileage to be reported for any motor vehicle power unit which was added to or deleted from the apportioned fleet during the mileage reporting period shall be only those miles generated while it was part of the apportioned fleet.

(d) Mileage shall include the following:

1. Loaded and unladen trips;
2. Intrastate and interstate trips; and
3. Miles operated under trip permits.

(2) Apportioned registrants shall maintain operational records for the current registration year and the three (3) registration years immediately prior to the current year. ~~[Operational records shall be documents supporting the reported miles traveled in each jurisdiction and the total miles traveled.]~~ The information shall be retained in an individual vehicle mileage record. The individual vehicle mileage record shall contain at a minimum the following information:

- (a) Registrant's name and fleet number;
- (b) Beginning and ending date of trip;
- (c) Trip origin and destination;
- (d) Route of travel for trip;
- (e) Beginning and ending odometer or hubometer reading of each trip;
- (f) Total trip miles and mileage;
- (g) Mileage by jurisdiction for each trip;
- (h) Vehicle unit number and vehicle identification number; and
- (i) Driver's name or signature.

Section 5. [4-] Proof of Insurance and Certificate of Apportioned Registration. (1) The applicant shall apply to the appropriate county clerk for a certificate of apportioned registration for each vehicle in the fleet and any other vehicle to be apportioned registered.

(2) The county clerk's fee for the issuance of the certificate shall be two (2) dollars for each vehicle.

(3) The applicant shall submit proof of insurance to the county clerk at the time he applies for the certificate of apportioned registration.

Section 6. [5-] Registration Fees. (1)(a) The applicant shall submit the application for apportioned [proportional] registration to the Department of Vehicle Regulation for approval. This submission may either be in person or by mail.

(b) Original and renewal application shall be made on Transportation Cabinet form TC 96-301, IRP Apportioned Registration, effective October 1995.

(c) After the Department of Vehicle Regulation has approved an application, the department shall compute the apportioned [proportional] registration fee due each jurisdiction under the International Registration Plan.

(d) The applicant shall be given a bill for registration in all jurisdictions which do not bill the applicant directly.

(e) The applicant shall return to the department, either in person or by mail, the bill and a certified check, cashier's check, or money order made payable to the Kentucky State Treasurer ~~[to the department]~~. ~~[In order to receive apportioned registration plates prior to April 1 of the registration year, the applicant shall submit the required fee prior to March 10.]~~

(2) The required tax and fee shall be accompanied by proof of payment of the federal heavy vehicle use tax in accordance with the provisions of 601 KAR 9:115.

(3)(a) The Department of Vehicle Regulation shall issue [send] an IRP apportioned license plate, and IRP cab card to the registrant for each vehicle registered under the provisions of the International Registration Plan.

(b) The originally issued IRP license plate shall have decals, indicating the expiration month and year.

(c) After renewal each year, the registrant shall be issued a new decal designating the year of expiration and a new IRP cab card.

(d) The IRP cab card shall list those jurisdictions to which the

registrant has apportioned his registration fees and any other information required by the International Registration Plan.

(e) The original IRP cab card shall be carried in the cab of the vehicle at all times.

Section 7. [6-] Supplemental Applications. (1) If an applicant need to add to or delete vehicles from its fleet, the department shall be notified on a supplemental application form TC 96-303, "Supplemental Kentucky Application for IRP Apportioned Registration" effective October 1995 ~~[prescribed and furnished by the department]~~. This form shall be used to provide notice of the following:

(a) A [for any] vehicle addition;

(b) A [additions;] vehicle deletion;

(c) A [deletions;] vehicle transfer; or

(d) A gross [transfers or] weight increase. [increases. This form, TC 96-303, "Supplemental Kentucky Application for IRP Apportioned Registration" effective November, 1988, is incorporated by reference as a part of this administrative regulation.]

(2)(a) A vehicle deletion ~~[The form, TC 96-303, may be obtained from the Transportation Cabinet's Division of Motor Vehicle Licensing, Second Floor, State Office Building, 501 High Street, Frankfort, Kentucky 40622 from 8 a.m. until 4:30 p.m., local prevailing time, on regular work days of state government.]~~

(3) ~~Vehicle deletions~~ shall be accompanied by the apportioned registration plate and the certificate of apportioned registration.

(b) The registrant may, at the end of the registration month, apply for a refund of the taxes [fees] which apply to the unexpired months of the registration year.

(3)(a) ~~[(4)]~~ If a vehicle is being added by a registrant at the same time he is deleting another vehicle with the same weight within the fleet, the Kentucky registration tax [fee] may be transferred from the deleted to the added vehicle.

(b) The Kentucky transfer fee shall be two (2) dollars.

(c) The registrant shall be notified of the transfer fee owed to other jurisdictions.

(4) ~~[(5)]~~ If the declared gross weight of the vehicle is to be increased, the increased tax [fee] owed shall be prorated from the date the increased weight is allowed.

Section 8. [7-] Adding Jurisdictions to IRP Registrations. (1) If the operation of a registrant is being expanded to include an additional jurisdiction which participates in the International Registration Plan, the registrant may amend his mileage schedule to reflect an estimate of miles to be operated in the new jurisdiction.

(2) The mileage percentages for an added jurisdiction shall be computed as added on to the actual mileages earlier reported.

(3) Percentages approved on the original application shall not be changed during the registration year.

(4)(a) If [When] an additional jurisdiction is added during the registration year, all vehicles in the fleet shall be changed to reflect operation in the additional jurisdiction.

(b) The Department of Vehicle Regulation shall send replacement IRP cab cards to the registrant.

(c) Upon receipt of the new cab cards the registrant shall return the outdated IRP cab cards to the department.

Section 9. [8-] Conversion to Apportioned Registration. (1) If a vehicle is registered in Kentucky as a commercial or limited activity vehicle and the registrant intends to convert to an apportioned registration, the registrant shall first purchase an apportioned registration from the appropriate county clerk.

(2) The current commercial or limited activity license plate shall be submitted to the Department of Vehicle Regulation with the application for apportioned registration.

(3)(a) The applicant shall be given credit for the remainder of the value of his current Kentucky registration.

(b) This credit shall be applied toward taxes or fees due other IRP

jurisdictions and collected by Kentucky on the apportioned registration.

(4) All taxes and fees due other jurisdictions and any additional taxes or fee [fees] due to Kentucky shall be paid in accordance with Section 5 [4] of this administrative regulation before the apportioned credentials may be issued.

Section 10. [9-] Replacement of Credentials. (1) If the owner of a vehicle registered pursuant to KRS 186.050(13) loses his copy of a certificate of apportioned registration, he may obtain a duplicate from the Department of Vehicle Regulation by:

(a) Filing an affidavit upon [a] form TC 96-167, Affidavit for Replacement County/Affidavit for Nonexchange - County furnished by the department; and

(b) Paying [he shall pay] to the department a fee of two (2) dollars. [The form, TC 96-167, "Affidavit for Replacement County/Affidavit for Nonexchange County" effective June, 1988, is incorporated by reference as a part of this administrative regulation.]

(2)(a) [The form, TC 96-167, may be obtained from the Transportation Cabinet's Division of Motor Vehicle Licensing, Second Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622 from 8 a.m. until 4:30 p.m., local prevailing time, on regular work days of state government.

(3) If the owner loses a registration plate issued him under the provisions of KRS 186.050(13), he shall report the plate as lost or stolen to his area state police post or local law enforcement agency.

(b) The enforcement agency shall report the loss in the nationwide computer system for the information of all enforcement agencies.

(3) [(4)] The owner of a lost registration plate shall file with the Department of Regulation the following:

(a) A form TC 96-167;

(b) An affidavit for replacement;

(c) His certificate of apportioned registration; and

(d) A three (3) dollar fee. [a two (2) dollar fee with the Department of Vehicle Regulation.]

(4) [(5)] The Department of Vehicle Regulation after review and acceptance of the completed forms shall issue the owner another certificate of apportioned registration and a plate which shall bear a different number from that of the lost plate. The original copy of the surrendered certificate of apportioned registration shall be maintained by the department.

(5) [(6)] The department shall forthwith cancel the registration corresponding to the number of the lost plate, and the cancellation shall be reported by the department to the Commissioner of the Department of State Police.

(6) Any person finding a lost registration plate shall deliver it to the Department of Vehicle Regulation or to any county clerk for forwarding it to the department.

Section 11. [10-] Apportioned Registration of Leased Vehicles. Apportioned [Proportional] registration of leased vehicles may be accomplished in one (1) of the following ways:

(1) The owner/lessor may be the registrant and the vehicle may be registered in the name of the owner/lessor. The allocation of registration fees shall be based on the operational records of the owner/lessor. The apportioned license plate and IRP cab card shall be the property of the lessor; or

(2) The lessee may be the registrant and the vehicle may be registered by the lessee in both the owner/lessor's name and that of the lessee. The allocation of registration fees shall be based on the operational records of the lessee. The apportioned license plate and IRP cab card shall be the property of the lessee.

Section 12. [11-] Apportioned Registration of Trailers. (1) Under the International Registration Plan, trailers, semitrailers, and auxiliary axles are not required to be apportioned registered [apportionable vehicles]. However, a member jurisdiction may file an exception to the

IRP. Kentucky registrants are only required to pay trailer registration taxes and fees to Kentucky and to those member jurisdictions which have filed an exception.

(2) Kentucky trailer credentials shall be obtained through the appropriate county clerk.

(3) If a [When] Kentucky trailer registration is [registrations have been] purchased, the registrant shall [registrants may] submit to the Department of Vehicle Regulation a list of all trailers apportioned registered.

(4) The fee for each IRP trailer cab card shall be two (2) dollars.

(5) After receiving the list of trailers and appropriate tax and fee, the department shall send the registrant the IRP cab cards.

(6) In order to receive the IRP cab card by the beginning date of the registrant's assigned [April 1 of the] registration year, the registrant shall submit the list at least one (1) month in advance of the beginning date [prior to March 1].

Section 13. [12-] Registration Equivalent. Registration of a motor vehicle under the provisions of KRS 186.050(13) and this administrative regulation shall be equivalent to registration of the motor vehicle under the provisions of KRS 186.050(3). All privileges afforded a motor vehicle in Kentucky when operating on KRS 186.050(3) registration shall be afforded a motor vehicle in Kentucky when operating on KRS 186.050(13) registration.

Section 14. Audit of Apportioned Registrants. (1) In accordance with the provisions of the International Registration Plan, the Transportation Cabinet, Division of Audit Review shall every five (5) years audit fifteen (15) percent of the apportioned registrants based in Kentucky.

(2) An audit shall be performed in accordance with the "Uniform Operational Audit Procedure Guidelines".

(3) The Division of Audit Review shall in writing notify the apportioned registrant of the date, time, and location of the audit. At least thirty (30) days' advance notice shall be given to the registrant.

(4) Failure of the registrant to make available records required to be kept by the registrant pursuant to Section 4 of this administrative regulation and requested for the audit may result in a penalty assessment of up to 100 percent of Kentucky's registration fees set forth in KRS 186.050 in addition to fees for all other apportioned jurisdictions included in the original application or cancellation of apportioned registration.

(5) If it is determined that the registrant's operational records are not located in Kentucky and it is necessary for the Transportation Cabinet's auditors to travel to where the records are maintained, the registrant shall pay the Transportation Cabinet for the travel expenses incurred by its auditors in accordance with the per diem and travel rates established in 200 KAR 2:006.

(6) If the audit is being conducted on site, the auditor shall conduct and document a preaudit conference with the registrant outlining the operation, audit procedures, records to be examined, sample period, and sampling procedures. The motor carrier and auditor shall determine at the preaudit conference who has the responsibility for the final acceptance of audit findings and who should be involved in the close-out conference.

(7) If the audit is being conducted on site, the auditor shall conduct and document a close-out conference with the registrant outlining preliminary findings to include applicable penalty and interest, recommendations, rights of appeal, and to whom the audit report should be addressed.

(8) The Transportation Cabinet shall furnish the registrant a letter of audit findings and recap schedules. If requested, the cabinet shall supply any other work papers to the registrant.

(9) If an audit indicates that additional tax is owed, the Transportation Cabinet shall issue an audit supplemental tax statement.

(10) The registrant shall within forty-five (45) days of the date of the audit supplemental tax statement pay the supplemental tax or

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protest in writing to the Transportation Cabinet, Division of Audit Review.

Section 15. Protest or Appeal of Audit Results. (1) The registrant may within forty-five (45) days of the date of the audit findings, protest in writing to the Transportation Cabinet, Division of Audit Review any portion of the audit.

(2) If the registrant does not protest, the audit or the audit supplemental tax statement shall be final on the beginning of the 46th day.

(3)(a) If a registrant protests pursuant to this section, the protest shall include a supporting statement and documents which identify the specific adjustments requested or the portions of the audit being protested, and setting forth the reasons the protest is being made.

(b) If the supporting statement and documents are sufficient to cause the Transportation Cabinet to change the audit or audit supplemental tax statement, the registrant shall be notified of the change and the amended audit or amended audit supplemental tax statement shall become final.

(c) If the supporting statement and documents are not sufficient to cause the Transportation Cabinet to change the audit or audit supplemental tax statement exactly as requested by the registrant in its protest, the registrant shall be notified to attend an information gathering/protest conference with the Division of Audit Review. The information gathering/protest conference shall be scheduled to be held within thirty (30) days of the issuance of the written protest. It may be rescheduled only one (1) time by either party.

(d) Within twenty (20) days of the information gathering/protest conference the Transportation Cabinet shall issue the final audit or final audit supplemental tax statement.

(4) If the registrant desires, he may, within thirty (30) days of the date of the final audit or final audit supplemental tax statement appeal to the Kentucky Board of Tax Appeals pursuant to KRS 131.340.

Section 16. Protest or Appeal of Nonaudit IRP Issue. (1) If anyone is aggrieved by any action or decision of the Transportation Cabinet made pursuant to the provisions of this administrative regulation except the audit provisions set forth in Sections 14 and 15 of this administrative regulation, within ten (10) days of the decision, may protest to the Transportation Cabinet, Division of Motor Vehicle Licensing.

(2)(a) If a protest is made pursuant to this section, the protest shall include a supporting statement and documents which identify the specific adjustments requested or the action of the Transportation Cabinet being protested, and setting forth the reasons the protest is being made.

(b) If the supporting statement and documents are sufficient to cause the Transportation Cabinet to change its action or decision, the protestant shall be notified of the change.

(c) If the supporting statement and documents are not sufficient to cause the Transportation Cabinet to change its action or decision as requested by the protestant, the protestant shall be notified to attend an information gathering/protest conference with the Division of Motor Vehicle Licensing. The information gathering/protest conference shall be scheduled to be held within thirty (30) days of the issuance of the written protest. It may be rescheduled only one (1) time by either party.

(d) Within twenty (20) days of the information gathering/protest conference the Transportation Cabinet shall issue a final decision.

(3)(a) An appeal of any nontax action of the Transportation Cabinet resulting from its actions relating to this administrative regulation shall be in writing and directed to the Transportation Cabinet, Office of General Counsel, 10th Floor, State Office Building, 501 High Street, Frankfort, Kentucky 40622.

(b) An administrative hearing shall be conducted in accordance with the provisions of KRS Chapter 13B.

(4) If a protestant desires, he may, within thirty (30) days of the

date of the final decision of the Transportation Cabinet appeal a tax issue to the Kentucky Board of Tax Appeals pursuant to KRS 131.340.

Section 17. Material Incorporated by Reference. (1) The following items are incorporated by reference as a part of this administrative regulation:

(a) Transportation Cabinet form TC 96-301, "IRP Apportioned Registration", effective October 1995;

(b) Transportation Cabinet form TC 96-303, "Supplemental Kentucky Application for IRP Apportioned Registration" effective October 1995;

(c) Transportation Cabinet form TC 96-167, "Affidavit for Replacement-County/Affidavit for NonExchange-County" effective April 1992;

(d) "Kentucky 1997 International Registration Plan, Apportioned Registration Policies and Procedures Instructional Manual" effective January 1, 1997 and issued by the Kentucky Transportation Cabinet;

(e) "Uniform Operational Audit Procedure Guidelines" effective March 1, 1993 and issued by the Audit Committee of the International Registration Plan, Inc.; [and]

(f) "International Registration Plan, With Official Commentary" effective February 14, 1997 [September 17, 1996] and issued by the International Registration Plan, Inc.; and

(g) "International Registration Plan Policies and Procedures Manual" effective April 1994.

(2) The material incorporated by reference in subsection (1)(a), (b), (c), [and] (d), (f) and (g) of this section may be viewed, copied, or obtained from the Department of Vehicle Regulation, Division of Motor Carriers [Vehicle Licensing]. The address is 501 High Street, Second Floor, State Office Building, Frankfort, Kentucky 40622. The telephone number is (502) 564-5301. The hours of operation are weekdays from 8 a.m. through 4:30 p.m. local prevailing time.

(3) The material incorporated by reference in subsection (1)(e) and (f) of this section may be viewed, copied, or obtained from the Department of Fiscal Management, Division of Audit Review. The address is 641 Teton Trail, Frankfort, Kentucky 40622. The telephone number is (502) 564-6760. The hours of operation are weekdays from 8 a.m. through 4:30 p.m. local prevailing time.

ED LOGSDON, Commissioner/Department of Vehicle Regulation
GLENMITCHELL, Commissioner/Department of Fiscal Management
JAMES C. CODELL III, Secretary
TODD SHIPP, Office of General Counsel
APPROVED BY AGENCY: September 12, 1997
FILED WITH LRC: September 12, 1997 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact person: Sandra Pullen Davis

(1) Type and number of entities affected: All owners of vehicles with a gross weight above 26,000 pounds and which are to operated in interstate commerce.

(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. However, no effect on the cost of living or employment are anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held. However, no effect on the cost of living or employment are anticipated.

(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: The changes in the procedures manual allowing for staggered apportioned registration will spread the workload of the Apportion Registration Section of the Division of Motor Vehicle Licensing over several months of the year instead of concentrating most of the work in 6 weeks.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Transportation Cabinet will implement the administrative regulation with road funds allocated for the motor vehicle licensing function of the Department of Vehicle 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: A public comment hearing was not held. However, no economic impacts are anticipated.

(b) Kentucky: A public comment hearing was not held. However, no economic impacts are anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The Transportation Cabinet is required by federal law to participate in the International Registration Plan. Therefore, the changes adopted by that organization must also be adopted in Kentucky. The cabinet rejected the idea of not implementing a staggered registration because of the delay in registering the large number of apportioned vehicle owners who wait until the last moment to register their vehicles and pay the tax which is owed.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

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

(c) If detrimental effect would result, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 186.020(3) establishes April 1 as the renewal registration date for commercial vehicles. However, KRS 186.050(13)(a) requires the Department of Vehicle Regulation, notwithstanding the provisions of KRS 186.020, to promulgate administrative regulations concerning the registration of apportioned vehicles.

(a) Necessity of proposed regulation if in conflict: While the International Registration Plan does not mandate a staggered registration of apportioned motor vehicles, it does require the states to register the vehicles in a timely manner. The number of apportioned vehicle owners who put off registration renewal until the last days of the renewal period has increased as registration fees around the nation have increased (delay paying high taxes until the last possible moment). This has caused a backlog of work during March of each year. In recent years, the delays and backlog have been so great that the Transportation Cabinet had to address the issue.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: The conflict was negated by the "notwithstanding" clause in KRS 186.050(13).

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. All vehicles subject to the provisions of the International Registration Plan must follow those provisions when being registered.

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. County clerks offices.

3. State the aspect or service of local government to which this administrative regulation relates. Issuance of apportioned registration plates.

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 in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): 0

Expenditures (+/-): 0

Other Explanation: The County Clerks offices, like the Department of Vehicle Regulation will experience administrative relief with the spreading out of the registration period of the apportioned vehicles.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 49 USC Chapter 317.

2. State compliance standards. Kentucky was one of the first states to join the International Registration Plan and issues its apportioned registrations in compliance with the provisions of the Articles of Incorporation of IRP. Further, Kentucky collects and processes the registration tax for other jurisdictions as required by IRP.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires each state to participate in the International Registration Plan. The IRP requires each state to issue apportioned registration plates to all vehicles with a gross weight above 26,000 pounds which are to be operated in interstate commerce. It further requires each state to collect the proportional registration fees for each state in which the apportioned vehicle will be operated.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, SEPTEMBER 15, 1997

KENTUCKY HIGHER EDUCATION
ASSISTANCE AUTHORITY
(Amendment)

11 KAR 6:010. KHEAA Work Study Program.

RELATES TO: KRS 164.744(2), 164.748(4), 164.753(6)

STATUTORY AUTHORITY: KRS 13A.100, 13A.110, 164.748(4)

NECESSITY, FUNCTION, AND CONFORMITY: The Kentucky Higher Education Assistance Authority ("authority") is empowered to administer student financial assistance programs in the form of work-study. The purpose of this administrative regulation is to name the authority's program, and set forth the procedures under which it will be administered. The purpose of this amendment is to revise the rate at which mileage expense incurred by a student may be included in the budget of educational costs and to provide for the allocation of funds among participating institutions. [~~allow participating institutions to be eligible employers.~~]

Section 1. Definitions. (1) "Administrative cost allowance" means a payment negotiated between the authority and participating institutions for annual costs directly related to the administration of the KWSP not to exceed eight (8) percent of the gross wages earned, the amount requested by the institution, or \$15,000 annually, whichever is least.

(2) "Alternate work plan" means a work-study arrangement in which a participating student alternates a school term with a work term. For example, a participating student attends school full time one (1) term, works full time the next term, and returns to school full time the following term. Participating students employed during the summer who are not enrolled at least half time during that term shall be considered alternate for the summer term. Any academic credits earned as a direct result of the KWSP employment shall not be considered in the determination of alternate status.

(3) "Authority" is defined in KRS 164.740(1).

(4) "Business school" is defined in KRS 164.740(3).

(5) [(2)] "Career-related work experience" means a job which has a correlation with the participating student's career direction determined by the participating institution and evidenced by the student's major course of study.

(6) "College" is defined in KRS 164.740(4).

(7) [(3)] "Cost of education" means those expenses commonly related to obtaining an education at the participating institution plus those costs directly related to the participating student's KWSP work experience, including any required dues and travel (at the rate of twenty-five (25) [twenty-two (22)-cents] per mile) from the school to the place of employment or, under an alternate work plan, from the student's residence to the place of employment.

(8) [(4)] "Eligible program of study" means a program not leading to a certificate, diploma, or degree in theology, divinity, or religious education.

(9) [(5)] "Financial need" means the total cost of education less financial assistance received from all sources, other than KWSP employment, including grants, loans, and scholarships.

(10) [(6)] "Full-time [enrollment]" means the number of credit hours determined by the participating institution to constitute full-time enrollment, which is generally twelve (12) semester hours, twenty-four (24) clock hours, or six (6) summer school hours. Any academic credits earned as a direct result of KWSP employment shall not be considered in the determination of full-time status.

(11) [(7)] "KWSP" means the KHEAA work study program.

(12) [(8)] "Prevailing wage rate" means a base rate of pay per hour for KWSP participating students who are or would be performing

equal job tasks as other employees, plus benefits paid to other employees having the same status as the KWSP employee.

(13) "School of nursing" is defined in KRS 164.740(19).

(14) [(9)] "School term" means the equivalent of one (1) semester, one (1) quarter, or one (1) summer school term.

(15) "Vocational school" is defined in KRS 164.740(21).

(16) [(10)] "Wage reimbursement" means a payment made to participating employers by participating institutions as reimbursement for wages paid participating students. The rate of reimbursement shall be specified in an agreement between the participating employer and the participating institution.

(17) "Work study" is defined in KRS 164.740(22).

Section 2. There is hereby established a program of student financial assistance known as the Work Study Program, which may be cited as the KWSP.

Section 3. Institutional Eligibility. To participate in the KWSP, an educational institution shall:

(1) Be a college, business school, vocational school, or school of nursing, [~~as defined in KRS 164.740;~~] located within Kentucky;

(2) Offer an eligible program of study;

(3) Have in force an administrative agreement with the authority pursuant to 11 KAR 4:040;

(4) Submit a request for funding in accordance with instructions specified by the authority; and

(5) Execute any supplemental contractual arrangements with the authority and participating employers required to administer the KWSP.

Section 4. Funding Allocation Process. (1) Each year, the authority shall invite eligible institutions to submit proposals for funding and shall provide instructions for submitting the proposal. The authority shall consider proposals properly submitted by eligible institutions by the date specified in the invitation to participate. The authority may award an administrative cost allowance, if the institution demonstrates need, to administer the KWSP for one (1) year. At least seventy-five (75) percent of wage reimbursement dollars shall be utilized with private, for-profit employers.

(2) The authority shall consider the institution's request for funding and any past performance in the KWSP in the determination of approval for funding and funding levels. The authority may evaluate the institution's level of participation in and administration of other programs of student financial assistance funded or administered by the authority and the institution's ability to:

(a) Comply with this administrative regulation and contractual obligations under the KWSP;

(b) Administer the program cost-effectively with the greatest results for students, evidenced by previous years' program records;

(c) Utilize the wage-reimbursement dollars allocated, evidenced by previous years' program records;

(d) Avoid using KWSP dollars to supplant existing work-related programs for students; and

(e) Adequately monitor program activities, including eligibility determination of students and employers, continued eligibility of students and employers, and actual job activities as they relate to students' career-related work experience.

(3)(a) At least ninety (90) percent of the available funds that do not exceed the appropriation for the preceding fiscal year shall be awarded to eligible institutions that participated and expended all or the major portion of their wage reimbursement allotment during the prior year.

(b) Not more than ten (10) percent of the available funds that do

not exceed the appropriation for the preceding fiscal year may be awarded to eligible institutions that did not participate or had minimal participation in the KWSP during the prior year.

(c) Allocation by the authority of available funds that exceed the appropriation for the preceding fiscal year shall not be constrained by the level of participation by eligible institutions during the prior year.

(d) If available funds are not sufficient to award each institution the amount requested, the authority may allocate funds to some or all of the eligible institutions that submit requests for funding, taking into consideration the institution's past performance and level of funding under the KWSP, and the institution's level of participation and demonstrated capability to administer other programs of student financial assistance funded or administered by the authority.

Section 5. Employer Eligibility. To participate in the KWSP, an employer shall:

(1) Provide a bona fide career related work experience for participating students as determined by the participating institution in which the student is enrolled and submit a descriptive position analysis to the participating institution;

(2) Execute a KWSP employer agreement with each participating institution from which participating students are hired, or agree with the authority to be bound by the terms of a KWSP employer agreement if the employer is a participating institution;

(3) Provide a Kentucky worksite for all participating students employed by the employer;

(4) Not be a business entity formed substantially for the purpose or intention of participating in the KWSP;

(5) Not utilize participating students in a work environment that is sectarian in nature or that involves any political activity.

Section 6. [5:] Student Eligibility. To participate in the KWSP, a student shall:

(1) Be a citizen of the United States;

(2) Be a Kentucky resident, as determined by the participating institution in accordance with 13 KAR 2:040;

(3) Be enrolled or accepted for enrollment on at least a half-time basis at a participating institution;

(4) Demonstrate financial need;

(5) Be in good standing and making satisfactory academic progress toward completion of his or her educational program, as determined by the participating institution, and have a cumulative grade point average of not less than the equivalent of a "C" (inclusive of all postsecondary courses attempted for postsecondary students or secondary school grade point average for entering freshmen);

(6) Not be participating in other work programs administered by the participating institution;

(7) Not be enrolled in a major course of study in religion, theology, or divinity;

(8) Submit a KWSP application to the participating institution, properly completed in accordance with instructions, and be approved for participation by the participating institution;

(9) Not be in default on any financial obligation to the authority under any program administered by the authority pursuant to KRS 164.740 through 164.785, except that ineligibility for this reason may be waived by the executive director of the authority, at the recommendation of a designated staff review committee, for cause; and

(10) Execute any employment agreements required by the participating institution.

Section 7. [6:] Employer Responsibilities. To receive wage reimbursement a participating employer shall:

(1) Immediately notify the participating institution in writing if a participating student's employment is terminated, stating the reason for and effective date of termination;

(2) Report promptly to the participating institution all significant changes of the position analysis or the student's work assignment;

(3) Submit to the participating institution on a regular basis a certified, accurate proof of wages paid to participating students;

(4) Pay participating students the prevailing wage rate, which shall not be less than the federal minimum wage;

(5) Comply with all federal and state employment, safety and civil rights laws applicable to the positions filled;

(6) Not, without prior consent of the participating institution, permit or require participating students to work in excess of:

(a) Thirty (30) hours per week for students currently enrolled less than full time;

(b) Twenty (20) hours per week for students currently enrolled full time; and

(c) Forty (40) hours per week for students employed under an alternate work plan;

(7) Permit on-site inspection and review of records by representatives of the participating institution and the authority during normal business hours; and

(8) Ensure that regular employees are not displaced by KWSP participating students.

Section 8. [7:] Student Responsibilities. Participating students shall:

(1) Participate in all screening or preplacement activities required by the participating institution;

(2) Maintain eligibility pursuant to Section 5 of this administrative regulation, and immediately notify the participating institution in writing of all changes that affect the student's continued eligibility;

(3) Be available for a job interview if requested by a participating employer; and

(4) Perform all reasonable employment obligations and comply with all reasonable policies and requirements of the participating employer.

Section 9. [8:] Appeals regarding student or employer participation shall be directed to the participating institution and shall be reviewed, settled or determined by an appeal committee consisting of no fewer than three (3) individuals. Appeals regarding institutional eligibility or participation shall be determined by the authority in accordance with 11 KAR 4:020.

Section 10. [9:] Forms and Agreements. All forms and agreements utilized in the administration of the KWSP shall be provided or approved by the authority. No alteration of any forms or agreements used in the administration of the KWSP shall be binding against the authority without the prior consent of the authority. The KWSP application is available to students at participating institutions or from the authority at 1050 U.S. 127 South, [Suite 102:] Frankfort, Kentucky 40601.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: June 24, 1997

FILED WITH LRC: September 12, 1997 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Thursday, October 30, 1997 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Thursday, October 23, 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 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 regula-

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tion to: Mr. Paul P. Borden, Executive Director, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (502) 696-7200.

REGULATORY IMPACT ANALYSIS

Agency Contact: Paul P. Borden

(1) Type and number of entities affected: In FY 1996-97, there were 17 institutions of higher learning participating in the work study program encompassing 1,430 students. From a budget of \$1,006,500, some \$916,000 went to wages and \$90,500 went to administrative costs. These 1,430 students earned approximately \$2,757,000. They made \$6.51 per hour (averaged), and \$1,953 annual earnings (averaged).

(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. It is anticipated that a participating student could, on average, need to travel 15 miles per week to and from the job site (450 miles for the year - 30 weeks). The cost of the mileage is includable in the student's budget in determining need and the amount of work-study earnings that the student may receive. The cost allocable to the mileage is being increased by \$0.03 per mile to match the reimbursement rate specified for state travel. This increase, on average, would result in only an additional \$13.50 per year per student added to the student's budget and payable from work-study earnings. This change in calculation would result in no less participants but would require no greater expenditure of state appropriated work-study funds.

(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. Employers participate in the work-study program on a voluntary basis. The average additional need of the participating students, \$13.50 per year (see (a) above) would permit the student to work an additional two hours (at \$6.51 per hour on average) to earn the amount to cover the additional need. The wages paid by the employer are partially reimbursed by work-study funds to the extent of \$2 per hour. It is anticipated that the additional average cost of \$13 (part of which will be reimbursed) per year per student for an additional 2 hours per year of employment will not constitute a significant cost of doing business for any of the voluntarily participating employers.

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

1. First year following implementation: No change in the compliance or reporting requirements.

2. Second and subsequent years: Same as 1 above.

(3) Effects on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: KHEAA would have no additional costs or savings, direct or indirect. Funds appropriated and available for this program are not expected to increase or decrease based on this minor change. Budgeted funds will be allocated to participating institutions based upon the institution's request and evaluation of factors including the past performance and funding of the institution under this program as well as the institution's level of participation and administrative capability under other programs administered by the authority.

2. Continuing costs or savings: Same as 1 above

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The amendment makes no change in the reporting or paperwork requirements on the authority.

(4) Assessment of anticipated effect on state and local revenues: The amendment will not increase or decrease state or local revenue.

(5) Source of revenue to be used for implementation and

enforcement of administrative regulation: Agency receipts.

(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. It is anticipated that a participating student could, on average, need to travel 15 miles per week to and from the job site (450 miles for the year - 30 weeks). The cost of the mileage is includable in the student's budget in determining need and the amount of work-study earnings that the student may receive. The cost allocable to the mileage is being increased by \$0.03 per mile to match the reimbursement rate specified for state travel. This increase, on average, would result in only an additional \$13.50 per year per student added to the student's budget and payable from work-study earnings. This change in calculation would result in no less participants but would require no greater expenditure of state appropriated work-study funds.

(b) Kentucky: Same as (a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The current rate of \$0.22 per mile to be included in the student's budget was determined to be outdated and should be increased to match the rate for reimbursement for state travel.

(8) Assessment of expected benefits: Students involved in the program can be reimbursed more realistically for transportation expenses.

(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 the environmental or 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 regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) Tiering: Is tiering applied? No. If no, explain why tiering was or was not used. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by 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. The regulation provides equal treatment and opportunity for all applicants and recipients.

COUNCIL ON POSTSECONDARY EDUCATION (Amendment)

13 KAR 2:060. Degree program approval; equal opportunity goals.

RELATES TO: KRS Chapter 164 [164.020(8)]

STATUTORY AUTHORITY: KRS 164.020(18) [(8)]

NECESSITY, FUNCTION, AND CONFORMITY: Responsibility for the development of a system-wide equal opportunity plan is assigned to the Council on Postsecondary Education pursuant to KRS 164.020(18). The statute connects an institution's eligibility for new academic programs to its performance in implementing equal opportunity objectives. [KRS 164.020(8) requires that] The Council on

Postsecondary [Higher] Education approves the offering of [all] degree programs at each [the] state-supported postsecondary education institution pursuant to KRS 164.020(14) but an institution's eligibility for new academic programs is limited by the requirement of KRS 164.020(18) that an institution meet its equal opportunity objectives. The statute does grant the Council on Postsecondary Education authority to grant a temporary waiver if an institution demonstrates progress in meeting equal opportunity objectives, [institutions of higher education. Unless a temporary waiver is granted by the Council on Higher Education, approval of any new degree program is contingent upon an institution's having met its equal opportunities goals.] This administrative regulation sets forth the criteria used to determine an institution's [terms for determining] compliance with [an institution's] equal opportunity objectives, [goals] and for the granting of a temporary waiver to a [waivers to the] state-supported postsecondary education institution [institutions of higher education] which has [have] not met its objectives, [their goals.]

Section 1. Definitions. (1) "Continuous progress" means that an institution shows an increase in the number of students or employees over the previous year for each category.

(2) "Council" means the Council on Postsecondary Education.

(3) "Kentucky Plan" means the "Kentucky Plan for Equal Opportunities" which is a five (5) year plan developed by the Council on Postsecondary Education.

(4) "Objectives" mean flexible targets in enrollment, retention, graduation and employment developed by the Council on Postsecondary Education and the state-supported postsecondary education institutions and included in the Kentucky Plan.

(5) "State-supported institution" means the eight (8) universities, and the community colleges that are part of the Kentucky Community and Technical College system.

Section 2. Scope. (1) The Council on Postsecondary Education maintains a Kentucky Plan for Equal Opportunities to assist in ensuring equal opportunity of access to higher education for all citizens of Kentucky. The Kentucky Plan establishes flexible objectives for state-supported postsecondary education institutions in broad categories of student enrollment, retention, graduation and employment of African-Americans.

(2) Five (5) categories of African-American, resident students are included in the Kentucky Plan with objectives established and measured for each category:

- (a) Undergraduate enrollment;
- (b) Retention of first-year undergraduate enrollment;
- (c) Retention of total undergraduate enrollment;
- (d) Award of baccalaureate degrees; and
- (e) Graduate enrollment.

(3) Seven (7) categories of African-American employment are included in the Kentucky Plan with objectives established and measured for three (3) of those categories:

- (a) Executive, administrative and managerial;
- (b) Faculty; and
- (c) Professional nonfaculty.

(4) The Kentucky Plan includes enhancement provisions for Kentucky State University, the historically black institution, including the following categories which shall be reported on by the university:

(a) Identification by the university, subject to agreement by the council, of new and continuing academic programs which promote and build on the university's strength as a historically black institution;

(b) Evidence of marketing or showcasing programs which are developed and implemented as part of paragraph (a) of this subsection;

(c) Evidence of funding by the university of programs identified in paragraph (a) of this subsection including identification of private funding; and

(d) Identification of quality assurance assessment activities for

programs identified in paragraph (a) of this subsection.

(5) The Council on Postsecondary Education evaluates institutional progress in implementing the flexible objectives established in the Kentucky Plan in order to determine:

(a) An institution's automatic eligibility for new academic programs; or

(b) An institution's eligibility for a waiver.

Section 3. Enrollment, Retention and Graduation [Institutional] Objectives. (1)(a) An institution's [The] objective for the enrollment of undergraduate, Kentucky resident African-American students [at a state-supported institution of higher education] shall be [equal to] the percentage of African-American high school graduates within the institution's market area.

(b) The market area shall be the geographic area of Kentucky contributing ninety (90) percent of the entering Kentucky resident undergraduate enrollment at an institution as measured by the base year of the Kentucky Plan [the state-supported institution of higher education during the fall semester, 1990].

(2)(a) An [Each] institution's objective for [the] retention of first-year undergraduate Kentucky resident African-American students shall be equal to the institution's [1987] retention rate for first-year undergraduate Kentucky resident white students as measured by the base year of the Kentucky Plan.

(b) The community colleges shall be exempt from this requirement.

(3)(a) An [Each] institution's objective for the retention of total [all] undergraduate Kentucky resident African-American undergraduate students shall be equal to the institution's [1987] retention rate for all Kentucky resident white undergraduate students as measured by the base year of the Kentucky Plan.

(b) The community colleges shall be exempt from this requirement.

(4) An [Each] institution's objective for the awarding of baccalaureate degrees to Kentucky resident African-American students shall be:

(a) For all institutions except Kentucky State University equal to the institution's rate for awarding baccalaureate degrees to Kentucky resident white students.

(b) For Kentucky State University, the rate of award of baccalaureate degrees to Kentucky resident white students shall be equal to that of Kentucky resident African-American students as measured by the base year of the Kentucky Plan.

(c) The community colleges shall be exempt from this requirement, [calculated by multiplying the institution's enrollment objective by the institution's retention objective for all undergraduates. However, the objective for Kentucky State University shall be to maintain the level achieved in the 1986-87 school year.]

(5)(a) An [Each] institution's objective for the enrollment of Kentucky resident African-American graduate students shall be equal to the institution's percentage of enrollment of [objective for the awarding of baccalaureate degrees to] Kentucky resident white [African-American] students as measured by the base year of the Kentucky Plan.

(b) [However,] Kentucky State University and the community colleges shall be exempt from this objective.

Section 4. Employment Objectives. (1) The Kentucky Plan incorporates seven (7) institutional employment objectives and provides for the measurement and evaluation of each of the three (3) following categories of employment:

(a) [(6) Each institution's objective for the employment of African-Americans in] Executive, administrative, and managerial;

(b) [positions shall be those established through existing affirmative action plan agreements between the institution and the U.S. Department of Labor or the U.S. Department of Education;

(7) Each institution's objective for the employment of African-

American] Faculty; and

(c) [shall be those established through existing affirmative action plan agreements between the institution and the U.S. Department of Labor or the U.S. Department of Education;

(8) Each institution's objective for the employment of African-Americans in the category of Professional nonfaculty, [not within subsections (6) and (7) of this section shall be those established through existing affirmative action plan agreements between the institution and the U.S. Department of Labor or the U.S. Department of Education;]

(2) Employment objectives for an institution shall be based on an institution's plan developed in compliance with the U.S. Department of Labor or the U.S. Department of Education as appropriate for that institution.

Section 5. Evaluation of [2:] Annual Progress. (1) [Incremental] Progress toward achievement of an objective [all objectives by school year 1995-96] shall be measured annually for the purpose of determining an institution's eligibility to submit requests for new academic programs or for a waiver. [Data from 1987 shall be used as a baseline for measurement;]

(2) An institution shall have met its annual plan implementation objective for undergraduate enrollment when the following conditions have been fulfilled:

(a) For Kentucky State University if:

1. The university maintains the current level of Kentucky resident African-Americans as a percentage of total enrollment; and

2. The university increases the number of entering Kentucky resident freshmen with ACT scores at or above the statewide average.

(b) For all other institutions if:

1. Enrollment of African-American students within the system of state-supported higher education is .073 percent or greater excluding African-American students enrolled at Kentucky State University; and

2. An institution's enrollment of Kentucky resident African-American students is greater than the actual enrollment of African-American students in the prior year.

(3) An institution shall have met its annual plan implementation objectives for:

(a) Retention of first-year undergraduate students;

(b) Retention of total undergraduate students;

(c) Award of baccalaureate degrees;

(d) Enrollment of graduate students; and

(e) In employment of African-Americans by demonstrating continuous progress each year in each category. The council may, upon request by an institution, determine that an employment category has too few positions in order to evaluate continuous progress, and may indicate that the institution has met its annual implementation plan objectives for the year.

(f) For Kentucky State University, the council may substitute objectives from Section 2(4) of this administrative regulation for those contained in Sections 3 and 4 of this administrative regulation. [For each objective, annual progress shall be calculated using one (1) of the following two (2) methods:

(a) If the level of achievement for a particular objective exceeds that of the 1987 baseline, the following equation shall be applied:

1. 100, multiplied by the difference between the percentage attained in the year being measured and the percentage attained in 1987, divided by the difference between the percentage expected by 1995-96 and the percentage attained in 1987.

2. Example of the use of the equation identified in subparagraph 1 of this paragraph:

$$\begin{array}{ccc} 1987 & 1991-92 & 1995-96 \\ 5.0\% & 6.0\% & 8.0\% \end{array}$$

$$\text{annual progress} = 100 \left(\frac{6.0 - 5.0}{8.0 - 5.0} \right)$$

$$= 100 \left(\frac{1.0}{3.0} \right)$$

$$= 100 (0.333)$$

$$= 33.3\%$$

(b) If the level of achievement for a particular objective falls below that of the 1987 baseline, the following equation shall be applied:

1. 100, multiplied by the difference between the percentage attained in the year being measured divided by the percentage attained in 1987 and one (1):

2. Example of the use of the equation identified in subparagraph 1 of this paragraph:

$$\begin{array}{ccc} 1987 & 1991-92 & 1995-96 \\ 5.0\% & 4.0\% & 8.0\% \end{array}$$

$$\text{annual progress} = 100 \left(\frac{4.0}{5.0} - 1 \right)$$

$$= 100 (0.8 - 1)$$

$$= 100 (-0.2)$$

$$= -20\%$$

Section 3. Average Annual Progress. An overall level of annual achievement for an institution shall be established by calculating a simple average of annual progress toward all of the objectives;]

Section 6. [4:] Automatic Eligibility. (1) An institution shall be eligible [Automatic eligibility] for the consideration of new academic degree programs [shall exist] if:

(a) For Kentucky State University, the institution exhibits continuous progress in five (5) of seven (7) annual plan implementation objectives established in Sections 2(4), 3 and 4 of this administrative regulation;

(b) For a community college, the institution exhibits continuous progress in three (3) of four (4) annual plan implementation objectives established in Sections 3 and 4 of this administrative regulation; and

(c) For other institutions, an institution exhibits continuous progress in six (6) of the eight (8) annual plan implementation objectives established in Sections 3 and 4 [4] of this administrative regulation.

(2) Automatic eligibility for new academic programs shall be for the calendar year immediately following the certification of eligibility.

(3) Certification of automatic eligibility and for quantitative and qualitative waivers shall occur prior to the end of each calendar year and shall be reported to the Council on Postsecondary Education and the Committee on Equal Opportunities, [except for:

1. Kentucky State University which shall exhibit progress in five (5) of the seven (7) objectives; and

2. Community colleges which shall exhibit progress in three (3) of the four (4) objectives in Section 1 of this administrative regulation which applies specifically to the community colleges, objectives (1), (6), (7), and (8); and

(b) Average annual progress meets or exceeds forty (40) percent for fiscal year 1991-92; sixty (60) percent for fiscal year 1992-93; eighty (80) percent for fiscal year 1993-94; and, 100 percent for fiscal year 1995-96.

(2) Qualifying for automatic eligibility based on the analysis of fiscal year 1995-96 data shall mean that an institution may submit degree programs for approval in calendar year 1997;]

Section 7. [5:] Waivers. (1) If an institution is not automatically eligible under Section 6 [4] of this administrative regulation and eligible for a quantitative or qualitative waiver, [intends to submit degree programs to the Council on Higher Education for approval;] the institution may request a one (1) year waiver which shall be either:

(a) Quantitative; or

(b) Qualitative.

(2) A waiver request by an institution shall include a resolution

submitted to the Council on Postsecondary [Higher] Education approved by the institution's governing board and shall include [be based upon] either a quantitative or qualitative assessment, as appropriate, of the institution's efforts to achieve the institution's objectives as set forth in the Kentucky Plan.

(3) An institution shall be eligible to receive a quantitative waiver if:

(a) For Kentucky State University, the institution exhibits continuous progress in four (4) of seven (7) annual plan implementation objectives established in Sections 3 and 4 of this administrative regulation or in Section 2(4) of this administrative regulation as substituted by the council;

(b) For a community college, an institution exhibits continuous progress in two (2) of four (4) objectives established in Sections 3 and 4 of this administrative regulation;

(c) For other institutions, if an institution exhibits continuous progress in five (5) of eight (8) annual plan implementation objectives established in Sections 3 and 4 of this administrative regulation.

(5) A qualitative waiver may be approved for an institution failing to meet annual objectives if an institution can demonstrate:

(a) [Quantitative basis. A waiver may be granted based upon:

1. Progress in five (5) of the eight (8) objectives established in Section 1 of this administrative regulation except for:

a. Kentucky State University which shall exhibit progress in four (4) of the seven (7) objectives; and

b. Community colleges which shall exhibit progress in two (2) of the four (4) objectives in Section 1 of this administrative regulation which applies specifically to the community colleges, objectives (1), (6), (7), and (8); and

2. Average annual progress which meets or exceeds eighty (80) percent for fiscal year 1995-96.

(b) Qualitative basis:

1. A waiver may be granted based upon the submission of information in support of] Outstanding efforts that were attempted which have not yet proven to be successful or extraordinary circumstances that precluded success; and

(b) [:

2. The submission shall indicate] How the institution's revised plans for recruitment and retention of African-American students or employees show promise of future success.

(6) The written request for a qualitative waiver shall [3. The submission shall also] include specific and quantifiable aspects of the institution's efforts to meet [the] equal opportunity objectives including:

(a) [:

4. Student-related data or plans may include:

a.] Commitment of funds to equal opportunity related activities;

(b) [b.] Financial aid distribution;

(c) [c.] Student services activities;

(d) [d.] High school visitations and results; [and]

(e) [e.] Academic support services;

(f) [:

5. Employee-related data or plans may include:

a.] Number of interviews granted to African-American applicants for positions;

(g) [b.] Offers of employment made that are accepted or rejected;

(h) [c.] Utilization of funds to stimulate units to improve their employment data;

(i) [d.] Special actions for units within an institution [the institutions] if additional efforts are required; and

(j) [e.] An evaluation of long-range data trends for those objectives that fell below expectations.

(7) An institution's written request for a qualitative waiver shall be reviewed by the Council on Postsecondary Education's Committee on Equal Opportunity which shall make a recommendation to the council on whether a qualitative waiver should be granted.

(8) The Council on Postsecondary Education shall consider an institution's request for a qualitative waiver at the next meeting of the

council following submission of the information by the institution in support of their request and after a recommendation is forwarded from the Committee on Equal Opportunities.

(9) An institution shall not be eligible for a waiver [(3) Receiving a waiver based on the analysis of fiscal year 1995-96 data shall mean that an institution may submit degree programs for approval in calendar year 1997.

(4) A waiver shall not be granted] in consecutive years regardless of the type of waiver.

(10) An institution that has received a quantitative or qualitative waiver shall only submit new academic programs under the waiver provision in the calendar year for which the waiver is granted. An institution's request for a new academic program, advanced under authority of an approved waiver, shall be considered at the next regularly scheduled meeting of the council after an institution has submitted a complete program application except that, when the council postpones or delays action, it may extend the period of consideration of a new academic program.

LEONARD V. HARDIN, Chair

DENNIS L. TAULBEE, General Counsel

APPROVED BY AGENCY: August 27, 1997

FILED WITH LRC: August 29, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on administrative regulation 13 KAR 2:060, Degree Program approval; equal opportunity goals, will be held on Friday, October 31, 1997, at 10 a.m. at 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify the Council on Postsecondary Education in writing by Friday, October 24, 1997. 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 amendment to the administrative regulation to: Mr. Dennis L. Taulbee, General Counsel, Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601, (502) 573-1555, FAX (502) 573-1535.

REGULATORY IMPACT ANALYSIS

Agency Contact: Dennis L. Taulbee

(1) There are 8 public universities and 13 community colleges affected by this administrative regulation. The administrative regulation relates to the eligibility of these institutions to request and receive approval for new academic degree programs.

(2) Direct and indirect costs or savings:

(a) There are no direct or indirect costs or savings on cost of living or employment within the geographical area covered by this administrative regulation.

(b) There is no direct or indirect cost of doing business in the geographical area in which the administrative regulation is to be implemented.

(c) There are no additional compliance, reporting, nor are there paperwork requirements that would increase or decrease costs.

1. First year: No additional costs.

2. Second and subsequent years: No additional costs.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect cost or savings:

1. First year: There are no effects or direct or indirect cost or savings which will result from this change in the administrative regulation.

2. Continuing costs or savings: Same as (3)(a)1 above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Annual progress reports are prepared by the council staff from information provided by the institutions. No additional information is required as a result of the changes in the administrative regulation.

(4) Impact on state or local revenue. This administrative regulation has no impact, direct or indirect on state revenue.

(5) Source of revenue. State general funds will be used to administer this administrative regulation. No additional state general funds will be required as a result of the changes in this administrative regulation.

(6) Economic impact on Kentucky.

(a) Geographical area. No impact.

(b) Kentucky. No impact.

(7) Alternative measures to implement the equal opportunity plan are under discussion. The proposed changes in the administrative regulation will permit continuance of the current approach to determining program eligibility until a new plan is approved.

(8) Assessment of expected benefits:

(a) Impact on public health and environmental welfare is not applicable.

(b) Same as (a).

(c) Same as (a).

(9) There are no statutes, regulations or policies in conflict.

(10) No additional comments are offered.

(11) Tiering is not being applied.

KENTUCKY REVENUE CABINET

Office of General Counsel

Division of Tax Policy

(Amendment)

103 KAR 31:030. Direct pay authorization.

RELATES TO: KRS 139.400, 139.710

STATUTORY AUTHORITY: KRS 131.130, 139.260 [Chapter 13A]

NECESSITY, FUNCTION, AND CONFORMITY: To establish a procedure to facilitate payment of sales and use tax that will be mutually beneficial to the cabinet, the applicant, and retailers dealing with the applicant and will not result in a tax loss either in total or on a cash flow basis. [~~when the proper tax application cannot be determined at the time of purchase.~~]

Section 1. Definitions. (1) "Direct pay authorization" means an authorization issued by the Revenue Cabinet that permits an eligible taxpayer to report Kentucky sales and use tax directly to the cabinet on all purchases of tangible personal property, excluding energy and energy-producing fuels.

(2) "Distribution facility" means a specific location which is used to receive, hold, and ship business inventory.

(3) "Eligible taxpayer" means a person engaged in:

(a) Manufacturing;

(b) Extracting minerals, ores, clay, stone, coal, or natural gas;

(c) Operating a transportation company; or

(d) Operating a distribution facility.

(4) "Manufacturing" means a process that transforms tangible personal property having no commercial value for its intended use before processing into tangible personal property having appreciable value for its intended use after processing where upon the product is transferred from the producing plant for sale or distribution to customers or for further processing at another plant site and subsequent sale. [~~Where the Revenue Cabinet finds that it is impossible at the time of purchase of tangible personal property for a manufacturer, transportation company or persons engaged in the business of mining, quarrying, compounding or processing tangible personal property, or their vendors, to determine with any degree of certainty the applicability of the sales or use tax upon such transactions and,~~

~~where the cabinet finds that it would facilitate and expedite the collection of such taxes by the cabinet to authorize such manufacturer, transportation company, or persons engaged in the business of mining, quarrying, compounding or processing to purchase tangible personal property without the payment by their vendors of the sales or use tax with respect to such property, then such manufacturer, transportation company or persons engaged in the business of mining, quarrying, compounding or processing may be authorized by the cabinet, to purchase tangible personal property without payment of the use tax to his vendors or reimbursing his vendors for the sales tax provided all of the following conditions are met:~~

~~(1) The applicant is both engaged in business and has property (other than inventory held for purposes of sale and office furniture and equipment) located in more than one (1) state;~~

~~(2) The applicant must hold a valid Kentucky retail sales and use tax permit;~~

~~(3) Written application shall be made to the cabinet for a direct pay authorization. Such application must be made upon a form provided by the cabinet;~~

~~(4) The applicant for the direct pay authorization agrees that, in consideration for issuance of a direct pay authorization, he will directly report and pay to the Revenue Cabinet both the sales and use tax that would have been remitted to the cabinet by the applicant's retailer and the applicant had the direct pay authorization not been made. Upon granting of authorization by the cabinet, such person shall report purchases made under the authorization on the retailer's sales and use tax return and shall pay the tax to the Revenue Cabinet on or before the 20th day of the month following the month during which such tangible personal property was used for a taxable purpose;~~

~~(5) Such person shall keep such books and records as the cabinet deems necessary to determine the tax liability;~~

~~(6) Upon demand of the cabinet, such person shall execute bond or indemnity agreement securing the payment of such taxes to the cabinet in an amount not less than one (1) month's estimated sales and use tax liability;~~

~~(7) Said authorization shall not be transferable and may be terminated upon notice by registered mail to the holder thereof at his last known address;]~~

Section 2. Qualifications. The applicant shall meet all of the following conditions:

(1) The applicant shall be an eligible taxpayer who is:

(a) Engaged in business in Kentucky and owns property, other than office furniture and equipment, located in more than one (1) state; or

(b) Has been in operation in Kentucky in excess of twenty-four (24) months and makes purchases of tangible personal property of at least \$15 million annually for use in the applicant's Kentucky operations.

(2) The applicant shall hold a valid Kentucky retail sales and use tax permit.

(3) The applicant has a record of timely payment of all taxes administered by the cabinet. [A holder of a direct pay authorization making a purchase pursuant to such authorization must furnish the vendor with a copy of the written authorization issued by the cabinet. Receipt of such copy accepted in good faith will relieve the vendor of the duty of reporting and paying the tax provided he retains the document in his records.]

Section 3. Application. (1) The applicant shall make written application to the cabinet for a direct pay authorization upon "Application for Direct Pay Authorization", Revenue Form, 51A112, (9-97).

(2) The application shall include:

(a) The most recent year's certified financial statement; and

(b) A detailed description of the records maintained to document that the amount of taxable purchases is properly reported.

Section 4. Requirements. The holder of a direct pay authorization shall:

(1) Furnish all of his vendors, excluding vendors of energy and energy-producing fuels, with a copy of the "Direct Pay Authorization", Revenue Form 51A110, (8-97), issued by the cabinet;

(2) Report and remit the sales or use tax on all taxable purchases of tangible personal property, excluding energy and energy-producing fuels, that would have been remitted by the applicant's retailer if the direct pay authorization had not been granted; and

(3) Report all taxable purchases in accordance with KRS 139.540, 139.550, 139.560 and 139.590.

Section 5. Vendor Responsibility. The vendor shall be relieved of the duty of collecting and paying the sales or use tax provided he accepts a copy of the company's "Direct Pay Authorization", Revenue Form 51A110 (8-97), in good faith and retains the copy in his records pursuant to KRS 139.720. The vendor shall include sales for which a direct pay authorization has been accepted in Line 1, Gross Receipts, of the sales and use tax return. A corresponding deduction shall be taken on Line 19, and properly labeled DPA Sales.

Section 6. Limitations. The direct pay holder shall not issue the direct pay authorization to a construction contractor nor allow a contractor to use the holder's direct pay authorization to purchase, lease, or rent tangible personal property or purchase taxable services.

Section 7. Records. The holder of the direct pay authorization shall maintain records as the cabinet deems necessary pursuant to KRS 139.720.

Section 8. Bond Requirement. Upon demand of the cabinet, the applicant or holder of a direct pay authorization shall execute pursuant to KRS 139.660, a bond or an indemnity agreement securing the payment of the sales or use taxes to the cabinet in an amount not less than \$75,000 and not greater than three (3) times the estimated monthly liability.

Section 9. Transfer of Authorization. (1) In the event of the sale, lease, or other transfer of the business, the direct pay authorization shall not be transferable.

(2) The holder of the direct pay authorization shall notify the cabinet within ten (10) days of the effective date of the sale, lease, or other transfer of the business.

Section 10. Termination. (1) The cabinet shall terminate a direct pay authorization when:

(a) The cabinet determines that the continuation of the direct pay authorization is not in the best interest of the Commonwealth; or

(b) The holder of the direct pay authorization:

1. Fails or ceases to be an eligible taxpayer;

2. Fails to timely file its sales and use tax returns and timely pay any tax due; or

3. Fails to comply with any of the provisions of this administrative regulation.

(2) The cabinet shall notify the holder of a direct pay authorization of the termination by certified mail at his last known address. Upon receipt of the notification of termination, the direct pay holder shall notify all vendors within thirty (30) days of the date of termination.

(3) The effective date of the termination shall be the date of the mailing of the termination notice.

Section 11. Protests. The denial or termination of a direct pay authorization is protestable pursuant to KRS 131.110.

Section 12. Incorporation by Reference. (1) "Application for Direct Pay Authorization", Form 51A112, (9-97) is incorporated by reference.

(2) "Direct Pay Authorization", Form 51A110, (8-97) is incor-

porated by reference.

(3) The incorporated forms may be inspected, copied, or obtained at the Kentucky Revenue Cabinet, 200 Fair Oaks, Frankfort, Kentucky 40620, or at any Kentucky Revenue Cabinet Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.

MARGARET A. HANDMAKER, Secretary

ALEX W. ROSE, Commissioner

APPROVED BY AGENCY: September 8, 1997

FILED WITH LRC: September 15, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 30, 1997, at 11 a.m. at Training Room A, 200 Fair Oaks Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 23, 1997, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Charlotte T. Quarles, Tax Consultant, Revenue Cabinet, Division of Tax Policy, 200 Fair Oaks Lane, Third Floor, Frankfort, Kentucky 40620, Telephone Number: (502) 564-6843, extension *4442, Facsimile Number: (502) 564-9565.

REGULATORY IMPACT ANALYSIS

Contact person: Charlotte T. Quarles

(1) Type and number of entities affected: Any taxpayer meeting the requirements and conditions of this regulation may be 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: This administrative regulation will have no effect on the cost of living and employment within Kentucky.

(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 will have no effect on the cost of doing business within Kentucky.

(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 administrative regulation adds distribution facilities to the list of taxpayers eligible to obtain a direct pay authorization and explains the requirements and conditions of a taxpayer seeking a direct pay authorization. The compliance, reporting, and paperwork requirements will not change in the first year following implementation. Costs will be neither increased or decreased.

2. Second and subsequent years: The compliance, reporting, and paperwork requirements have not changed for the second and subsequent years. Costs will be neither increased or decreased.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The administrative regulation adds distribution facilities to the list of taxpayers eligible to obtain a direct pay authorization and explains the requirements and conditions of a taxpayer seeking a direct pay authorization. There will be a slight increase in administrative costs due to an increase in the number of taxpayers qualifying for a direct pay authorization.

2. Continuing costs or savings: Additional costs will be minimal

after the first year of implementation.

3. Additional factors increasing or decreasing costs: There are no additional factors which either increase or decrease costs.

(b) Reporting and paperwork requirements: Paperwork requirements will be increased to allow for the processing of additional applications for direct pay authorizations.

(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: None required.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: No impact.

(b) Kentucky: No impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods have been suggested.

(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 effect.

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

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

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The provisions of this administrative regulation will be applied equally to all taxpayers who qualify for a direct pay authorization.

FINANCE AND ADMINISTRATION CABINET (Amendment)

200 KAR 2:006. Employees' reimbursement for travel.

RELATES TO: KRS 44.060, 45.101

STATUTORY AUTHORITY: KRS 44.060, 45.101

NECESSITY, FUNCTION, AND CONFORMITY: The Finance and Administration Cabinet is directed by law to coordinate and supervise the fiscal affairs and procedures of the state and is authorized to adopt administrative regulations for that purpose. The purpose of this administrative regulation is to specify eligibility, requirements, rates and forms for reimbursement of travel expense and other official expenses out of the State Treasury. ~~[The amendments to this administrative regulation: (1) defines the term "residence"; (2) increases per diem allowances for nonhigh-rate and high-rate areas; and (3) increases mileage reimbursement rate for privately owned vehicles.]~~

Section 1. Definitions. As used in this administrative regulation, unless the context requires otherwise:

(1) "Cabinet" means the Finance and Administration Cabinet.

(2) "Division" means the Division of Accounts of the Finance and Administration Cabinet.

(3) "High rate area" means a city or metropolitan area in which it has been recognized that higher meal costs and lodging rates have historically prevailed, and that has been designated by the Secretary of the Finance and Administration Cabinet as a high rate area. The cabinet's policies and procedures manual contains a list of "high rate areas".

(4) "Receipt" means any preprinted invoice, from a hotel, motel, restaurant or other establishment, showing the date of service, the amount charged for the service, the location where the service was performed and a description of the expenditure.

(5) "Secretary" means the Secretary of the Finance and Administration Cabinet.

(6) "Agency head" means the elected or appointed head of a budget unit.

(7) "Others in the official service of the Commonwealth" means persons who are not state employees as defined in KRS Chapter 18A, but who are travelling on official business for the Commonwealth, or who officially represent a state agency, at the direction or request of a state official authorized to give the direction or make the request. This definition shall not include contractors who shall be entitled to reimbursement for travel and related expenses only as provided in their contracts with the Commonwealth.

(8) "Subsistence" means amounts deemed to have been expended by a state officer, agent, employee, or other person authorized to receive reimbursement out of the State Treasury for meals, including tax and tips, while traveling on official state business, but shall not include any meals which may be included in charges for lodging or in registration fees paid by or on behalf of a state officer or employee.

(9) "Residence" means address of the employee designated in the official records of the Department of Personnel.

(10) "Agency" means a budget unit with an elected or appointed agency head.

Section 2. General. (1) Affected agencies. Except as otherwise provided by law, this administrative regulation shall apply to all departments, agencies, boards, and commissions, and institutions of the Executive Branch of State Government, except state-supported universities. It shall not apply to the Legislative and Judicial branches and their employees.

(2) Enforcement.

(a) Each agency head shall be responsible for ensuring that travel reimbursement conforms to the provisions of this administrative regulation and that all travel expense from that agency is as economical as is feasible.

(b) A person who travels on official state business shall:

1. State on the travel voucher the purpose of each trip, if directed by the agency head;

2. Maintain records and receipts to support his claim; and

3. Provide himself with sufficient personal funds to defray his travel expense.

(c) A travel expense claim shall be submitted on Travel Voucher (DOA-34).

~~(d) [The secretary shall be responsible for ensuring that travel reimbursement conforms to the provision of this administrative regulation:~~

~~(e)] The secretary or his designee may:~~

1. Disallow, or reduce the amount of a claim that violates the provisions of this administrative regulation; or

2. Require written justification ~~[from an agency head]~~ for amounts claimed by an agency for its employee.

~~(e) [(f)] The secretary or his designee may authorize reimbursement for an employee's actual and necessary expenses for authorized travel if the head of the agency, or his designee, submits a written determination that establishes such reimbursement is:~~

1. Required to avoid an undue economic hardship on the employee; or

2. Economically advantageous for the Commonwealth.

(3) Eligibility. Except as provided by state law or by this administrative regulation, reimbursement shall not be claimed for expenses of any person other than state officers, members of boards and commissions, employees, bona fide wards, or other persons in the official service of the Commonwealth. Only necessary expenses

of official travel shall be reimbursed.

(4) Interpretation. All final interpretations of this administrative regulation shall be made by the secretary. These determination shall be final and conclusive.

Section 3. Work Station. (1) The official work station of an employee assigned to an office shall be the street address where the office is located.

(2) The official work station of field employees shall be established by the agency head, based solely on the best interests of the Commonwealth; ~~not an employee's convenience. The designation of work station shall not be for the purpose of allowing additional mileage reimbursement for the employee.~~

(3) If an employee is permanently reassigned, or is stationed at a new place two (2) months, the new place shall become that employee's official work station.

Section 4. Authorizations. (1) For travel in Kentucky, or outside Kentucky, but within the United States or its possessions, or Canada, the person requesting reimbursement shall obtain authorization from the agency head or a designated representative as authorized by Secretary's Order S97-451.

(2) Travel expenses shall be reimbursed if travel was authorized in advance as provided by subsections (3) and (4) [through (5)] of this section.

~~(3) [For travel outside Kentucky, but within the United States or its possessions, or Canada the person requesting reimbursement shall have obtained authorization from:~~

- ~~(a) The agency head; and~~
- ~~(b) The secretary; or~~
- ~~(c) Their designated representatives.~~

~~(d) Authorization shall be requested on "Request for Authorization of Out-of-State Travel (DOA-28)".~~

~~(4) [For travel outside the United States, its possessions or Canada the person requesting reimbursement shall have obtained authorization from:~~

- ~~(a) The agency head; and~~
- ~~(b) The secretary; and~~
- ~~(c) The governor; or~~
- ~~(d) Their designated representatives.~~

~~(e) Authorization shall be requested on "Request for Out-of-Country Travel (DOA-28(A))".~~

~~(4) [(5)] A travel request for travel specified in subsection (3) [subsections (3) and (4)] of this section shall be received by the agency or cabinet at least five (5) working days before start of travel.~~

Section 5. Transportation. (1) Economy required.

(a) State officers, agents, employees, and others in the official service of the Commonwealth shall use the most economical, standard transportation available and the most direct and usually-traveled routes. Expenses added by use of other transportation or routes shall be assumed by the individual.

(b) Round-trip, excursion or other negotiated reduced-rate rail or plane fares shall be obtained if practical. Tickets shall be purchased through agency business travel accounts provided by a major charge card company and established with commercial travel agencies. Exceptions may be made with the approval of the agency head if other arrangements will be in the best interest of the Commonwealth. Agencies shall be billed monthly by the charge card company. Related payments shall be processed on Purchase Orders (DOA-19).

(2) State vehicles. State-owned vehicles with their credit cards shall [should] be used for state business travel if when] available and feasible. Mileage payment shall not be claimed if state-owned vehicles are used.

(3) Privately-owned vehicles. Mileage claims for use of privately-owned vehicles shall [may] be allowed [disallowed] if a state vehicle was not available or [and] feasible. [Reimbursement shall not be paid

for travel between residence and work station.]

(4) Buses, subways. For city travel, employees are encouraged to use buses and subways. Taxi fare may be allowed when more economical transportation is not feasible.

(5) Airline travel. Commercial airline travel shall be the lowest negotiated coach or tourist class. Additional expense for first-class travel shall not be reimbursed by the state. Reference subsection (1)(b) of this section for payment instructions.

(6) Special transportation.

(a) The cost of hiring cars or other special conveyances in lieu of ordinary transportation shall be allowed if written justification from the employee [agency head or his designated representative] is submitted and approved by the agency head or his designated representative.

(b) Privately-owned aircraft may be used if it is determined to be to the advantage of the state, measured both by travel costs and travel time.

Section 6. Accommodations. (1) Lodging shall be the most economical, as determined by considering location of the lodging.

(2) Facilities providing special government rates or commercial rates shall be used if feasible.

(3) State-owned facilities shall be used for meetings and lodging if available, practicable and economical.

(4) Location. Cost for lodging within forty (40) miles of the claimant's official work station or home shall not be reimbursed unless approved in advance by the agency head, or a designated representative.

(5) Group lodging, by contract.

(a) State agencies and institutions may contract with hotels, motels and other establishments for four (4) or more employees to use a room or rooms on official business. Group rates shall be requested.

(b) The contract may also apply to meals and gratuities. The contract rates and the costs of rooms and meals per person shall not exceed limits set in Section 7 of this administrative regulation.

(c) The agency shall certify that the person is not claiming individual reimbursement or subsistence for the same costs.

(d) "Contract for Rooms and Meals (Form B120-16)" shall be used to contract for group lodging.

(e) For payment, an agency shall forward to the division:

1. Receiving report "Purchase Order Authorization for Payment (Form DOA-19)";
2. The vendor's bill;
3. The names of the employees or others in the official service of the Commonwealth; and
4. A copy of the contract.

(f) Payment shall not include personal charges of employees or others in the official service of the Commonwealth.

(g) Payment shall be made to the hotel, motel, or other establishment.

(h) Contracted group meeting rooms and lodging and meal charges are exempt from Kentucky sales tax and the agency sales-use tax number assigned by the Revenue Cabinet shall be specified on the payment document.

(i) Tax exempt numbers shall not be used by individual employees to avoid point of sale payment of Kentucky sales tax connected with lodging costs. Sales tax payments shall be reimbursed on "Travel Voucher (DOA-34)".

(6)(a) State parks. A state agency or institution using state park facilities may pay for rooms and meals by "Interaccount Bill (Form DOA-7)", within the limits of this administrative regulation.

(b) Payment shall include preapproved Department of Parks "Interaccount Authorization Form (P1-1)".

Section 7. Reimbursement Rates. (1) The following persons shall be exempted from the provisions of this section:

- (a) Governor;

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(b) Governor's staff;
(c) Lieutenant governor;
(d) State employees traveling on assignment with the governor or lieutenant governor;

(e) Elected constitutional officers;

(f) Cabinet secretaries;

(g) State officers and employees authorized to travel outside the United States, its possessions or Canada;

(h) Members of statutory boards and commissions; and

(i) Others in the official service of the Commonwealth.

(2) Lodging.

(a) Except as provided in paragraph (b) of this subsection, a state officer, or employee shall be reimbursed for the actual cost of lodging if the:

1. Lodging is determined to be the most economical; and

2. State officer, or employee has attached the hotel, motel, or other establishment's receipt to his travel expense voucher.

(b) Reimbursement for lodging shall not exceed the cost of a single room rate, except that if employees share lodging, each employee shall be reimbursed the lesser of single rate or one-half (1/2) the double rate.

(3) Subsistence.

(a) A state officer, or employee shall be eligible for reimbursement for subsistence for breakfast or lunch expenses while traveling in Kentucky, if his authorized work requires an overnight absence:

1. At a destination more than forty (40) miles from his work station and home;

2. During the mealtime hours established by paragraphs (d) and (e) of this subsection.

(b) A state officer, or employee shall be eligible for reimbursement for dinner expenses while traveling in Kentucky, if his authorized work requires an absence:

1. At a destination more than forty (40) miles from his work station and home;

2. During the mealtime hours established by paragraphs (d) and (e) of this subsection.

(c) A state officer or employee shall be eligible for reimbursement for meals while on authorized travel outside Kentucky, but within the United States, its possessions or Canada, at the reimbursement rates established in paragraphs (d) and (e) of this subsection. Employees must be in travel status during the entire time (i.e., to be eligible for breakfast reimbursement you must leave on or before 6:30 a.m. and return at or after 9 a.m.). This requirement applies to all meal times.

(d) Reimbursement for nonhigh rate areas:

1. Breakfast: authorized travel 6:30 a.m. through 9 a.m. - six (6) [five (5)] dollars;

2. Lunch: authorized travel 11 a.m. through 2 p.m. - seven (7) [six (6)] dollars;

3. Dinner: authorized travel 5 p.m. through 9 p.m. - fourteen (14) [thirteen (13)] dollars.

(e) Reimbursement for high rate areas.

1. Breakfast: authorized travel 6:30 a.m. through 9 a.m. - seven (7) [six (6)] dollars;

2. Lunch: authorized travel 11 a.m. through 2 p.m. - eight (8) [seven (7)] dollars;

3. Dinner: authorized travel 5 p.m. through 9 p.m. - eighteen (18) [seventeen (17)] dollars.

(f) State officers or employees authorized to travel outside the United States, its possessions, or Canada shall be reimbursed for their actual and necessary expenses for subsistence.

(g) A state officer or an employee may, with prior approval of the agency head or designee, be reimbursed for the actual cost charged for meals [a meal by the organization], if he is assigned to attend meetings and training sessions [a function of an organization that is not under the control of a state officer or employee].

(h) Lodging receipts, or other credible evidence, shall be attached to the travel voucher.

(4) Transportation expenses.

(a) Reimbursement for authorized use of a privately-owned vehicle shall:

1. Be made at the rate of twenty-seven (27) [twenty-five (25)] cents per mile; and

2. Not exceed the cost of airplane coach fare.

(b) Mileage for instate travel shall be based on the "Kentucky [Transportation Cabinet-] Official Highway [Kentucky Mileage] Map". Out-of-state mileage shall be based on the most recent edition of the "Rand McNally Road Atlas".

(c) Reimbursement for the actual cost of commercial transportation shall be made upon submission of receipts with the travel voucher.

(d) Reimbursement for use of privately-owned aircraft shall be made if, prior to use, [:

1-] written justification was submitted to and approved [; signed] by the agency head, or a designated representative. [was submitted; and

2. The secretary or his designee approved;]

(e) 1. A maximum of twelve (12) dollars per night for parking or camping charges for camping vehicles shall be reimbursed.

2. A receipt for parking or camping charges shall be submitted with the travel voucher.

(f) 1. Actual parking, bridge and highway toll charges shall be reimbursed.

2. A toll receipt for authorized in-state travel by two (2) axle vehicles shall not be required.

(g) Reimbursement shall be made for reasonable charges for:

1. Baggage handling;

2. Delivery of baggage to or from a common carrier, lodging or storage; and

3. Overweight baggage charges, if the charges relate to official business.

(5)(a) Registration fees required for admittance to meetings shall be reimbursed.

(b) If a registration fee entitles the registrant to meals, claims for meals shall be reduced accordingly.

(6)(a) Telephone and telegraph costs for necessary official business shall be reimbursed.

(b) Telephone calls to agency central offices shall be made through:

1. Agency 800 and 888 numbers, when available; or

2. A state government telephone credit card; or

3. Lowest available service.

(7) Other expenses may be allowed by the agency head [secretary] or his designee if they are determined to be necessary expenses of official travel.

Section 8. Actual and Necessary Expenses. (1) The following persons are eligible for actual and necessary expenses:

(a) Governor;

(b) Governor's staff;

(c) Lieutenant governor;

(d) [State employees traveling on assignment with the governor or lieutenant governor;

(e)] Elected constitutional officers;

(e) [(f)] Cabinet secretaries;

(f) State employees traveling on assignment with the governor, lieutenant governor, elected constitutional officers, or cabinet secretaries;

(g) State officers and employees authorized to travel outside the United States, its possessions or Canada;

(h) Members of statutory boards and commissions; and

(i) Others in the official service of the Commonwealth.

(2)(a) Actual and necessary expenses of official business travel shall be reimbursed upon submission of receipts for items over ten (10) [two (2)] dollars.

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(b) Actual and necessary expenses for official business travel shall include:

1. Lodging;
2. Meals;
3. Commercial transportation;
4. Taxes related to actual and necessary expenses; and
5. Reasonable gratuities.

(c) A credit card receipt shall be accepted for a meal if the receipt prepared by the establishment clearly shows that it is a receipt for a meal.

(d) Reimbursement for official use of a privately-owned vehicle shall:

1. Be ~~twenty-seven (27)~~ ~~[twenty-five (25)]~~ cents per mile; and
2. Not exceed airplane coach fare.

(e) 1. The governor and cabinet secretaries may be reimbursed for actual and necessary costs of entertaining official business guests, upon certification of these expenses to the secretary or his designee.

2. The secretary or his designee may:

- a. Question a claim for reimbursement; and
- b. Reduce the amount to be reimbursed, if he determines that it is excessive.

(f) An employee of the Economic Development Cabinet and the Tourism Cabinet shall be reimbursed for actual and necessary costs of entertaining official business guests of the Commonwealth if the costs were:

1. Related to the promotion of industry, travel, or economic development;
2. Substantiated by receipts; and
3. Certified by the head of the cabinet.

Section 9. Mileage. (1) Mileage commuting between home and work station shall not be paid.

(2) If an employee's point of origin for travel is the employee's residence, mileage shall be paid for the shorter of mileage between:

(a) Residence and travel destination; or

(b) Work station and travel destination.

(3) Vicinity travel, and authorized travel within a claimant's work station shall be listed on separate lines on the expense voucher.

Section 10. Forms. (1) A request for authorization for out-of-state travel shall be made on "Request for Authorization of Out-of-State Travel Form (DOA-28)".

(2) A request for authorization for travel out of country shall be made on a "Request for Authorization for Out-of-County Travel (DOA 28A)".

(3) A contract for group accommodations shall be made on the "Contract for Rooms and Meals Form (B120-16)".

(4) Authorization for reimbursement of others in the official service of the Commonwealth shall be requested on:

- (a) "Purchase Authorization For Payment (DOA-19)"; and
- (b) A "Travel Voucher Form (DOA-34)".

(5) "Travel Voucher Form (DOA-34)" shall be used to claim reimbursement for travel expenses.

(6) The travel voucher shall be limited to the expenses made by one (1) person for:

- (a) Himself; and
- (b) If applicable, another person:
 1. Who is a ward of the Commonwealth; or
 2. For whom he is officially responsible.

(7) A travel voucher for expenses made for a person specified in subsection (6)(b) of this section shall include the person's:

- (a) Name; and
 - (b) Status or official relationship to the claimant's agency.
- (8)(a) A travel voucher shall be submitted for:

1. One (1) major trip; or
2. One (1) month of travel.

(b) A travel voucher shall include:

1. Social Security number of the claimant; and
2. Purpose of each trip.

(c) A travel voucher shall be signed and dated by the:

1. Claimant;

2. Claimant's supervisor; and

3. Agency head or authorized representative.

(d) If monthly expenses total less than ten (10) dollars, a travel voucher may include expenses for six (6) months of a fiscal year.

(9)(a) Preparation of travel voucher. A travel voucher shall be:

1. Typed; or
2. Legibly printed in ink.

(b) A receipt shall provide the following information for each expense:

1. Amount;
2. Date;
3. Location; and
4. Type.

(c) Receipts shall be stapled to the back of the travel voucher at the upper left corner.

(d) A travel voucher may be paid through agency imprest cash funds, if authorized, or [shall be] forwarded to the cabinet for payment [with the expense voucher].

(e) If leave interrupts official travel, the dates of leave shall be stated on the travel voucher.

~~(+0)-Mileage:~~

~~(a) Mileage commuting between home and work station shall not be paid:~~

~~(b) If the point of origin is the claimant's residence, mileage shall be paid for the shorter of mileage between:~~

- ~~1. Residence and travel destination; or~~
- ~~2. Work station and travel destination.~~

~~(c) Vicinity travel, and authorized travel within a claimant's work station shall be listed on separate lines on the expense voucher.~~

~~(d) Signatures. A travel voucher shall be signed and dated by the:~~

- ~~1. Claimant;~~
- ~~2. Claimant's supervisor; and~~
- ~~3. Agency head or his authorized representative.]~~

Section 11. [+0:] (1) Material incorporated by reference. The following material is incorporated by reference:

(a) "Travel Voucher" (DOA-34) (1997 [+992]);

(b) "Request For Authorization Of Out-Of-Country Travel" (DOA-28(A)) (1992);

(c) "Purchase Order Authorization For Payment" (Form DOA-19) (1994);

(d) "Interaccount Bill" (DOA-7) (1992);

(e) "Contract For Rooms And Meals" (Form B120-16) (1992);

(f) "Interaccount Authorization (P1-1) (12/88), Department Of Parks";

(g) "Request For Authorization Of Out-Of-State Travel" (DOA-28) (1997 [+992]);

(h) "Kentucky [Transportation-Cabinet's-]Official Highway [Kentucky Mileage] Map" (1997);

(i) "Travel Voucher Continuation (DOA-35) (1997 [+985]);

(j) "Rand McNally Road Atlas (1996 [+995]);"

(2) This material may be inspected, obtained, or copied at the Division of Accounts, Finance and Administration Cabinet, Capitol Annex Building, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

JOHN MCCARTY, Secretary

ANGELA C. ROBINSON, Legal Counsel

APPROVED BY AGENCY: September 12, 1997

FILED WITH LRC: September 15, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 28, 1997, at 9 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in

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being heard at this hearing shall notify this agency in writing by October 21, 1997, five (5) 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 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: Angela C. Robinson, Office of Legal and Legislative Services, Finance and Administration Cabinet, Room 374, Capitol Annex, Frankfort, Kentucky 40601, phone (502) 564-6660, FAX (502) 564-9875.

REGULATORY IMPACT ANALYSIS

Contact Person: Angela C. Robinson

(1) Type and number of entities affected: All departments, agencies, boards and commissions, and institutions of the executive branch 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. Not applicable.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. Not applicable.

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

1. First year following implementation: Reduced paperwork.

2. Second and subsequent years: Reduced paperwork.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Reduced paperwork resulting in indirect savings.

2. Continuing costs or savings: Reduced paperwork resulting in indirect savings.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Reduced

(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: Various governmental sources.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

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

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

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

(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? No. This regulation applies equally to all regulated entities.

FINANCE AND ADMINISTRATION CABINET Office of the Secretary (Amendment)

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

RELATES TO: KRS Chapter 45A

STATUTORY AUTHORITY: KRS 45A.045(2)

NECESSITY, FUNCTION, AND CONFORMITY: The Finance and Administration Cabinet is required by KRS 45A.045(2) to promulgate administrative regulations to govern purchasing by various state agencies, and to publish a manual of policies and procedures, which is to be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This amendment updates the August 1997 [+1996] Finance and Administration Cabinet Manual of Policies and Procedures to reflect recent statutory changes. [~~authorize an expansion in the use of the state procurement card, provide for simpler procedures for purchasing or leasing copy machines, and reduce the number of secretary's orders required for property acquisition.~~]

Section 1. The "Finance and Administration Cabinet Manual of Policies and Procedures (September 1997 Edition)", is hereby adopted and incorporated by reference, the same as if set forth at length, in and as a part of the administrative regulations of the Finance and Administration Cabinet promulgated [~~adopted~~] pursuant to KRS Chapter 45A. The "Finance and Administration Cabinet Manual of Policies and Procedures (September 1997 Edition)" shall be available for public inspection and copying Monday through Friday, excluding state holidays, from 8 a.m. to 4:30 p.m. at the Office of Management and Budget, Finance and Administration [~~Administrative~~] Cabinet, Room 388A, Capitol Annex, Frankfort, Kentucky 40601.

JOHN MCCARTY, Secretary

ANGELA C. ROBINSON, Legal Counsel

APPROVED BY AGENCY: September 12, 1997

FILED WITH LRC: September 15, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 28, 1997, at 10 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by October 21, 1997, five (5) 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 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: Angela C. Robinson, Office of Legal and Legislative Services, Finance and Administration Cabinet, Room 374, Capitol Annex, Frankfort, Kentucky 40601, phone (502) 564-6660, FAX (502) 564-9875.

REGULATORY IMPACT ANALYSIS

Contact Person: Angela C. Robinson

(1) Type and number of entities affected: This regulation will

affect all state agencies within the executive branch 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 are no anticipated costs or savings on the cost of living and employment in the geographical area in which the administrative regulation will be implemented. A public hearing on this regulation has not yet taken place.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. There are no anticipated costs or savings on the cost of doing business in the geographical area in which the administrative regulation will be implemented. A public hearing on this regulation has not yet taken place.

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

1. First year following implementation: No change in compliance, reporting, and paperwork is anticipated.

2. Second and subsequent years: In following years, the same reporting and compliance standards will apply.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: A streamlined procurement process and property disposal process is anticipated to reduce costs by eliminating duplication of effort, by eliminating the need to warehouse both new commodities awaiting use and items awaiting disposal as surplus property, and by permitting more appropriate advertising of state needs and sales. There will also be less transportation of surplus property to centralized sales.

2. Continuing costs or savings: As agencies become more professional in both procurement and general materials management procedures, additional savings are anticipated.

3. Additional factors increasing or decreasing costs: None anticipated.

(b) Reporting and paperwork requirements: No additional reporting or paperwork is required. Paperwork is decreased.

(4) Assessment of anticipated effect on state and local revenues: Net revenue from the disposal of surplus state personal property is anticipated to increase, primarily by reducing the cost of transporting and warehousing such property.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue for implementation and enforcement of this regulation will be the individual agencies' current general fund appropriations.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No impact is expected; however, there has not yet been a public hearing on the regulation.

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

(7) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is allowing the Commonwealth to take advantage of new computer and Internet technologies that allow transactions to be conducted at multiple locations while still retaining appropriate audit controls and public accessibility. The alternative, the present total central control of procurement and property disposal, was rejected as more costly, time consuming, and somewhat inefficient.

(8) Assessment of expected benefits:

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

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

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

(9) Identify any statute, rule, administrative regulation or government policy which may be in conflict, overlapping, or duplication: To the best knowledge of the Office of the Secretary, there is no conflicting, overlapping, or duplicative statute, rule, administrative regulation, or government policy.

(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? No. Tiering was not applied because the manual of policies and procedures is meant to be a standardized guide for conducting the business of the Finance and Administration Cabinet.

**FINANCE AND ADMINISTRATION CABINET
Office of the Secretary
(Amendment)**

200 KAR 5:302. Delegation of authority.

RELATES TO: KRS Chapter 45A

STATUTORY AUTHORITY: KRS 45A.035, 45A.045(3), (5), 45A.050(5)

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is required by KRS 45A.035 where the Secretary of the Finance and Administration Cabinet delegates [purchasing] authority to any other agency. It will provide uniformity for all delegations of authority by the Finance and Administration Cabinet and help to ensure the competency of the agency receiving the authority over the proposed delegated area. The administrative regulation will also help to ensure that the agency receiving the authority follows all requirements of KRS Chapter 45A. In addition, this administrative regulation will set out the requirements for the Secretary of the Finance and Administration Cabinet to waive the small purchase limitations pursuant to KRS 45A.100. The amendment to this administrative regulation will set out the method by which the Secretary of the Finance and Administration Cabinet may delegate authority to declare and dispose of surplus personal property and the information required to be submitted by an agency requesting delegation of such authority. [This administrative regulation includes the substance of the administrative regulation to be repealed, 200 KAR 5:301.]

Section 1. Delegations of Purchasing Authority Other than for Small Purchases. A secretary's order may delegate Finance and Administration Cabinet purchasing authority pursuant to KRS 45A.045(3).

(1) A government agency requesting a delegation from the Finance and Administration Cabinet under KRS 45A.045(3) shall submit the following [in writing] to the secretary:

(a) A statement that the agency will comply with all applicable laws, administrative regulations and Finance and Administration Cabinet policies and procedures.

(b) Proof of competency in the proposed delegated area demonstrated by staff experience and training and the resources available to the agency to perform the purchase delegation.

(2) The secretary's order shall specify the authority the agency shall receive, the purpose for which the delegation is given, and the period of time for which the delegation is valid.

(3) Any agency receiving such delegation shall comply with the provisions of KRS Chapter 45A and all other purchasing statutes, administrative regulations, policies and procedures of the Finance and

Administration Cabinet.

(4) Each agency receiving a delegation shall certify annually to the secretary that it is in compliance with all purchasing laws, administrative regulations and policies. This certification shall be filed with the secretary on or before January 1, 1997 and thereafter on July 1 of each year[~~including July 1, 1997~~].

(5) All standing delegations of purchasing authority by the secretary shall remain in force according to the original terms thereof unless modified, or until rescinded by the secretary.

(6) Delegations of purchasing authority for an agency's individual requirements, or to authorize procurement activities by an agency for preestablished and limited periods of time may be granted as appropriate with regard to the procurement activity or function by the Commissioners of the Departments for Administration and Facilities Management or their designees [~~by letter~~] setting forth with particularity the kind and type of procurement activity or function authorized by the delegation and fixing the limits and restrictions or the exercise of the delegation and its duration. No such delegation of purchasing authority shall be extended or renewed except with the [~~written~~] approval of the Secretary of the Finance and Administration Cabinet.

Section 2. Small Purchase Delegation Exceeding an Agency's Statutory Small Purchase Limit Under KRS 45A.100. The Secretary of the Finance and Administration Cabinet may delegate purchasing authority that exceeds the agency's small purchase limit set out in KRS 45A.100 by secretary's order. These standing delegations shall set forth with particularity the kind or type of procurement activity or function delegated together with any limitations or restrictions on the exercise of such authority.

(1) An agency request for small purchase delegation above the limits established in KRS 45A.100 shall be submitted to the secretary, approved [~~shall be signed~~] by the agency head submitting the request and shall supply the following information:

(a) The total dollars spent each of the two (2) preceding fiscal years under the agency's existing small purchase authority and the number of small purchase transactions represented by those dollar figures for each fiscal year.

(b) A description of the agency's organizational structure which must demonstrate that the placement of the procurement function is appropriate to the agency's size and procurement needs.

(c) A description of the agency's internal controls, which shall ensure adequate safeguarding of assets and the segregation and separation of duties, particularly the separation of purchasing, accounting, and receiving functions.

(d) Documentation that the agency has prepared and implemented a plan to identify and utilize small and minority-owned suppliers for small purchases. The agency's future goals in this respect shall be reported, with a goal of five (5) percent utilization being the minimum. An action plan showing how the agency plans to reach its goals shall be included. The agency shall be prepared to report its progress toward meeting that goal upon the secretary's request.

(e) The agency shall acknowledge that it is aware of, and in compliance with, the provisions of KRS 45A.500 and 200 KAR 5:330 relating to recycled material content products.

(f) Every record of control weakness or noncompliance relating to procurement practices issued to the agency by the Auditor of Public Accounts, internal auditors, or the Finance Divisions of Purchases or Contracting and Administration, for each of the past two (2) fiscal years and the agency's response to the finding. All such records of control weakness or noncompliance shall be addressed in the agency's request and any corrective measure taken shall be to the satisfaction of the Secretary of the Finance and Administration Cabinet.

(g) A list of the agency's procurement personnel, below the level of Branch Manager, to whom the agency will give [~~signature~~] authority

for purchases at the requested higher small purchase limits and their professional purchasing certification or training. Such persons shall, within one (1) year after the granting of the delegation or within one (1) year of employment in government in a procurement position, whichever is sooner, have completed a course in purchasing offered by the Finance and Administration Cabinet's Division of Purchases and Division of Contracting and Administration, or the introductory course in purchasing offered by the National Institute of Governmental Purchasing or an equivalent course offered by the National Association of Purchasing Management.

(2) The requesting agency shall utilize each on-line function of the Kentucky Automated Purchasing System that has been offered to the agency by the Divisions of Purchases or Contracting and Administration.

(3) The Divisions of Purchases and Contracting and Administration may perform or request the performance of periodic procurement audits of the agencies to which small purchase delegation above the limits established in KRS 45A.100 has been granted. Such audits shall investigate an agency's compliance with the provisions of KRS Chapter 45A, purchasing administrative regulations and the Finance and Administration Cabinet Manual of Policies and Procedures. If an agency demonstrates deficiencies in procurement expertise or practice, the divisions shall recommend that the secretary revoke or amend any delegations granted under this administrative regulation. Authority shall not be extended or renewed except with the [~~written~~] approval of the secretary.

Section 3. Delegation of Authority to Declare and Dispose of Surplus Personal Property. A secretary's order may delegate Finance and Administration Cabinet authority pursuant to KRS 45A.045(5).

(1) A request for delegation shall only be granted to the agency head.

(2) A government agency head requesting a delegation from the Finance and Administration Cabinet under KRS 45A.045(5) shall submit a request to the Secretary, Finance and Administration Cabinet.

(3) The request shall assure that:

(a) Only property surplus to the agency's need shall be declared surplus and disposed of;

(b) No employee of the state shall personally benefit from the disposal of surplus property; and

(c) All disposition shall be in accordance with applicable federal and state laws and regulations, including the executive branch code of ethics, and Finance and Administration Cabinet manual of policies and procedures.

JOHN MCCARTY, Secretary

ANGELA C. ROBINSON, Legal Counsel

APPROVED BY AGENCY: September 12, 1997

FILED WITH LRC: September 15, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 28, 1997, at 10 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by October 21, 1997, five (5) 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 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: Angela C. Robinson, Office of Legal and Legislative Services, Finance and Administration Cabinet, Room 374,

ADMINISTRATIVE REGISTER - 929

Capitol Annex, Frankfort, Kentucky 40601, phone (502) 564-6660, FAX (502) 564-9875.

REGULATORY IMPACT ANALYSIS

Contact Person: Angela C. Robinson

(1) Type and number of entities affected: This administrative regulation affects all state agencies.

(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 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 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: Agencies delegated authority to declare and dispose of surplus personal property will be required to submit a request for delegation to the Finance and Administration Cabinet and maintain records of disposition thereafter.

2. Second and subsequent years: Agencies will be required to maintain records of disposition of property.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Delegation of authority to declare and dispose of surplus personal property will result in reduced paperwork and reporting to the Finance and Administration Cabinet. Indirect savings will result from the reduction in paperwork and reporting.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Delegation of authority to declare and dispose of surplus personal property will result in reduced paperwork and reporting to the Finance and Administration Cabinet.

(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: The budgets of the affected agencies will supply the revenue to implement and enforce this administrative regulation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No impact is expected; however, there has not yet been a public hearing on the regulation.

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

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative method is the current method which entails surplus property being warehoused by individual agencies and all requests to dispose of property going through the Finance and Administration Cabinet. This method was rejected in favor of delegating the authority to agency heads in order to reduce costs and paperwork.

(8) Assessment of expected benefits:

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

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

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

(9) Identify any statute, rule, administrative regulation or government policy which may be in conflict, overlapping, or duplication: To the best knowledge of the Finance and Administration Cabinet, no statutes, administrative regulations, or government policies conflict, overlap, or duplicate this administrative regulation.

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. This regulation applies equally to all agencies.

FINANCE AND ADMINISTRATION CABINET Department for Administration Division of Purchases (Amendment)

200 KAR 5:306. Competitive sealed bidding.

RELATES TO: KRS 45A.080

STATUTORY AUTHORITY: KRS 45A.035, 45A.080

NECESSITY, FUNCTION, AND CONFORMITY: The Secretary of the Finance and Administration Cabinet is authorized by KRS 45A.055 to publish state purchasing administrative regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This amendment updates the administrative regulation to reflect recent statutory changes making advertisement for bids discretionary and requiring procurement by the Commonwealth on the basis of "best value".

Section 1. (1) The purchasing agencies of the Commonwealth shall cause adequate public notice of invitations for bids pursuant to KRS 45A.080(3).

(2) ~~[For those contracts estimated to exceed \$25,000:]~~ Adequate public notice may ~~[shall]~~ include publication in conformance with KRS 45A.080. ~~[of a notice in either or both the Louisville and Lexington daily newspapers not less than seven (7) days prior to the date set for the opening of bids:]~~

~~(3) The agencies shall transmit invitations for bids not less than fourteen (14) days prior to the date set for the opening of bids, to prospective vendors.]~~

~~(3) [(4)]~~ An agency shall transmit an invitation for bid by:

(a) Sending a ~~[hard]~~ copy to at least ten (10) persons listed in a source list for the item that is the subject of the invitation for bid; or

(b) If less than ten (10) persons are listed in the source list, to all persons listed in the source list; or

(c) Electronically uploading ~~[upload]~~ an invitation for bid to the electronic Vendor Information Program ~~[Bulletin Board System]~~ operated by the Division of Purchases, Finance and Administration Cabinet, if it has been determined by the Director, Division of Purchases, that reasonable access to the Vendor Information Program Bulletin Board System is available to potential bidders.

Section 2. (1) A bid shall comply with the instructions contained in the invitation for bid.

(2) A bidder shall submit a signed bid on the form furnished by the purchasing agency.

Section 3. Bidders shall submit their bids at the place and at, or prior to the date and hour set in the invitation for bids. Bids received after the hour set for opening bids shall be marked late. A late bid

shall not be considered for an award unless no other bid is received in response to an invitation for bids. The late bid, together with the envelope in which the bid was submitted bearing the stamped date and hour of receipt of the bid, shall be retained in the invitation for bids file. Only those late bids postmarked prior to the scheduled opening date shall be considered for award.

Section 4. All bids, and any modifications to bids previously filed, received prior to the date and hour fixed for opening bids shall be kept secure and unopened. Envelopes containing bids but not marked to indicate that they contain a bid ~~[and listing the invitation for bids number and the date and hour of opening bids for that invitation]~~ may be opened to identify the contents of the envelope and shall be marked and resealed.

Section 5. The purchasing officer or other employee of the purchasing agency designated to open the bids shall determine when the time set for opening bids has arrived and shall so declare the time to those present for the bid opening. He shall then and there personally, in the presence of the bidders or their representatives and anyone else who may wish to attend the bid opening, open all bids received as of that date and hour. If ~~[when]~~ practical, the names of the bidders and the amounts of their bids may be read aloud to the persons present. Except where it ~~is~~ may be deemed impractical, due to the nature or complexity of an invitation for bids, a bid tabulation summary sheet shall be prepared for each invitation for bids recording the name of each bidder, a description of the supplies or services bid and the amounts of the bids received. The bid tabulation summary sheet shall be permanently retained in the file pertaining to that invitation for bids and shall be available for public inspection. Inspection of bids by interested persons shall not be permitted during the formal bid opening process.

Section 6. The bids shall be examined by the purchasing officer responsible for the procurement for any clerical or technical errors, reviewed for technical compliance with the terms of the invitation for bids, and the supplies or services bid evaluated for conformity with the specifications contained in the invitation for bids. Every bidder shall, if ~~[when]~~ requested by the purchasing officer responsible for the particular procurement, clarify, in the format specified by the purchasing officer [writing], any matter contained in his bid about which the purchasing officer ~~has~~ may have question or believes in good faith needs to be clarified. The bid of any bidder who fails or refuses, within a reasonable time, to give a ~~[written]~~ clarification of his bid, or any part thereof, when requested to do so by the purchasing officer, shall not be considered further for an award on the basis of that invitation for bids. The ~~[written]~~ clarification of a bid, or a part of a bid, shall be incorporated in any contract awarded on the basis of that bid. After a reasonable bid evaluation period, the contract shall be awarded to the responsive and responsible bidder whose bid offers the best value to the Commonwealth [is either the lowest bid price or the lowest evaluated bid price, whichever is determined by the purchasing officer to be in the best interests of the Commonwealth or as designated in the invitation for bids as the basis for award of the contract]. After evaluation of the bids, including consideration of any clarifying information submitted by the bidders, the purchasing officer may determine that no satisfactory bid has been received and all bids may be rejected. At the discretion of the purchasing officer, the invitation for bids may be cancelled and new bids invited on the basis of the same or revised specifications, or competitive negotiations undertaken for the procurement. The basis for the rejection of all bids and subsequent action taken or to be taken with respect to the invitation for bids shall be recorded ~~[in writing]~~ and filed in the invitation for bids file relating to the particular procurement.

Section 7. (1) The right to reject any bid and to waive technicalities and minor irregularities in bids shall be preserved in the case of

all invitations for bids issued by purchasing agencies within the Finance and Administration Cabinet or pursuant to delegations of purchasing authority by the Finance and Administration Cabinet.

(2) Grounds for the rejection of bids include :

(a) Failure of a bid to conform to the essential requirements of an invitation for bids.

(b) ~~Failure to~~ [Any bid which does not] conform to the specifications contained or referenced in ~~an~~ [any] invitation for bids ~~[shall be rejected]~~ unless the invitation authorized the submission of alternate bids and the items offered as alternatives meet the requirements specified in the invitation.

(c) ~~Failure~~ [Any bid which fails] to conform to a delivery schedule established in an invitation for bids.

(d) ~~Imposition of~~ [A bid] imposing conditions which ~~would~~ modify the terms and conditions of the invitation for bids, or limit the bidder's liability to the state on the contract awarded on the basis of such invitation for bids.

(e) Submission of an unreasonable price. Any determination ~~[bid determined]~~ by the purchasing officer ~~that a bid is unreasonable as to price shall be documented [in writing to be unreasonable as to price].~~

(f) Nonresponsibility of a bidder. ~~[Bids received from bidders determined to be not responsible bidders.]~~

(g) Failure to furnish a bid guarantee ~~if~~ [when] required by an invitation for bids.

(h) ~~[For]~~ Other cause as documented by the purchasing officer ~~in a [pursuant to a written] determination and finding.~~

(3) Technicalities or minor irregularities in bids which may be waived ~~if~~ [when] the purchasing officer determines that it will be in the Commonwealth's best interest to do so, are mere matters of form not affecting the material substance of a bid or ~~an~~ [some] immaterial deviation from or variation in the precise requirements of the invitation for bids ~~[and]~~ having no or a trivial or negligible effect on price, quality, quantity or delivery of supplies or performance of the services being procured, the correction or waiver of which will not affect the relative standing of, or be otherwise prejudicial to other bidders. The purchasing officer may either give a bidder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in his bid, or waive such deficiency ~~if~~ [where] it is advantageous to the Commonwealth to do so.

Section 8. ~~If~~ [Where] a mistake in a bid is claimed, and ~~the purchasing officer determines that~~ the evidence is clear and convincing that a material mistake was made in the bid and that due to such mistake, the bid submitted was not the bid intended, the bidder ~~shall~~ [may] be permitted to withdraw his bid. It shall be the duty of all contractors bidding to carefully review and verify the accuracy of their bids both before submitting them and prior to execution of a contract. ~~If~~ [When] a mistake in a bid is claimed after the award and execution of a contract~~;~~ on the basis of such bid, the contractor shall be required to perform according to the terms and conditions of the contract unless it is established by clear and convincing evidence that a material mistake had been made in the original bid and that the contractor ~~will~~ would sustain a financial loss if required to perform the contract according to its terms. A reduction or diminution in profit margin shall not be deemed a financial loss under this section. ~~If~~ [Where] the evidence is clear and convincing that a material mistake has been made in a bid after the award of a contract, and the contractor will sustain a financial loss if required to perform the contract, the contract shall be rescinded and the contractor shall be ineligible to submit a bid upon resolicitation [readvertisement] for the commodity or service.

Section 9. The following matters shall apply to all invitations for bids issued, bids submitted, and contracts awarded for the purchase of commodities, supplies and equipment pursuant to KRS 45A.080 and this administrative regulation:

(1) Time discounts may be considered if the Division of Pur-

chases or the purchasing agency deems it in the Commonwealth's best interest. [or cash discounts shall not be considered.]

(2) Trade discounts shall be deducted by the vendor in calculating the unit price quoted, unless otherwise indicated in the bid.

(3) Quantity discounts shall be included in the price of the item. If [When] not included in the item price, the discount shall be considered only if the purchasing agency deems it to be in the Commonwealth's best interests. The unit price shown on the contract shall be the net price, less the discount, unless otherwise indicated in the bid.

(4) Cash discounts shall not be considered.

(5) In case of a discrepancy in the extension of a price, the unit or item price shall govern over the total price of all items.

(6) [(5)] An award may be made to a [the lowest aggregate] bidder for all items, group of items, or on an individual item basis, whichever is deemed to be in the Commonwealth's best interest. The methods and bases of award of contract and of evaluation of bids shall be stated in the invitation for bids.

(7) If [(6) When] the purchasing agency has invited competitive sealed bids or request for proposals, telegraphic or facsimile responses shall not be accepted.

JOHN MCCARTY, Secretary

ANGELA C. ROBINSON, Legal Counsel

APPROVED BY AGENCY: September 12, 1997

FILED WITH LRC: September 15, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 28, 1997, at 10:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by October 21, 1997, five (5) 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 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: Angela C. Robinson, Office of Legal and Legislative Services, Finance and Administration Cabinet, Room 374, Capitol Annex, Frankfort, Kentucky 40601, phone (502) 564-666, FAX (502) 564-9875.

REGULATORY IMPACT ANALYSIS

Contact Person: Angela C. Robinson

(1) Type and number of entities affected: All state agencies of the executive branch 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 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 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: No new compliance, reporting or paperwork is required by this amendment.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The reduced use of newspaper advertising, by making it optional rather than mandatory, should reduce advertising costs by at least 20% the first year.

2. Continuing costs or savings: There will be recurring annual savings due to more appropriate use of paid advertising.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No added requirements are imposed by this amendment.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budgets of the affected agencies will supply the revenue to implement and enforce this administrative regulation.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No impact is expected; however, there has not yet been a public hearing on the regulation.

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

(7) Assessment of alternative methods; reasons why alternatives were rejected: This regulation provides for the migration to new technology for giving public notice, but retains the older alternatives.

(8) Assessment of expected benefits:

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

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

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

(9) Identify any statute, rule, administrative regulation or government policy which may be in conflict, overlapping, or duplication: To the best knowledge of the Finance and Administration Cabinet, no statutes, administrative regulations, or government policies conflict, overlap, or duplicate this administrative regulation.

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. This administrative regulation applies equally to all state agencies.

GENERAL GOVERNMENT CABINET Kentucky Board of Dentistry (Amendment)

201 KAR 8:390. General anesthesia, deep sedation, and conscious sedation by dentists.

RELATES TO: KRS 313.220

STATUTORY AUTHORITY: KRS 313.220

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation sets forth the rules governing the use of general anesthesia, deep sedation, and conscious sedation by dentists licensed in Kentucky.

Section 1. Definitions. (1) "General anesthesia" is a controlled

state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

(2) "Deep sedation" is a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic or nonpharmacologic method or combination thereof.

(3) "Conscious sedation" is a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

These terms refer to the extent of a drug's or drugs' depressant effects upon the central nervous system and should not be confused with the route or combination of routes by which a drug is administered, i.e., oral, inhalation, intravenous, intramuscular, rectal, or submucosal.

(4) "Parenteral" is a term given to those sedation techniques in which a drug is absorbed directly from the site of its administration into the cardiovascular system effectively bypassing the gastrointestinal (GI) tract. This is in contradistinction to the oral and rectal routes of administration in which the drugs are absorbed from the GI tract into the cardiovascular compartment. Common usage of the term parenteral signifies drug administration by injection with a syringe (e.g., IM, SC, IV).

Section 2. Authorization. (1) For the purposes of this administrative regulation, general anesthesia and deep sedation are the same. No dentist shall employ or use general anesthesia on an outpatient basis for dental patients unless such dentist possesses a permit of authorization issued by the Kentucky Board of Dentistry. Such permit must be renewed annually and the dentist holding such a permit may be reviewed at any time by the board.

(2) In order to receive authorization, the dentist must show the following and produce evidence that he:

(a) Has completed a minimum of one (1) year advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program as described in Part 2 of the ADA Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, in effect as of October 1, 1987; or

(b) Is a Diplomate of the American Board of Oral Surgery, or is eligible for examination by the American Board of Oral Surgery, or is eligible for membership in the American Dental Society of Anesthesiology.

(3) A dentist will not need a permit to employ or work in conjunction with a trained M.D., D.O. or C.R.N.A., who is a member of the anesthesiology staff of an accredited hospital, provided that such anesthesiologist must remain on the premises of the dental facility or hospital until any patient given a general anesthetic regains consciousness. A C.R.N.A. employed by or working in conjunction with a dentist must work under the direct supervision of a certified dentist or physician.

(4) All facilities other than hospitals or surgery centers must meet published ADA standards to insure that the protocol, procedures, facilities, drugs, equipment, and personnel utilization are acceptable for safe and appropriate use.

(5) All dentists ~~and staff~~ administering general anesthesia or deep sedation shall have current certification in advanced cardiac life support (ACLS).

(6) All staff assisting with the administration of general anesthesia or deep sedation shall have current certification in basic life support - cardiopulmonary resuscitation (CPR).

(7) All dentists administering conscious sedation with parenteral drugs shall have current certification in advanced cardiac life support

(ACLS) or shall obtain six (6) hours of continuing education every two (2) years specifically relating to anesthesia safety and emergency procedures.

(8) All staff assisting with the administration of conscious sedation with parenteral drugs shall have current certification in basic life support - cardiopulmonary resuscitation (CPR).

(9) Continuing education required in this administrative regulation may not be used to satisfy any other continuing education requirement and is in addition to all other continuing education requirements in this chapter. [or assisting with the administering of general anesthesia must have certification in basic cardiac life support (CPR). Certification must be renewed as required by the American Heart Association.]

Section 3. Inspection. The board may at any time require an on-site inspection of the facility, equipment, and personnel. The principles of evaluation will follow the current published standards of the ADA, dental specialty group, or comparable published guidelines. The inspection team will be determined by the board, but will reflect the principles of peer review.

Section 4. Provisional Permits. New applicants who are qualified by credentials in their application may be granted a temporary provisional permit of one (1) year only.

Section 5. Effective Date. Within one (1) year of the effective date of this administrative regulation, each dentist who has been using or employing general anesthesia prior to adoption of this administrative regulation shall make application to the board if such dentist desires to continue to use or employ general anesthesia. If he meets these requirements he shall be issued such permit. An on-site evaluation is at the discretion of the board.

Section 6. Report of Injury or Mortality. All licensees engaged in the practice of dentistry in the state of Kentucky must submit a complete report within a period of thirty (30) days to the Kentucky Board of Dentistry of any mortality or other incidents occurring in the outpatient facilities of such dentist which results in temporary or permanent physical or mental injury requiring hospitalization of said patient during or as a direct result of dental procedures or general anesthesia related thereto.

Section 7. Personnel. For the administration of general anesthesia or deep sedation, at least three (3) individuals, each appropriately trained, are required. One is the operating dentist, who directs the general anesthesia or deep sedation. The second is a person whose responsibilities are observation and monitoring of the patient. If this person is an appropriately trained professional, he or she may direct the deep sedation or general anesthesia. The third person assists the operating dentist.

Section 8. Conscious Sedation with Parenteral Drugs. In order for a dentist to be qualified to use parenteral drugs in conscious sedation, he must produce evidence that he:

(1) Qualifies under Section 2(1), (2), or (3) of this administrative regulation for general anesthesia; or

(2) Has completed an approved course in conscious sedation with parenteral drugs in a program approved by the Kentucky Board of Dentistry, which must include:

(a) Physical diagnosis and patient evaluation;

(b) Passing successfully a course of didactic and clinical training consistent with the ADA's Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, in effect as of October 1, 1987, and the documentation of having treated a minimum of twenty-five (25) cases; or

(3) Is a diplomate, board eligible, or eligible for board examination in any specialty, or a graduate of an accredited general practice

residency, providing he can submit evidence of training in the use of conscious sedation with parenteral drugs. This training must be consistent with the ADA's Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, in effect as of October 1, 1987, or comparable specialty guidelines.

All dentists and staff administering or assisting with the administration of conscious sedation with parenteral drugs must have certification in basic cardiac life support (CPR). Certification must be renewed as required by the American Heart Association.

Section 9. Each dentist who has been using or employing conscious sedation with parenteral drugs prior to adoption of this administrative regulation shall seek authorization on the prescribed form to the board within one (1) year of the effective date of this administrative regulation if such dentist desires to continue to use or employ conscious sedation with parenteral drugs. The board, based on a formal application by the dentist stating all particulars, may authorize the use or employment of conscious sedation with parenteral drugs to those dentists who have been utilizing conscious sedation in a competent and effective manner for the past three (3) years prior to the effective date of this administrative regulation, but who have not had the benefit of formal training as outlined in this administrative regulation. He must have current certification in basic cardiac life support (CPR).

Section 10. Inspection. The board may at any time require an on-site inspection of the facility, equipment, and personnel. The principles of evaluation will follow the current published standards of the ADA, dental specialty group or comparable published guidelines. The inspection team will be determined by the board, but will reflect the principles of peer review.

Section 11. Report of Injury or Mortality. Same as with general anesthesia.

Section 12. Permit Renewal and Annual Fee. The permit will be renewed annually unless the dentist is notified by the board that conditions exist which would prevent permit renewal. The annual fee will be fifteen (15) dollars for such a permit and shall be renewed at the time of license renewal.

Section 13. Nitrous Oxide. (1) In order for a dentist to be qualified to use nitrous oxide in conscious sedation he must:

(a) Have completed a university based course approved by the Kentucky Board of Dentistry; or

(b) Have used nitrous oxide in his practice for three (3) years prior to the adoption of these rules.

(2) The equipment used must be specifically designed for use in nitrous oxide sedation. All equipment used in the administration of nitrous oxide must have functional safeguard measures. Such safeguard measures are those recognized by the American Dental Association.

(3) The dentist must insure that every patient receiving nitrous oxide is constantly monitored. The presence of the dentist in the office is required while nitrous oxide is being used.

(4) The requirements for reporting injury or mortality are the same as with general anesthesia.

(5) No permit will be required to administer nitrous oxide by the dentist.

PATRICIA G. HOWELL, RDH, President

MARK BRENGELMAN, Assistant Attorney General

APPROVED BY AGENCY: September 9, 1997

FILED WITH LRC: September 12, 1997 at 4 p.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on October 24, 1997, at 3 p.m., local time, at 10101 Linn Station Road, Suite 540, Louisville, Kentucky.

Individuals interested in being heard at this hearing shall notify this agency in writing by October 17, 1997, five (5) 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 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: Mr. Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223, Phone: (502) 423-0573, Fax: (502) 423-1239.

REGULATORY IMPACT ANALYSIS

Contact person: Gary Munsie, Executive Director

(1) Type and number of entities affected: Approximately 160 dentists who hold a permit to administer certain types of anesthesia.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

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

1. First year following implementation: This proposed amendment will require dentists and staff to have increased training and continuing education to be allowed to administer certain types of anesthesia for which a permit is required.

2. Second and subsequent years: This proposed amendment will require dentists and staff to have increased training and continuing education to be allowed to administer certain types of anesthesia for which a permit is required.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Agency funds and annual 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: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: None 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: The proposed regulation will require dentists and staff to have increased training and continuing education to be able to handle medical emergencies if such arises during the course of a dental procedure for which certain types of anesthesia are being performed. This will allow the agency to regulate better the practice of dentistry in Kentucky for the protection of the public.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Public health may be harmed by preventing the agency from fulfilling its mandate to regulate the practice of dentistry and dental hygiene in Kentucky by omitting important requirements for dentists and staff.

(c) If detrimental effect would result, explain detrimental effect: Dentists would not be better trained to handle medical emergencies should they arise while performing dental procedures during which certain types of anesthesia are being used.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. They apply equally to all licensees and equally to all licensees that hold an anesthesia permit.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Dentistry
(Amendment)**

201 KAR 8:400. Complaint procedure.

RELATES TO: KRS 313.150

STATUTORY AUTHORITY: KRS 313.220(4)

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes procedures for filing complaints against licensed persons subject to administrative regulation by the Kentucky Board of Dentistry. KRS 313.150 authorizes the board to institute and maintain actions to restrain or enjoin violations of the unlicensed practice of dentistry. KRS 313.220(4) authorizes the board to regulate the practice of dentistry and the use of dental auxiliary personnel in this state. This administrative regulation is established to protect and safeguard the health and safety of the citizens of Kentucky and to provide procedures for filing, evaluation, and disposing of complaints.

Section 1. Definitions. (1) "Act" means KRS Chapter 313 or the administrative regulations promulgated thereunder, or other statutes and administrative regulations applicable to licensed dentists or dental hygienists.

(2) "Board" is defined in KRS 313.010(1) and 313.220, and for purposes of this administrative regulation, shall also refer to a hearing panel of the board pursuant to KRS Chapter 13B.

(3) "Formal complaint" means a formal administrative pleading authorized by the board that sets forth charges against a licensee, certificate holder or applicant and commences a formal disciplinary proceeding under KRS Chapter 13B.

(4) "Law enforcement committee" means a committee of one (1) or more members of the board who may be assisted by the board's staff, its agents, or the Office of the Attorney General.

(5) "Initiating complaint" means any allegation in whatever form alleging a violation of the Act by a licensee, certificate holder, or applicant or alleging that an unlicensed person is engaging in the practice of dentistry or using the title of dentist, dental hygienist, or specialist.

(6) "Order" means the whole or any part of a final disposition of a hearing.

(7) "Person" means any individual, partnership, corporation, association, or public or private organization of any character.

(8) "Presiding officer" means the person appointed by the board to preside at a hearing pursuant to KRS 313.150(1) and (2) and shall include a hearing officer or a member of the hearing panel.

(9) "Respondent" means the person against whom an initiating or a formal complaint has been made.

Section 2. Initiating Complaint. (1) Source of initiating complaint. A complaint may be initiated by the board, by the public or by any state agency. All complaints shall be in writing unless special circumstances otherwise require and shall bear the date and signature of the person making the complaint. A certified copy of a court record for a misdemeanor or felony conviction shall be considered a valid complaint.

(2) Receipt of initiating complaint. A complaint may be received by any board member, by the Office of the Attorney General, or by any staff member.

(3) Consideration of initiating complaint. At the next regularly-scheduled meeting of the law enforcement committee or as soon thereafter as practicable, the law enforcement committee shall review the initiating complaint and shall determine if an investigation is warranted, and if so, the law enforcement committee may appoint one (1) of its members or any agent or representative of the board to conduct an investigation of the respondent.

(4) For the purpose of enforcing the Act, the board shall have the authority to administer oaths, receive evidence, interview persons, issue subpoenas and enforce disobedience in a circuit court of competent jurisdiction, and require the production of books, papers, documents, patient records, or other evidence.

(5) Based on consideration of the initiating complaint, the investigative report, if any, the board shall determine if there has been a prima facie violation of the Act. The members of the law enforcement committee shall not vote. If it is determined that the facts alleged in the complaint or investigative report do not constitute a prima facie violation of the Act, the board shall notify the person making the initiating complaint and the respondent that no further action will be taken at the present time. If it is determined that there is a prima facie violation of the Act, the board shall issue a formal complaint against the licensee, certificate holder, or applicant in accord with KRS Chapter 13B and may order a written response be filed with the board. In the case of a prima facie violation of KRS 313.020, the board shall file suit to enjoin the respondent and may seek criminal prosecution pursuant to KRS 313.022 and 313.259.

(6) The board shall notify the person making the initiating complaint and person against whom the complaint was made of the final disposition of the matter by the board. The board shall make public its final order in all disciplinary actions under KRS 313.130 and 313.140 and 313.330 and shall make public all actions taken to restrain or enjoin the unlicensed practice of the Act. The board may issue a press release at least to the newspapers with the largest circulation in Louisville, Lexington, Frankfort, the city of business of the licensee or person against whom the board has taken action to enjoin the unlicensed practice of dentistry or dental hygiene, and to the Associated Press wire service.

[Section 1. Unless exceptional circumstances otherwise require, all complaints shall be in writing and shall bear the date and signature of the person making the complaint.

Section 2. Unless exceptional circumstances otherwise require, before a complaint is investigated it shall present evidence of a specific violation of law.

Section 3. Complaints may be received by any board member, dentist or hygienist designated by the board, the board's counsel, or by any board staff member.

Section 4. If the complaint warrants a formal hearing, the board shall provide the respondent with:

- (1) A formal written presentation of charges;
- (2) A notice of the right to be represented by counsel;
- (3) At least ten (10) days to prepare any defense;
- (4) The right to answer charges;
- (5) The right to subpoena witnesses in his or her behalf; and

~~(6) The notice of the right to appeal after an adjudication against the respondent.~~

~~Section 5. Any board member who has participated in the preliminary investigations shall not participate in the hearing process.~~

~~Section 6. All subpoenas shall be issued in the name of the board and shall be signed by the secretary-treasurer of the board. The person requesting the subpoena shall bear the cost of serving the subpoena, paying the witness fees, and expenses. The board shall bear the cost of witnesses subpoenaed in the board's behalf.~~

~~Section 7. The board shall notify the person making the complaint and the person against whom the complaint was made of the final disposition of the matter.]~~

PATRICIA G. HOWELL, RDH, President

MARK BRENGELMAN, Assistant Attorney General

APPROVED BY AGENCY: September 9, 1997

FILED WITH LRC: September 12, 1997 at 4 p.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on October 24, 1997, at 3 p.m., local time, at 10101 Linn Station Road, Suite 540, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 17, 1997, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that dated, 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: Mr. Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223, Phone: (502) 423-0573, Fax: (502) 423-1239.

REGULATORY IMPACT ANALYSIS

Contact person: Gary Munsie, Executive Director

(1) Type and number of entities affected: Approximately 110 persons, including dentists, hygienists, and persons allegedly practicing dentistry or dental hygiene without license as required by KRS Chapter 313.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: This will clearly define and streamline the procedures used to handle all complaints received by the agency and provide clearly defined steps for the agency to take in handling the complaints.

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Would allow the

agency to notify the public via a press release or other method.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Agency funds and annual 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: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: None 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: These procedures will allow the agency to handle complaints in a defined manner so as to fulfill its mandate to regulate the practice of dentistry and dental hygiene in Kentucky for the protection of the public.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Public health may be harmed by preventing the agency from fulfilling its mandate to regulate the practice of dentistry and dental hygiene in Kentucky.

(c) If detrimental effect would result, explain detrimental effect: Agency procedures would remain unclear and vague.

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

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

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

(10) Any additional information or comments: This amended regulation will provide due process licensees and protect the public by allowing the agency to handle efficiently and competently the complaints it receives from the public and other agencies.

(11) TIERING: Is tiering applied? No. They apply equally to all licensees.

JUSTICE CABINET

Department of Corrections
Division of Adult Institutions
(Amendment)

501 KAR 6:040. Kentucky State Penitentiary.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, 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, September 15 [May 14], 1997 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:

ADMINISTRATIVE REGISTER - 936

KSP 01-02-01 Public Information and Media Communications
 KSP 020000-15 Legal Assistance
 KSP 02-01-01 Inmate Commissary Program [(Amended 5/14/97)]
 KSP 02-08-01 Inventory Records and Control
 KSP 02-11-01 Requisition and Purchase of Supplies and Equipment (Amended 9/15/97)
 KSP 02-12-01 Inmate Personal Funds (Amended 9/15/97)
 KSP 05-02-01 Management Information System
 KSP 06-01-01 Inmate Records
 KSP 09-08-01 Searches and Preservation of Evidence
 KSP 10-02-01 Special Management Units: Assignment, Classification Review and Release
 KSP 10-02-05 Special Security Unit
 KSP 10-04-01 Special Needs Inmates
 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 [(Amended 5/14/97)]
 KSP 15-03-01 Award of Meritorious Good Time
 KSP 15-06-01 Adjustment [Due Process/Disciplinary] Procedures (Amended 9/15/97)
 KSP 16-01-01 Visiting Program (Amended 9/15/97)
 KSP 16-02-01 Inmate Correspondence
 KSP 16-03-02 Inmate Telephone Access [(Amended 5/14/97)]
 KSP 16-04-01 Inmate Packages
 KSP 17-01-01 Inmate Personal Property
 KSP 17-01-02 Disposition of Unauthorized Property
 KSP 17-01-03 Procedures for Providing Clothing, Linens and Other Personal Items
 KSP 17-01-04 Property Room, Clothing Storage and Property Inventory Control
 KSP 18-01-01 General Guidelines and Functions of the Classification Committee
 KSP 18-01-02 Functions of the Classification Committee
 KSP 18-06-01 Classification Document
 KSP 18-10-01 Parole Progress Report
 KSP 18-11-01 Transfers to Kentucky Correctional Psychiatric Center (KCPC)
 KSP 18-15-01 Protective Custody Unit
 KSP 19-04-01 Inmate Work Programs: Safety Inspections of Inmate Work Locations
 KSP 19-04-02 Unit Classification Committee: Inmate Work Assignments
 KSP 19-05-01 Correctional Industries
 KSP 20-04-01 Educational Programs
 KSP 22-04-01 Arts and Crafts Program
 KSP 25-04-01 Inmate Furloughs
 KSP 25-08-01 Extended Furloughs

KSP 25-10-01 Discharge of Inmates by Shock Probation

DOUG SAPP, Commissioner
 TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: September 9, 1997

FILED WITH LRC: September 15, 1997 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 1997, at 9 a.m. in the State Office Building Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by October 14, 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) 564-2024, FAX: (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact person: Tamela Biggs

(1) Type and number of entities affected: 322 employees of the correctional institutions, 827 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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Amendment)

704 KAR 20:084. Interdisciplinary early childhood education, birth to primary.

RELATES TO: KRS 157.3175, 161.020, 161.030

STATUTORY AUTHORITY: KRS 161.028

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 requires that a teacher [teachers] and other professional school personnel hold a certificate [certificates] of legal qualifications for his [their] respective position [positions] to be issued upon completion of a program [programs] of preparation prescribed by the Education Professional Standards Board. Additionally, the statute requires a teacher education institution [institutions] to be approved for offering the preparation program [programs] corresponding to a particular certificate [certificates] on the basis of standards and procedures established by the Education Professional Standards Board. This administrative regulation establishes the professional certificate for interdisciplinary early childhood education, birth to primary; the teacher standards; and the standards for approval of a program [programs] leading to such a certificate.

Section 1. Definitions. The following definitions shall apply for purposes of this administrative regulation:

(1) "Interdisciplinary" means a preparation program that includes child development, family studies, early childhood education, and early childhood special education.

(2) "Teacher performance standard" means a set of teaching and managing tasks that an early childhood educator shall be able to demonstrate in early childhood programs. Each teacher standard statement describes the general set of teaching or managing tasks that an early childhood educator shall perform and the contexts for performance of these tasks.

(3) "Cultural diversity" means the wide range of differences among individuals that result from cultural and ethnic backgrounds, socioeconomic status, gender, personality traits, physical abilities and disabilities, and the interaction of factors of variability.

Section 2. (1) The professional certificate for interdisciplinary early childhood education, birth to primary, shall be issued in accordance with the pertinent Kentucky statutes and administrative regulations of the Education Professional Standards Board to an applicant who has completed a bachelor's degree and the approved program of preparation for this certificate as described in Sections 7, 8, and 9 of this administrative regulation at a teacher education institution

approved by the Education Professional Standards Board. In addition, the applicant shall complete the approved written assessments [tests] and [a] one (1) year internship as provided in this administrative regulation.

(2)(a) In order to satisfy the testing prerequisites for teacher certification as required by KRS 161.030, the applicant shall score at least the following minimum passing scores on the tests identified below:

1. The NTE Core Battery tests:

a. Communication skills, 646;

b. General knowledge, 643; and

c. Professional knowledge, 644; and

2. The Kentucky test of interdisciplinary early childhood, 150.

(b) The assessments [tests] may be waived for out-of-state teachers who have two (2) or more years of successful experience in a position teaching children from birth to entry into the primary program on at least a half-time basis and whose preparation corresponds to the interdisciplinary early childhood education outlined in this administrative regulation.

(3) Upon successful completion of an approved program of preparation and assessments [testing], the Education Professional Standards Board shall issue a statement of eligibility in accordance with KRS 161.030.

(4) The Education Professional Standards Board shall issue the one (1) year certificate for the beginning teacher internship as provided in KRS 161.030 and 704 KAR 20:320 upon applicant's confirmation of employment in a position teaching children from birth to entry into a primary program on at least a half-time basis in a school which meets the criteria identified in KRS 161.030.

(5)(a) The beginning teacher internship may be waived for out-of-state applicants who have completed two (2) or more years of successful experience in a position teaching children from birth to entry into the primary program.

(b) The beginning teacher internship may be waived for applicants who have completed two (2) or more years of successful experience in a position teaching children from birth to entry into a primary program on at least a half-time basis in Kentucky while holding one (1) of the following credentials:

1. Baccalaureate or higher degree in child development or early childhood education or early childhood special education;

2. Certification valid for kindergarten; or

3. Special education certification valid for primary grades.

Section 3. The professional certificate for interdisciplinary early childhood education, birth to primary, shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

Section 4. The professional certificate for interdisciplinary early childhood education, birth to primary, shall be valid for teaching children from birth to entry into the primary program. This includes teaching children in kindergarten or other programs for five (5) year old children where these programs are operated separately from the primary program. Persons holding this certificate shall serve as primary developers and implementers of individual programs for children with and without disabilities including individual education plans (IEP's) and individual family service plans (IFSP's) with consultation and support from specialists according to the needs of the child (e.g., speech-language pathologists, occupational and physical therapists, nurses, educators of the hearing impaired or vision impaired, and others).

Section 5. Teachers serving in a position [positions] identified in Section 4 of this administrative regulation as an early childhood teacher [teachers] during the 1994-95, 1995-96, 1996-97, or 1997-98 school year in a district [districts] with an approved preschool program [programs] shall be eligible to continue serving in the same position without any additional certification. Upon application to the Education

Professional Standards Board, a teacher [~~these teachers~~] shall receive a letter [~~letters~~] certifying eligibility.

Section 6. All teacher preparation institutions offering approved programs of preparation leading to the professional certificate for interdisciplinary early childhood education, birth to primary, shall establish an assessment system to judge the performance of candidates on the teacher performance standards identified for this certificate.

Section 7. Standards for Program of Preparation. In order to receive approval of the Education Professional Standards Board, a program of preparation leading to the professional certificate for interdisciplinary early childhood education, birth to primary, shall meet the following standards:

(1) The program shall be designed to prepare candidates to teach and manage tasks as identified in the teacher standards listed in Section 9 of this administrative regulation;

(2) The program shall include a system of continuous assessment to evaluate a [the] candidate's progress and level of attainment on the teacher standards. The assessments shall include performance on authentic teaching and managing tasks in settings that are inclusive of children across abilities and contexts. Candidates shall be evaluated by paper and pencil tests and authentic assessments of performance;

(3) The program of preparation shall ensure that candidates from culturally diverse backgrounds are recruited and retained in the program;

(4) The program of preparation shall provide the candidate with knowledge and experiences to perform teaching and managing tasks identified in the teacher standards with children from culturally diverse backgrounds; and

(5) Student teaching experiences shall be supervised by a teacher who has a letter certifying eligibility to continue teaching in an interdisciplinary early childhood position, or a teacher holding a master's degree with emphasis in early childhood and three (3) years of teaching experience.

Section 8. Application for Program Approval. (1) A teacher education institution which proposes to offer a program of preparation leading to the professional certificate for interdisciplinary early childhood education, birth to primary, shall make application for approval to the Education Professional Standards Board. The application for approval shall include a program description which includes the following:

(a) Program outcomes which [:] include teacher standards for interdisciplinary early childhood education;

(b) Program components which [:] provide a list of coursework, clinical and field experiences, and student teaching related to general education, interdisciplinary specialty studies, and professional studies;

(c) A [Faculty: provide] list of faculty responsible for and involved with the conduct of the specific program and their qualifications;

(d) A description of student [~~Students: describe~~] admission and retention policies and procedures that are specific to this program; and

(e) A [Plan for assessment:] description of the system of continuous assessment of teacher standards.

(2) Institutions may receive interim program approval for a one (1) year period which may be extended for one (1) additional year while the institution develops the assessments identified in Section 7(2) of this administrative regulation. At the end of the period of interim approval the institution shall apply for full approval to the Education Professional Standards Board.

Section 9. Teacher Standards. (1) Teacher Standard I. The early childhood educator shall design and organize learning environments, experiences, and instruction that address the developmental needs of

infants, toddlers, preschool children, and kindergarten children and goals established by KRS 158.6451. The early childhood educator shall develop plans for:

- (a) Implementation in a classroom setting;
- (b) Implementation in a home or other settings;
- (c) Implementation by teaching assistants and other staff in a variety of settings; and

- (d) Training teaching assistants, other staff, and parents.

These plans shall include individual family service plans (IFSP's), individual education programs (IEP's), and transition plans for children across disabilities developed in partnership with family members.

(2) Teacher Standard II. The early childhood educator shall create appropriate learning environments for infants, toddlers, preschool children, and kindergarten children that are supportive of developmental needs of the age group and goals established by KRS 158.6451. The early childhood educator shall provide developmental and learning activities in classroom and home settings, and in other settings, such as other preschools, child care programs, and hospitals. Within these settings, the learning context may include individual child activities, parent-child activities, small groups, and large groups. The early childhood educator shall create appropriate learning environments for children with diverse abilities including children with and without disabilities.

(3) Teacher Standard III. The early childhood educator shall introduce, implement, facilitate, and manage development and learning for infants, toddlers, preschool children, and kindergarten children to promote growth toward developmental needs of the age group and goals established by KRS 158.6451. The early childhood educator shall implement instruction in classroom and home settings, through itinerant services, and in other settings such as day care, other preschools, and hospitals. The early childhood educator shall implement instruction for young children with diverse abilities including children with and without disabilities.

(4) Teacher Standard IV. The early childhood educator shall assess children's cognitive, emotional, social, communicative, adaptive, and physical development; organize assessment information; and communicate the results appropriate to the purpose of the assessment. Assessment purposes shall include:

- (a) Determining learning results;
- (b) Developmental screening;
- (c) Program planning;
- (d) Eligibility for disability services;
- (e) Program evaluation;
- (f) Progress on IFSP's and IEP's; and
- (g) Needs for transition to the next educational setting or program.

(5) Teacher Standard V. The early childhood educator shall reflect on and evaluate teaching and learning situations, learning environments, and programs for infants, toddlers, preschool children, kindergarten children, and their families. This shall include learning situations and programs that are provided in relation to an IFSP or an IEP and by the early childhood educator, a teaching assistant or other staff member, the family, or other caregiver.

(6) Teacher Standard VI. The early childhood educator shall collaborate and consult with the following to design, implement, and support learning programs for children:

- (a) Staff in a team effort;
- (b) Volunteers;
- (c) Families and primary caregivers;
- (d) Other educational, child care, health and social services providers in an interagency and interdisciplinary team; and
- (e) Local, state, and federal agencies.

(7) Teacher Standard VII. The early childhood educator shall engage in self-evaluation of teaching and management skills and participate in professional development to improve performance. This shall include the following performance areas:

- (a) Designing and planning developmental and learning activities;
- (b) Creating learning environments;

- (c) Implementing and managing activities;
- (d) Assessing children's learning development;
- (e) Evaluating learning situations and environmental programs;
- and
- (f) Collaborating with colleagues, parents, and others.
- (8) Teacher Standard VIII. The early childhood educator shall support and promote the self-sufficiency of families as they care for and provide safe, healthy, stimulating, and nurturing environments for young children.

ROSA WEAVER, Chair

ROBERT SHERMAN, Attorney

APPROVED BY AGENCY: June 23, 1997

FILED WITH LRC: August 28, 1997 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on October 22, 1997, at 10 a.m., in the First Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 15, 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Susan Leib, Associate Commissioner, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, PHONE: (502) 573-4606, FAX: (502) 573-1610.

REGULATORY IMPACT ANALYSIS

Contact Person: Ronda Tamme

(1) Type and number of entities affected: Candidates for the approval for the interdisciplinary early childhood education, birth to primary certificate.

(2) Direct and indirect costs or savings on the: None

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received:

(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:

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

1. First year following implementation: Local schools districts with approved programs will submit a listing of eligible personnel.

2. Second and subsequent years: Same

(3) Effects on promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State General Fund.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on: None

(a) Geographical area in which administrative regulation will be implemented:

(b) Kentucky:

(7) Assessment of alternative methods; reasons why alternatives were rejected: Certified personnel are required to provide instruction to public school children. The Education Professional Standards Board can establish teacher certification standards only by administrative regulation.

(8) Assessment of expected benefits: None

(a) Identify effects on public health and environmental welfare of the geographical areas in which implemented and on Kentucky:

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

(c) If detrimental effect would result, explain detrimental effect:

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. Certification requirements are uniformly applicable to all applicants.

LABOR CABINET

Department of Workers' Claims (Amendment)

803 KAR 25:012. Resolution of medical fee disputes.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS Chapter 13A, 342.020, 342.035, 342.125, 342.260, 342.325, 342.735

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the Commissioner of the Department of Workers' Claims to promulgate administrative regulations necessary to carry on his work and the work of the arbitrators and administrative law judges under KRS Chapter 342. KRS 342.325 requires that questions arising under KRS Chapter 342 which are not settled by agreement of the parties shall be determined by an arbitrator or administrative law judge, and KRS 342.735 requires the commissioner to promulgate administrative regulations to expedite the payment of medical expense benefits. This administrative regulation regulates the resolution of medical fee disputes before the arbitrator or administrative law judges.

Section 1. Procedure. (1) Disputes regarding payment, nonpayment, reasonableness, necessity, or work-relatedness of a medical expense, treatment, procedure, statement, or service which has been rendered or shall be rendered under KRS Chapter 342 will be resolved by an arbitrator or administrative law judge following the filing of a Form 112 (Medical Fee Dispute).

(2)(a) The Form 112 shall be accompanied by the following items: copies of all disputed bills, supporting affidavit(s) setting forth facts sufficient to show that the movant is entitled to the relief sought, necessary supporting expert testimony, and the final decision from a utilization review or medical bill audit with the supporting medical opinion.

(b) A single Form 112 may encompass statements, services, and treatment previously rendered as well as future statements, services, and treatment of the same nature or for the same condition, if specifically stated.

(3) An employee, provider of medical services, employer or employer's medical payment obligor may file a Form 112 to seek adjudication of a dispute involving medical expenses.

(4) If an application for adjustment of claim concerning the injury or disease which is the subject of the dispute has not been filed, copies of the Form 112 and attachments sufficient to serve the other parties, including the employee, the employer, the medical payment obligor, and the medical provider, shall be filed with the commis-

sioner, who shall make service on the named parties. An opposing party may thereafter file a response, accompanied by affidavits setting forth facts sufficient to show that the movant is not entitled to the relief sought, within twenty (20) days after service by the commissioner. A response shall be served on the commissioner and the parties. This dispute shall be assigned to the Frankfort [Administrative Law Judge] motion docket, where it shall be either [may be] summarily decided upon the pleadings or assigned for further proof time and resolution by an arbitrator or administrative law judge.

(5) If an application for adjustment of claim is pending concerning the injury or disease which is the subject of the dispute, the movant shall file a Form 112 with the commissioner and shall also serve copies on the other parties of record. The movant shall further file a motion to join the medical provider as a party to the claim. This motion shall conform with the requirements of 803 KAR 25:010, Section 4.

(6) Following resolution of a workers' compensation claim by opinion or order of an arbitrator or administrative law judge, including an order approving settlement of a disputed claim, a motion to reopen pursuant to 803 KAR 25:010, Section 4(6), shall be filed in addition to the Form 112. Unless utilization review has been initiated, the motion to reopen and Form 112 shall be filed within thirty (30) days following receipt of a complete statement for services pursuant to 803 KAR 25:096. The motion to reopen and Form 112 shall be served on the parties, upon the employee, even if represented by counsel, and upon the medical providers. If appropriate, the pleadings shall also be accompanied by a motion to join the medical provider as a party. This dispute shall be assigned to the Frankfort [Administrative Law] Judge motion docket, where it shall be either [may be] summarily decided upon the pleadings, or be assigned to an administrative law judge for further proof time and final resolution.

(7) If there is a pending de novo hearing before an administrative law judge from an arbitrator's determination, the Form 112 shall be filed with the assigned administrative law judge who shall also render a decision on the medical dispute.

(8) If an appeal is pending before the Workers' Compensation Board concerning the injury or disease which is the subject of the dispute, the Form 112 shall be accompanied by a motion for a partial remand to the administrative law judge assigned to the claim, unless entitlement to medical services is dependent upon resolution of issues on appeal. If entitlement to medical services is dependent upon resolution of issues on appeal, the Form 112 shall be accompanied by a motion to the Workers' Compensation Board to hold the Form 112 in abeyance pending a final decision on the appeal.

(9) [(8)] If the contested expense is subject to utilization review, a medical fee dispute shall not be filed prior to completion of the utilization review process. The thirty (30) day period for filing a medical fee dispute shall be tolled by commencement of the utilization review process. Notice of utilization review shall be provided to the affected parties pursuant to 803 KAR 25:096. The employer or its medical payment obligor shall have thirty (30) days following the final utilization review or medical bill audit decision to file a medical fee dispute.

(10) [(9)] Repeated filing of identical Form 112's concerning the same subject matter shall not be necessary if an arbitrator or administrative law judge has ruled on both the past expenses and the necessity of future expenses. If an order from an arbitrator or administrative law judge encompassing future treatment or expenses becomes final, the medical provider shall not tender future statements for services encompassed by the order to the employer or its medical payment obligor.

(11) A party aggrieved by a decision of an arbitrator in a medical fee dispute may appeal to an administrative law judge by following the procedures in 803 KAR 25:010.

(12) [(10)] A party aggrieved by a decision of the administrative law judge in a medical fee dispute may appeal to the Workers' Compensation Board by following the procedures set forth in 803

KAR 25:010, Section 23 [(13)].

Section 2. If the arbitrator or administrative law judge determines that proceedings have been brought, caused to be brought, prosecuted or defended without reasonable grounds, the entire cost of the proceedings, including attorneys fees, may be assessed upon the offending party pursuant to KRS 342.310. Sanctions shall be assessed, as appropriate, if an employer or a medical payment obligor challenges bills without reasonable medical or factual foundation, or if a medical provider, without reasonable foundation, submits bills for nonwork-related conditions to an employer or its medical payment obligor. Filing a medical fee dispute prior to exhaustion of required utilization review or medical bill audit procedures may [shall] subject the movant to sanctions pursuant to KRS 342.310.

Section 3. Expedited Medical Fee Disputes. (1) ~~If, prior to the filing of a formal application for adjustment of claim,~~ a dispute arises requiring expedited determination of the reasonableness, appropriateness or employer's liability for proposed medical care, the lack of which could lead to serious physical or mental disability or death, an employee or employer may seek an expedited determination by filing a written request (on Form 120EX), together with:

(a) An affidavit of the employee or other witness that the injury or disease which is the subject of the dispute is compensable under KRS Chapter 342 in the format prescribed in Appendix A.

(b) An affidavit of a physician which explains why failure to obtain or undertake the proposed medical care within forty-five (45) days could lead to serious physical or mental disability or death of the employee. The physician's affidavit shall set forth the diagnosis of the patient, the clinical and diagnostic findings upon which the diagnosis is based, the proposed treatment, and reason why immediate initiation of the proposed treatment is necessary. If feasible, an estimate of the cost of the proposed treatment shall be presented. The format for a physician's affidavit is set forth in Appendix B.

(c) Other affidavits or authenticated documents necessary to demonstrate that the movant is entitled to the relief sought.

(2) If a claim is currently assigned to an arbitrator or administrative law judge, the written request shall be directed to that arbitrator or administrative law judge.

(3) The Form 120EX and attachments shall be filed in triplicate with the commissioner who shall serve copies on the named parties. A respondent to a Form 120EX may file a response within ten (10) days of the date on which the Form 120EX is served by mail. Service shall be deemed complete the third day after mailing by the commissioner. A response shall be accompanied by affidavits setting forth facts sufficient to demonstrate that the movant is not entitled to the relief sought, and shall be served on the other parties by the respondent.

(4) The arbitrator or the [(3) The chief] administrative law judge may refer the matter to a worker's compensation specialist or an ombudsman to attempt to effectuate a resolution of the dispute.

(5) [(4)] The arbitrator or administrative law judge to whom a request for expedited determination of medical issues is assigned shall issue a ruling within seven (7) days after expiration of the response time.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form 112, "Medical Fee Dispute", (August 15, 1996 Edition), Department of Workers Claims; and

(b) Form 120EX, "Request for Expedited Determination of Medical Issue", (July 14, 1994 Edition), Department of Workers Claims.

(2) This material may be inspected, copied, or obtained at the Department of Workers Claims, Monday through Friday, 9 a.m. to 4 p.m., at the following locations:

(a) Perimeter Park West, Building C, 1270 Louisville Road,

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Frankfort, Kentucky 40601;

- (b) 410 West Chestnut Street, Louisville, Kentucky 40202;
- (c) 220B North 8th Street, Paducah, Kentucky 42001; or
- (d) 101 Summit Drive, Pikeville, Kentucky 41501.

APPENDIX A AFFIDAVIT OF EMPLOYEE

Affiant, (Name), first being duly sworn, states that the attached Request for Expedited Determination of Medical Issue (Form 120EX) concerns treatment for a condition compensable under the Kentucky Workers' Compensation Act. Affiant further states as follows:

1. Date and time of work-related injury or date on which occupational disease was discovered:
2. Brief description of how injury occurred or how occupational disease was acquired:
3. Date and identity of person to whom notice of injury or occupational disease was given:
4. Medical treatment at issue:
5. Attempts, if any, to obtain approval for contested treatment:

Signature:
STATE OF:
COUNTY OF:

Subscribed and sworn to before me by (name) this (day) day of (month), 19(year).

Notary Public:

My commission expires:

APPENDIX B AFFIDAVIT OF PHYSICIAN EXPEDITED MEDICAL DISPUTE

Affiant (Name), a physician whose area of specialization is (specialization), first being duly sworn, states that the attached Request for Expedited Determination of Medical Issue (Form 120EX) concerns a work-related injury or disease.

- (1) The following medical care is required: (describe proposed medical care)
- (2) The current working diagnosis is as follows:
- (3) The proposed treatment is medically necessary because:
- (4) The estimated cost of the proposed treatment is:

Affiant further states that failure of (Name of workers' compensation patient) to obtain or undertake this proposed medical care within the next forty-five (45) days could lead to serious physical or mental disability or death because:

Signature:
W.C. Medical Index No.:
Address:
STATE OF:
COUNTY OF:

Subscribed and sworn to before me by (name) this (day) day of (month), 19(year).

Notary Public:

My commission expires:

WALTER W. TURNER, Commissioner
STEPHEN B. COX, General Counsel

APPROVED BY AGENCY: September 15, 1997

FILED WITH LRC: September 15, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on the administrative regulation shall be held on October 21, 1997, at 10 a.m. (ET) in the

offices of the Kentucky Department of Workers' Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by October 14, 1997, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments must be received prior to 10 a.m. (ET), on October 21, 1997, in order to receive consideration. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Carla H. Montgomery, Counsel, Kentucky Department of Workers' Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601, Telephone Number: (502) 564-5550, Ext. 465, Fax Number: (502) 564-5934.

REGULATORY IMPACT ANALYSIS

Contact Person: Carla H. Montgomery

(1) Type and number of entities affected: All injured employees in Kentucky with disputes regarding the payment of medical expense, medical providers who provide services for work-related injuries, and medical payment obligors.

(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. The department does not anticipate any costs or savings based on these amendments.

(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. The department does not anticipate any costs or savings based on these amendments.

(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 amendments simply update the administrative regulation to comply with the changes made in the December Special Legislative Session with regard to the Workers' Compensation Act. There should be no new requirements.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No costs or savings.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The department's normal budget.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: No public comments were received, but no effect anticipated.

(b) Kentucky: No public comments were received, but no effect anticipated.

(7) Assessment of alternative methods; reasons why alternatives

were rejected: There is no alternative but for the department to update the regulation and bring into compliance with all the changes made to the Workers' Compensation Act.

(8) Assessment of expected benefits: The administrative regulation will be more understandable and in compliance with KRS Chapter 342.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect:

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) Tiering: Tiering is not applied because this regulation is equally applied to employers and employees.

**LABOR CABINET
Department of Workers' Claims
(Amendment)**

803 KAR 25:096. Selection of physicians, treatment plans and statements for medical services.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS 342.020, 342.035, 342.260, 342.320, 342.735

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the Commissioner of the Department of Workers Claims to promulgate administrative regulations necessary to carry on the work of the department under KRS Chapter 342. KRS 342.735 requires the commissioner to promulgate administrative regulations to expedite the payment of medical expense benefits. This administrative regulation regulates the selection of physicians and provides for treatment plans under KRS Chapter 342 in order to assure high quality medical care at a reasonable cost.

Section 1. Definitions. (1) "Designated physician" means the physician selected by the employee for treatment pursuant to KRS 342.020(5).

(2) "Emergency care" means:

(a) Those medical services required for the immediate diagnosis or treatment of a medical condition that if not immediately diagnosed or treated could lead to a serious physical or mental disability or death; or

(b) Medical services which are immediately necessary to alleviate severe pain.

(3) "Long-term medical care" means:

(a) Medical treatment or medical rehabilitation that is reasonably projected to require a regimen of medical care for a period extending beyond ninety (90) days.

(b) Medical treatment that continues for a period of more than ninety (90) days.

(c) Medical treatment including the recommendation that the employee not engage in the performance of the employee's usual work for a period of more than sixty (60) days.

(4) "Physician" is defined in KRS 342.0011(32).

(5) "Statement for services" means:

(a) For nonpharmaceutical bills, a completed Form HCFA 1500, or for a hospital, a completed Form UB-92, with an attached copy of legible treatment notes, hospital admission and discharge summary, or other supporting documentation for the billed medical treatment, procedure, or hospitalization; and

(b) For pharmaceutical bills, a bill containing the identity of the prescribed medication, the number of units prescribed, the date of the prescription, and the name of the prescribing physician.

(6) "Treatment plan" means a written plan which may consist of copies of charts, consultation reports or other written documents maintained by the employee's designated physician discussing symptoms, clinical findings, results of diagnostic studies, diagnosis, prognosis, and the objectives, modalities, frequency, and duration of treatment. It shall include, as appropriate, details of the course of ongoing and recommended treatment and the projected results, and may be amended, supplemented or changed as conditions warrant.

Section 2. Employer's Obligation to Supply Kentucky Workers' Compensation Designation and Medical Release Card (Form 113). Within ten (10) days following receipt of notice of a work injury or occupational disease causing lost work time or necessitating medical treatment, the medical payment obligor shall mail a Form 113 to the employee, including a self-addressed, postage prepaid envelope for returning the Form 113. Failure by the medical payment obligor to timely mail the form shall waive an objection to treatment by other than a designated physician prior to receipt by the employee of the form.

Section 3. Employee Selection of Physician. (1) Except for emergency care, treatment for a work-related injury or occupational disease shall be rendered under the coordination of a single physician selected by the employee. The employee shall give notice to the medical payment obligor of the identity of the designated physician by tendering the completed Form 113, including a written acceptance by the designated physician, within ten (10) days after treatment is commenced by that physician.

(2) Within ten (10) days following receipt of a Form 113 designating a treating physician, the medical payment obligor shall tender a card to the employee, which shall be presented to a medical provider each time that medical services are sought in connection with the work-related injury or occupational disease.

(3) The card shall serve as notice to a medical provider of the identity of the designated physician, who shall have the sole authority to make referrals to treatment facilities or to specialists.

(a) The card shall bear the legend "First Designated Physician-Workers' Compensation" and shall further contain the following information:

1. Name and telephone number of the first designated physician;

2. Name, Social Security number, date of birth, and date of work injury or occupational disease and last exposure of the employee; and

3. Name and telephone number of the medical payment obligor.

(b) The reverse side of the first designated physician card shall contain:

1. A notice that treatment shall be performed by or on referral from the first designated physician; and

2. Shall further contain space for the identification and notification of a change of designated physician.

(4) Failure by the medical payment obligor to timely mail the "First Designated Physician" card shall waive an objection to treatment by other than a designated physician prior to receipt by the employee of the card.

Section 4. Change of Designated Physician. (1) Following initial selection of a designated physician, the employee may change designated physicians once without authorization of the employer or its medical payment obligor. Referral by a designated physician to a specialist shall not constitute a change of designated physician unless the latter physician is specifically selected by the employee as the second designated physician.

(2) Within ten (10) days of [Following] a decision to change the designated physician, the employee shall complete the back of the first designated physician card and return the card with the name of

the second designated physician, including a written acceptance by the second designated physician, to the medical payment obligor, which shall issue a second card within ten (10) days.

(3) The card shall bear the legend "Second Designated Physician-Workers' Compensation" and shall further contain the information required on the first designated physician card. The reverse side of the card shall contain a notice that:

(a) Treatment shall be performed by or on referral from the second designated physician; and

(b) A further change of designated physician shall require the written consent of the employer, its medical payment obligor, arbitrator, or the administrative law judge.

(4) Failure by the medical payment obligor to timely mail the "Second Designated Physician" card shall waive an objection to treatment by other than a designated physician prior to receipt by the employee of the card.

(5) If an employee's two (2) choices of designated physician have been exhausted, he shall not, except as required by medical emergency, make an additional selection of a physician without the written consent of the employer, its medical payment obligor, arbitrator, or the administrative law judge. This consent shall not be unreasonably withheld.

(6) If the employer provides medical services through a managed health care system, it may establish alternate methods for provider selection within the managed health care plan.

Section 5. Treatment Plan. (1) A treatment plan shall be prepared if:

(a) Long-term medical care is required as a result of a work-related injury or occupational disease; or

(b) The employee has received treatment with passive modalities, including electronic stimulation, heat or cold packs, massage, ultrasound, diathermy, whirlpool, or similar procedures for a period exceeding sixty (60) days. The treatment plan shall detail the need for the passive treatment, the benefits, if any, derived from the treatment, the risks attendant with termination of the treatment, and the projected period of future treatment; or

(c) An elective surgical procedure or placement into a resident work hardening, pain management, or medical rehabilitation program is recommended. The treatment plan shall set forth specific and measurable performance goals for the employee through the surgery, work hardening, or medical rehabilitation program.

(2) The designated physician shall provide a copy of the treatment plan to the medical payment obligor seven (7) days in advance of an elective surgical procedure or placement into a resident work hardening, pain management, or medical rehabilitation program. In all other instances when a treatment plan is required, a copy of the treatment plan shall be provided within fifteen (15) days following a request by the medical payment obligor. An amendment, supplement, or change to a treatment plan shall be furnished within fifteen (15) days following a request.

(3) Preparation of a treatment plan shall be a necessary part of the care to be rendered and shall be an integral part of the fee authorized in the medical fee schedule for the underlying services. An additional fee shall not be charged for the preparation of a treatment plan or progress report, except for the reasonable cost of photocopying and mailing the records.

Section 6. Tender of Statement for Services. If the medical services provider fails to submit a statement for services as required by KRS 342.020(1) without reasonable grounds, the medical bills shall not be compensable.

Section 7. Written Denial of Statement for Services Prior to the Resolution of Claim. Prior to resolution of a workers' compensation claim by opinion or order of an arbitrator or administrative law judge, the medical payment obligor shall notify the medical provider and

employee of its denial of a specific statement for services, or payment for future services from the same provider, in writing within thirty (30) [forty-five (45)] days following receipt of a completed statement for services. A copy of the denial shall be mailed to the employee, employer, and medical service provider. The denial shall include a statement of the reasons for denial and a brief synopsis of available utilization review or medical bill audit procedures with relevant telephone contact numbers. A denial shall be made only for good faith reasons. Upon receipt of a denial from a medical payment obligor, a medical provider may tender a statement for services to other potential payment sources or to the patient.

Section 8. Payment or Challenge to Statement for Services Following Resolution of Claim. (1) Following resolution of a claim by an opinion or order of an arbitrator or administrative law judge, including an order approving settlement of a disputed claim, the medical payment obligor shall tender payment or file a medical fee dispute with an appropriate motion to reopen the claim, within thirty (30) days following receipt of a completed statement for services.

(2) The thirty (30) day period provided in KRS 342.020(1) shall be tolled during a period in which:

(a) The medical provider submitted an incomplete statement for services. The payment obligor shall promptly notify the medical provider of a deficient statement and shall request specific documentation. The medical payment obligor shall tender payment or file a medical fee dispute within thirty (30) days following receipt of the required documentation; or

(b) A medical provider fails to respond to a reasonable information request from the employer or its medical payment obligor pursuant to KRS 324.020(4); or

(c) The employee's designated physician fails to provide a treatment plan if required by this administrative regulation; or

(d) The utilization review required by 803 KAR 25:190 is pending. The thirty (30) day period for filing a medical fee dispute shall commence on the date of rendition of the final decision from the utilization review or medical bill audit. A medical fee dispute filed thereafter shall include a copy of the final utilization review or medical bill audit decision and the supporting medical opinions.

(3) An obligation for payment or challenge shall not arise if a statement for services clearly indicates that the services were not performed for a work-related condition.

Section 9. Payment Pursuant to Fee Schedules. If the statement for services contains charges in excess of those provided in the applicable fee schedule adopted by the commissioner in 803 KAR 25:089, 803 KAR 25:091, and 803 KAR 25:092, the medical payment obligor shall make payment in the scheduled amount and shall serve a written notice of denial setting forth the reason for refusal to pay a greater amount. Following receipt of a final medical bill audit reconsideration decision pursuant to 803 KAR 25:190, the medical provider may dispute the amount of payment within thirty (30) days by filing a medical fee dispute in accordance with 803 KAR 25:012.

Section 10. Patient Billing. (1) A medical provider may tender a statement for services to a patient once it has received a written denial from the medical payment obligor or has received an opinion by an arbitrator or administrative law judge finding that the services were unrelated to a work injury or occupational disease.

(2) The medical provider shall not bill a patient for services which have been found to be unreasonable or unnecessary by an arbitrator or administrative law judge, if the medical provider has been joined as a party to a workers' compensation claim or to a medical fee dispute and has had an opportunity to present any contrary evidence.

(3) The medical provider shall not bill a patient for services which have been denied by the payment obligor for failure to submit bills following treatment within forty-five (45) days as required by KRS 342.020 and Section 6 of this administrative regulation.

Section 11. Request for Payment for Services Provided or Expenses Incurred to Secure Medical Treatment. (1) If an individual who is not a physician or medical provider provides compensable services for the cure or relief of a work injury or occupational disease, including home nursing services, the individual shall submit a fully completed Form 114 to the employer or medical payment obligor within sixty (60) days of the date the service is initiated and every sixty (60) days thereafter, if appropriate, for so long as the services are rendered.

(2) Expenses incurred by an employee for access to compensable medical treatment for a work injury or occupational disease, including reasonable travel expenses, out-of-pocket payment for prescription medication, and similar items shall be submitted to the employer or its medical payment obligor within sixty (60) days of incurring of the expense. A request for payment shall be made on a Form 114.

(3) Failure to timely submit the Form 114, without reasonable grounds, may result in a finding that the expenses are not compensable.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form 113, "Notice of Designated Physician", (August 15, 1996 Edition), Department of Workers Claims; and

(b) Form 114, "Request for Payment for Services or Reimbursement for Compensable Expenses", (August 15, 1996 Edition), Department of Workers Claims.

(2) This material may be inspected, copied, or obtained at the Department of Workers Claims, Monday through Friday, 9 a.m. to 4 p.m., at the following locations:

(a) Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601;

(b) 410 West Chestnut Street, Louisville, Kentucky 40202;

(c) 220B North 8th Street, Paducah, Kentucky 42001; or

(d) 101 Summit Drive, Pikeville, Kentucky 41501.

WALTER W. TURNER, Commissioner

STEPHEN B. COX, General Counsel

APPROVED BY AGENCY: September 15, 1997

FILED WITH LRC: September 15, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on the administrative regulation shall be held on October 21, 1997, at 10 a.m. (ET) in the offices of the Kentucky Department of Workers' Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by October 14, 1997, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments must be received prior to 10 a.m. (ET), on October 21, 1997, in order to receive consideration. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Carla H. Montgomery, Counsel, Kentucky Department of Workers' Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601, Telephone Number: (502) 564-5550, Ext. 465, Fax Number: (502) 564-5934.

REGULATORY IMPACT ANALYSIS

Contact Person: Carla H. Montgomery

(1) Type and number of entities affected: All workers' compensation patients and their medical providers when the patient is off work

more than 60 days, or the treatment lasts longer than 3 months.

(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. The department does not anticipate an effect on cost of living and employment based on the amendments to this regulation.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments were received. The department does not anticipate any effect because of these amendments.

(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 amendments simply update the administrative regulation to comply with the changes made in the December Special Legislative Session with regard to the Workers' Compensation Act. These amendments should not increase or decrease costs.

2. Second and subsequent years: Same as first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The department's normal budget.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:

(a) Geographical area in which administrative regulation will be implemented: No public comments were received, but no impact is expected.

(b) Kentucky: No public comments were received, but no impact is expected.

(7) Assessment of alternative methods; reasons why alternatives were rejected: There is no alternative but for the department to update the regulation and bring into compliance with all the changes made to the Workers' Compensation Act.

(8) Assessment of expected benefits: The administrative regulation will be clearer and in compliance with KRS Chapter 342.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

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

(c) If detrimental effect would result, explain detrimental effect:

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) Tiering: Tiering is not applied because this regulation is equally applied to employers and employees.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Building Codes Enforcement
(Amendment)

815 KAR 7:070. The Kentucky Certified Building Inspector Program. [Requirements for certification of Kentucky Building Code inspectors.]

RELATES TO: KRS 198B.040(3), 198B.050(3)(c), (6), 198B.090
 STATUTORY AUTHORITY: KRS 198B.050(5)

NECESSITY, FUNCTION, AND CONFORMITY: The department is required by KRS 198B.090 to create and administer a building official's certification program which is designed to ensure uniform statewide enforcement of applicable state building codes. This administrative regulation establishes the testing, training and continuing education requirements for qualifying persons to become inspectors for the enforcement of the Kentucky Building Code, and to identify the level of their responsibilities for this enforcement. (two (2) specifically designated professional classifications of building code inspectors: building inspector and plans and specifications inspector. This amendment is necessary to upgrade the criteria for enrolling; actively pursuing certification and for full certification to provide for better qualified inspectors under the Kentucky Building Code.)

Section 1. Definitions. The scope of authority for each classification of inspector identified is specifically limited according to the following description of competency testing and training. Depending on the type and level of inspection responsibility, certification in more than one (1) category may be required.

(1) "Certified building official" means a person who has completed the orientation training and module testing requirements of one (1) or more of paragraphs (a) through (d) of this subsection qualifying the person to issue building permits, review construction documents, issue compliance letters and certificates of occupancy and enforce the code for the type and size of buildings described by Section 5 of this administrative regulation.

(a) "One (1) and two (2) family dwelling inspector" means a person who has been tested for competency under the CABO One (1) and Two (2) Family Dwelling Code by passing NCPCCI test modules 1A and 4A; completed the orientation training required by Section 3(1) and complied with the requirements of this administrative regulation.

(b) "Building inspector, level I" means a person who has been tested for competency under the Kentucky Building Code by passing NCPCCI test modules 1A, 4A, 1B and 3B; completed the orientation training required by Section 3(1) of this administrative regulation and complied with the requirements of this administrative regulation.

(c) "Building inspector, level II" means a person who has been tested for competency under the Kentucky Building Code by passing NCPCCI test modules 1A, 4A, 1B, 3B and 4B; completed the orientation requirements of Section 3(1) of this administrative regulation and complied with the requirements of this administrative regulation.

(d) "Certified plans and specifications inspector, level III" means a person who has been tested for competency under the Kentucky Building Code by passing NCPCCI test modules 1A, 4A, 1B, 1C, 3B, 3C and 4B; completed the orientation requirements of Section 3(1) of this administrative regulation and complied with the requirements of this administrative regulation.

(2) "Enrolled" means that a person is registered with the department and has completed the orientation program required by Section 3(1) of this administrative regulation.

(3) "Limited certificate" means a document establishing that a person is currently enrolled; has passed the test for competency in one (1) or more NCPCCI test modules, and is qualified to engage in the type of limited inspections listed on the certificate which represents the level of competency for which the person was tested.

(4) NCPCCI means "National Certification Program for Construction Code Inspectors" and are exam modules developed by the national code enforcement organizations in collaboration with the Chauncey Group for the purpose of providing nationally recognized evidence of competency and professionalism in construction code enforcement and shall be used to meet the module testing requirements. Other required training or testing, including orientation training, shall be provided through the department. The testing modules are as follows:

- (a) Building One (1) and Two (2) Family - 1A;
- (b) One (1) and Two (2) Family Mechanical - 4A;
- (c) Building General - 1B;
- (d) Fire Protection General - 3B; Building;
- (e) Mechanical - 4B;
- (f) Building Plan Review - 1C;
- (g) Fire Protection Plan Review - 3C;
- (h) Mechanical Plan Review - 4C.

(5) "Registered" means a completed application has been submitted to the department, including all fees and sufficient proof of meeting at least one (1) of the following minimum requirements:

(a) High school graduate or general education diploma (GED); plus three (3) years experience in a responsible directly-related construction position, such as a foreman, requiring the ability to effectively read and interpret building plans and specifications or three (3) years experience in an architect's or engineer's office performing building design or drafting duties; or

(b) College or university graduate with an associate degree in construction related subject; or

(c) College or university graduate with a bachelor degree in architecture, engineering, fire science or building technology; or

(d) Successful passage of at least one (1) examination module listed in subsection (4)(a) through (h) of this section; or

(e) Compliance with applicable local personnel rules of the jurisdiction for which a person is employed which are equal to or more stringent than paragraphs (a), (b), (c), or (d) of this subsection.

(6) "Trainee" means a person who is registered in the building inspector program of the department but has not completed the NCPCCI modules necessary to be a Kentucky Certified Building Official.

Section 2. Inspection Operations. (1) It shall be the intention of this administrative regulation to ensure that all Kentucky Building Code inspection programs require review and approval of construction documents and on-site inspection of buildings by persons who comply with this administrative regulation.

(2) An enrolled trainee who has successfully completed one (1) or more NCPCCI exam module as listed in this administrative regulation may apply for and shall be issued a "limited certificate."

(3)(a) Each governmental entity engaged in a building inspection program shall have in responsible charge of all construction document approvals, inspections and issuance of certificates of occupancy at least one (1) Kentucky Certified Building Official with the level of credentials required for the buildings covered by the program.

(b) Trainees may also be utilized in a building inspection program but trainees shall operate under the general supervision of a Kentucky Certified Building Official. Trainees shall not issue permits, construction document approval letters, inspection compliance letters or certificates of occupancy. Trainees holding current limited certificates, as defined by Section 1(3) of this administrative regulation, may exercise the duties authorized by that certificate.

(4) Plumbing, elevator and electrical inspectors shall not be covered by this administrative regulation; except that these inspection functions may also be provided by a certified building official if the official meets the legal requirements for these types of inspections.

Section 3. Training and Testing Requirements to Become Certified. A candidate seeking certification shall comply with the

provisions of this section.

(1) A candidate seeking to become certified pursuant to this administrative regulation and all trainees shall be required to attend three (3) days of orientation training, provided or approved by the department, within ninety (90) days of registration. The training sessions shall be given quarterly.

(2) Continuing education.

(a) The department shall establish continuing education programs, constituting a minimum of six (6) hours of training annually for the purpose of keeping the inspectors updated on code requirements.

(b) Participation in these programs shall be mandatory for all inspectors and trainees in order to maintain certification and to continue as a trainee.

(c) An inspector shall provide the department with verification of the required continuing education on form HBC BC/CE-1, April, 1996, or other form approved by the department.

(3) The commissioner, in his discretion, may waive the time requirements in this administrative regulation for hardships shown or if circumstances warrant a waiver due to changes in testing procedures, standards or dates or other reasons which would render strict application unfair.

Section 4. Application for Training and Certification. (1) A person seeking to become a trainee or a candidate for certification pursuant to this administrative regulation shall submit an application on form HBC BC/CP-1, April, 1996, together with a fee of twenty-five (25) dollars to cover the administrative costs of processing the application, establishing the training program and issuing certificates.

(2) A certified inspector and trainee, including an inspector holding a limited certificate, shall be required to pay an annual renewal fee of twenty-five (25) dollars not later than June 30 of each year in order to maintain certification and to continue to be registered.

(3) A person shall not engage in any inspection activities for the enforcement of the Kentucky Building Code, or the CABO One (1) and Two (2) Family Dwelling Code as adopted within the Kentucky Building Code for application to single family and two (2) family dwellings, unless that person is currently registered with the department and has otherwise complied with the requirements of this administrative regulation.

Section 5. Responsibilities and Jurisdiction for Inspectors. (1) One (1) and two (2) family inspector. A one (1) and two (2) family inspector shall be qualified to perform all functions related to the enforcement of the CABO One (1) and Two (2) Family Dwelling Code, including but not limited to issuing permits, reviewing and approving construction documents, conducting on-site inspections and issuing compliance letters and certificates of occupancy for the construction of single family residences and duplexes, only.

(2) Certified building inspector, level I shall be qualified to perform all functions related to the enforcement of the Kentucky Building Code, including but not limited to issuing permits, reviewing and approving construction documents, making on-site inspections, and issuing compliance letters and occupancy certificates for all buildings of the occupancy type and size assigned to local governments by KRS 198B.060(2).

(3) Certified building inspector, level II.

(a) A certified building inspector, level II shall be qualified to perform functions related to the enforcement of the Kentucky Building Code for all buildings of the occupancy type and size assigned to local government under KRS 198B.060(2) including but not limited to issuing permits, reviewing and approving construction documents, making on-site inspections, and issuing compliance letters and certificates of occupancy.

(b) A certified building inspector, level II shall be qualified to make on-site inspections of all buildings which were assigned to the department pursuant to KRS 198B.060(4).

(c) A local official may perform the function listed in paragraph

(3)(b) of this section upon petitioning to and approval of more inspection responsibility by the department pursuant to KRS 198B.060(5) and (6).

(4) Plans and specifications inspector, level III. A plans and specifications inspector, level III shall be qualified to perform all functions relating to the enforcement of the Kentucky Building Code, including but not limited to issuing permits, reviewing and approving construction documents, making on-site inspections and issuing compliance letters and certificates of occupancy for all buildings, regardless of size or occupancy type. A local inspector shall not be authorized to perform these functions on buildings assigned to the department by KRS 198B.060(4), except by petition to and approval of more inspection responsibility by the department pursuant to KRS 198B.060(5) and (6).

(5) Trainees and limited certificates.

(a) A person making inspections pursuant to a limited certificate or as a trainee without a certificate, shall be supervised by a Kentucky Certified Building Official.

(b) A trainee or a person with a limited certificate shall not issue permits, construction document approval letters, compliance letters or certificates of occupancy, or make any official or final determinations relating to the Kentucky Building Code.

(6) A person making inspections as authorized by this administrative regulation shall not overrule, supplant or order any corrections or alterations which conflict with the approved construction documents. If an inspector believes that the construction documents are wrong or that the construction is in violation of the code, the inspector shall immediately refer the matter to the certified building official responsible for approval of the construction documents for resolution.

Section 6. Suspension and Revocation of Certification. (1) Formal written complaints concerning an inspector must be submitted to the Department of Housing, Buildings and Construction for review and appropriate action.

(2) Action shall not be taken against a building inspector governed under this administrative regulation until a hearing has been held in accordance with KRS Chapter 13B and the commissioner determines that the inspector is not enforcing the Kentucky Building Code, improperly enforcing the code or violating his responsibilities as an inspector, as required by law.

Section 7. Grandfather Clause. (1) A person who is currently certified as a level I, II or III inspector or who holds a limited certificate on the effective date of this administrative regulation, shall not be required to take additional test modules to renew the certification, but each inspector and certificate holder shall complete the orientation training and continuing education requirements as set forth in Section 3(1) and (2) of this administrative regulation, prior to renewal of the certificate.

(2) A person who is certified on the effective date of this administrative regulation, but who seeks to achieve a higher level of certification shall comply with the new testing modules required by this administrative regulation.

(3) A person who is registered with the department prior to the effective date of this administrative regulation may continue to pursue certification, but shall comply with the applicable testing modules required by Section 1(1) of this administrative regulation within one (1) year from the effective date of this administrative regulation or those persons shall be considered as and shall meet the requirements for a "trainee".

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form AHBC-BC/CE 1, April 24, 1996; and

(b) Form AHBC-BC/CP 1, April 24, 1996.

(2) This material may be inspected, copied or obtained at the Department of Housing, Buildings and Construction, 1047 U.S. 127

South, Frankfort, Kentucky, Monday through Friday from 8 a.m. to 4:30 p.m. [Definitions and Categories of Inspectors. The scope of authority for each category of inspector identified is specifically limited according to the following description of responsibilities. Depending on the type and level of inspection responsibility, certification in more than one (1) category may be required.

(1) "Actively pursuing departmental certification" means that each person who is seeking certification pursuant to this administrative regulation shall sit for examination of at least one (1) module of the NCPGCI as defined in subsection (5) of this section, per year. Failure of any candidate to receive a passing score on each required module within three (3) years of employment shall terminate that person's ability to qualify under this definition. Limited certificates as defined in subsection (4) of this section, may continue to be renewed after three (3) years. EXCEPTION: The commissioner, in his discretion, may waive the literal requirements of this subsection, as applied to an entire class of candidates, whenever circumstances warrant a waiver because changes in testing procedures, standards or dates or other reasons would render strict application unfair.

(2) "Certified building inspector" means a person classified under this definition as either a level I, level II or level III building inspector whose responsibility it is to inspect buildings as part of a permit application, to determine that the structures are free from conditions that would present a life safety, health or fire hazard to persons using the buildings, and to determine that the buildings are constructed in accordance with the Kentucky Building Code.

(a) "Level I inspector" means a person who has been tested for competency in NCPGCI modules 1B and 3B and otherwise met the requirements of this administrative regulation. This person shall be deemed qualified to review and approve plans and make on-site inspections only on those buildings which are the responsibility of local governments under KRS 198B.060(2).

(b) "Level II inspector" means a person who has been tested for competency in NCPGCI modules 1B, 3B and 4B and otherwise met the requirements of this administrative regulation. This person shall be deemed qualified to review and approve plans for buildings which are the responsibility of local government under KRS 198B.060(2) and to make on-site inspections of all buildings, regardless of size, pursuant to KRS 198B.060(4).

(3) "Certified plans and specifications inspector (level III inspector)" means a person whose responsibility it is to determine that the plans submitted as part of a building permit application comply with the Kentucky Building Code and referenced standards, and who has been tested for competency in NCPGCI modules 1B, 1C, 3B, 3C and 4B and otherwise met the requirements of the department as set forth in this administrative regulation. This person shall also be deemed qualified to review and approve plans and to make on-site inspections of all buildings, regardless of size, within the inspector's jurisdiction as established pursuant to KRS 198B.060 to determine if those buildings are constructed in accordance with the plans and in accordance with the Kentucky Building Code.

(4) "Limited certificate" means a document issued by the department which represents the level of competency for which a person has been tested. This certificate shall be issued only after the person has met the training requirements stated in Section 3 of this administrative regulation.

(5) NCPGCI means "National Certification Program for Construction Code Inspectors" and are exam modules developed by the national code enforcement organizations in collaboration with the Educational Testing Service for the purpose of providing nationally recognized evidence of competence and professionalism in construction code enforcement and shall be used to meet the module testing requirements required herein. Other required training or testing shall be provided through the department.

Section 2. Inspection Operations. (1) It is the specific intention of this administrative regulation to ensure that all Kentucky Building

Code inspection programs require plan review and on-site inspection of buildings only by persons who comply with this administrative regulation.

(2) Any person who has successfully completed any NCPGCI exam module as listed in this administrative regulation may apply for a "limited certificate." The certificate shall be issued and shall qualify the individual only for that inspection or plan review function on which the individual has been tested. For example, persons holding a limited certificate for NCPGCI Module Building One (1) and Two (2) Family-1A are deemed qualified to inspect and review plans for single family and duplex residential buildings only. Each person must renew the certification as required by Section 5(2) of this administrative regulation and otherwise comply with this administrative regulation.

(3) Each local government and the department shall provide for the services of certified inspectors. In circumstances where the governmental entity chooses to distribute the inspection or plan review functions to more than one (1) person, each person shall be certified in the respective area of responsibility.

(4) Certification of plumbing, elevator and electrical inspectors are not covered by this administrative regulation.

Section 3. Training and Testing Requirements to Become Certified as a Kentucky Building Code Inspector. Each candidate seeking certification shall comply with the provisions of this section:

(1) Each candidate seeking to become certified pursuant to this administrative regulation shall be required to be trained or tested on the administrative and accessibility sections of the Kentucky Building Code as set forth in 815 KAR 7:010 and 7:060.

(2) Each candidate seeking certification shall successfully complete the NCPGCI exam module which is applicable to the category of inspector which the candidate is applying for. Unless the candidate qualifies as actively pursuing departmental certification under Section 4 of this administrative regulation, no person shall be responsible for any inspection or plan review activity unless the candidate has been tested and passed the appropriate tests. The testing modules are as follows:

- (a) Building One (1) and Two (2) Family-1A;
- (b) Building General-1B;
- (c) Fire Protection General-3B;
- (d) Building Plan Review-1C;
- (e) Fire Protection Plan Review-3C;
- (f) Mechanical-4B.

(3) Continuing education. The department shall establish continuing education programs for the purpose of keeping the inspectors updated on code requirements. Participation in these programs shall be mandatory for all inspectors in order to maintain certification.

Section 4. Minimum Requirements for Certification. (1) All persons charged with the responsibility of inspecting buildings or reviewing building plans for compliance with the Kentucky Building Code shall be certified or enrolled and actively pursuing departmental certification within ninety (90) days after employment of the inspector. All persons shall register with the department, complete the necessary application forms and pay the required fees stated in Section 5 of this administrative regulation, within the ninety (90) day timetable.

(2) Except where personnel rules have been established by local ordinance, the minimum requirements set forth in paragraphs (3)(a) through (d) of this section shall apply:

(3) No applicant shall be enrolled for the purpose of actively pursuing certification unless and until the applicant shows proof that he possesses at least one (1) of the following credentials:

- (a) High school graduate or general education diploma (GED); plus three (3) years experience in a responsible directly related construction position, such as a foreman, requiring the ability to effectively read and interpret building plans and specifications, or three (3) years experience in an architect's or engineer's office

performing building design or drafting duties; or

(b) ~~College or university graduate with an associate degree in construction-related subject; or~~

(c) ~~College or university graduate with a bachelor degree in architecture, engineering, fire science or building technology; or~~

(d) ~~Successful passage of at least one (1) examination module listed in Section 3(2) of this administrative regulation.~~

(4) ~~If an applicant seeks to be enrolled to actively pursue certification and he does not meet at least one (1) of the requirements in subsection (3)(a) through (d) of this section, he shall show proof that he complies with the personnel rules of the jurisdiction for which he is employed.~~

~~Section 5. Application for Training and Certification. (1) Each person seeking to become a candidate for certification pursuant to this administrative regulation shall submit an application on a form provided by the department, together with a fee of twenty-five (25) dollars to cover the administrative costs of processing the application, establishing the training program and issuing certificates.~~

~~(2) Each certified inspector and each candidate enrolled and actively pursuing certification shall be required to pay an additional annual renewal fee of twenty-five (25) dollars no later than June 30, of each year in order to maintain certification.~~

~~Section 6. Suspension and Revocation of Certification. (1) Formal written complaints concerning an inspector must be submitted to the Department of Housing, Buildings and Construction for review and appropriate action.~~

~~(2) No action shall be taken against any building inspector governed under this administrative regulation unless after a hearing to review the inspector's procedures, the department determines that the inspector is not enforcing the Kentucky Building Code.~~

~~Section 7. "Grandfather Clause." Any person enrolled and actively pursuing certification prior to the effective date of this amended administrative regulation shall be governed by the applicable requirements of the law in existence at the time of their enrollment or certification.]~~

CHARLES A. COTTON, Commissioner

LAURA M. DOUGLAS, Secretary

JUDITH G. WALDEN, Office of General Counsel

APPROVED BY AGENCY: September 10, 1997

FILED WITH LRC: September 15, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, October 21, 1997 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 14, 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person.

Contact Person: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact Person: Judith G. Walden

(1) Type and number of entities affected: All persons interested in being employed to review plans or make inspections under the Kentucky Building Code and all local government and state government with code enforcement 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: This amendment will have no impact on either cost of living or employment in the state.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No costs or savings involved as stated above.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: The amendment itself will not increase costs or paperwork.

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: Sole effect on department is to create a broader but more competent pool of building officials.

(a) Direct and indirect costs or savings: There are no direct or indirect costs or savings involved.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional paperwork requirements created by this amendment.

(4) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on state or local revenue.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Certification fees will cover the administrative costs involved.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Statewide implementation.

(b) Kentucky: Statewide implementation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternate method of certification is to have similar training and testing for all levels of certified inspectors but chose tiering because level of expertise varies with size and type of occupancy of buildings.

(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 effect on public health or environmental welfare created by this amendment; however, public safety will be greatly enhanced by greater assurance of qualified inspectors.

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

(c) If detrimental effect would result, explain detrimental effect: Detrimental effect could be to public safety in inspections.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no known conflicting law.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. There are 3 levels of inspector expertise for 2 different jurisdictional levels (less credentials for small buildings with less occupants and more for larger, more complex structures). Plan review of larger more complex structures

need the highest level of qualifications.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Building Codes Enforcement
(Amendment)

815 KAR 7:105. Kentucky Building Code/1997.

RELATES TO: KRS 198B.010, 198B.040, 198B.050, 198B.060, 198B.080, 198B.110, 198B.260, 198B.990

STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.040(7) requires the board to adopt a mandatory uniform state building code to establish standards for the construction of all buildings in the state. This administrative regulation incorporates by reference the Kentucky Building Code, Seventh Edition 1997.

Section 1. Incorporation by Reference. (1) "The Kentucky Building Code", (Seventh Edition - 1997), as amended September 15, 1997, by the Kentucky Board of Housing, Buildings and Construction, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Kentucky Department of Housing, Buildings, and Construction, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CHARLES A. COTTON, Commissioner

LAURA M. DOUGLAS, Secretary

JUDITH G. WALDEN, Office of General Counsel

APPROVED BY AGENCY: September 10, 1997

FILED WITH LRC: September 15, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, October 21, 1997 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 14, 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person.

Contact Person: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact Person: Judith G. Walden

(1) Type and number of entities affected: Contractors, architects, engineers, design professionals.

(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 costs or savings involved because administrative regulation only establishes acceptability and sets standards.

(b) Cost of doing business in the geographical area in which the

administrative regulation will be implemented: No costs or savings involved as stated above.

(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 to users of KBC.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Cost of printing KBC but this is recouped by the sale of the Code books.

2. Continuing costs or savings: Cost of printing revised or updated pages.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Paperwork requirements to agency involve updating code by reprinting and distributing to purchasers.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Plan review fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Kentucky Building Code is used and enforced state-wide.

(b) Kentucky: Statewide

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative option available; Board of Housing adopts or amends material within defined limits.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Public safety concerns.

(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: Without a building code, construction would not conform to the latest safety standards listed and confusion over some provisions would make design more difficult.

(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 known conflict of statute or policy.

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. Tiering was applied in that the mandatory requirements for buildings are different depending upon the occupancy type and number of persons occupying a building; building size and construction type.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect a part of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation will affect local government where there is a local building inspection program. KRS 198B.060 requires local government to provide for building officials to enforce the Kentucky Building Code.

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: There is no increased fiscal impact created by this regulation, nor does it increase the number of persons needed by local government. State revenues are neither increased nor decreased by this administrative regulation.

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

815 KAR 8:010. Master heating, ventilation, and air conditioning (HVAC) contractor licensing requirements.

RELATES TO: KRS 198B.650 - 689

STATUTORY AUTHORITY: KRS 198B.654

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.654 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations requiring persons engaged in the heating, ventilation and air conditioning (HVAC) contracting business to be licensed effective July 1, 1995. This administrative regulation sets forth the required proof of experience, examination, fees, application form and other administrative requirements for licensing HVAC contractors. This amendment is necessary to reduce the passing grade on the master examination because the board found that seventy-five (75) percent was excessively restrictive.

Section 1. Definitions. (1) "Master HVAC contractor" or "master" as defined by KRS 198B.650(12) and is authorized to contract for and engage in the business of installation, maintenance, altering, remodeling and repair of HVAC systems. If the individual is representing a company, the license issued in the name of the individual shall also name the company.

(2) "Journeyman HVAC mechanic" or "journeyman" as defined by KRS 198B.650(10) and is authorized to install, maintain, alter, remodel, and repair heating systems, ventilation systems, hydronic systems, burner service or cooling systems, under the supervision of a master.

(3) "Supervise" means exercising authority and responsibility for the direction of all persons engaged in carrying out the actual work on HVAC systems, including the authority to exercise independent judgment regarding activities of others acting under his direction.

Section 2. General Requirements. (1) Mandatory licensure. Any person, other than one exempted by KRS 198B.674, who is engaged in the business of HVAC contracting shall comply with applicable administrative regulations of the board set forth in this administrative regulation.

(2) Continuing education. Beginning July 1, 1996, each licensee shall complete ten (10) hours of continuing education, approved by the board, prior to renewal of the license for the next year.

(3) Supervision. The master shall supervise and be primarily responsible for all HVAC work performed by the employees and subcontractors of the licensee. The master shall assign each apprentice to the oversight of one (1) or more journeyman. The master shall not personally engage in actual installation, maintenance, alteration or remodeling or repair unless the master also possesses a journeyman license.

(4) Company license. A licensee who is an employee of a company whom the licensee is representing shall notify the board, in writing, if the licensee ceases to represent the company or if the name of the company changes, requesting a change of information on his license and paying the change of information fee listed in

Section 7(5) of this administrative regulation.

Section 3. Initial Application Requirements. (1) Filing the application. An [Each] applicant seeking a master HVAC contractor license shall meet all of the following application requirements:

(a) An [The] applicant shall submit the Master HVAC Contractor License Application on Form HVAC 1, September, 1995, ~~hereby incorporated by reference, to the Department of Housing. Copies of the application form are available at the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky, between 8 a.m. and 4:30 p.m., Monday through Friday.~~

(b) The completed application form shall be accompanied by a nonrefundable initial license application fee of \$100; and

(c) An [The] applicant shall submit proof of satisfactory completion of the examination required by Section 4 of this administrative regulation; and

(d) An [The] applicant shall be an individual; and

(e) An [The] applicant shall have and shall verify to the board the applicant's experience as a contractor in the business of installation, alteration, maintenance and performance of repairs and alteration of HVAC systems, as required by Section 5 of this administrative regulation; and

(f) An [The] applicant shall supply a certificate of insurance showing general liability insurance in the minimum amount of \$500,000, including at least \$300,000 for property damage. The named insurance carrier shall be a company which holds a certificate of authority from the Kentucky Department of Insurance; and

(g) If the applicant is an employee representing a company, the company name shall be stated on the application form. The company may provide the insurance certificates required by paragraph (f) of this subsection and shall be subject to this administrative regulation.

(2) Termination of application. The initial application shall remain pending until all requirements are met, up to a period of one (1) year after the date the application is submitted. At the end of one (1) year, the application shall be void.

Section 4. Examination Requirements. An [Each] applicant shall take and pass the examination administered in compliance with this section.

(1) The examination shall test the applicant's knowledge of codes, standards, laws and administrative regulations and of current technological and industry recommended practices with respect to the proper installation, maintenance, repair, remodeling or alteration of all types of HVAC systems.

(2) Reasonable accommodations will be made where necessary to provide accessibility to disabled applicants, upon request; and oral examinations may be given upon good cause shown.

(3) An [The] applicant shall successfully complete the test known as "Kentucky Master Heating, Ventilation and Air Conditioning Contractor Examination" with a passing grade of seventy (70) percent; or, an [the] applicant shall pass another test or method of examination deemed equivalent by and approved by the board.

(4) Requests to sit for the examination shall be made directly to the testing company, Block and Associates, 5209 Linbar Drive, Suite 626, Nashville, Tennessee 37211, or other testing agency approved by the board.

(5) The examination fee shall be fifty (50) dollars and shall accompany the application for examination.

(6) The examination shall be provided and administered by the approved testing agency as often as necessary but at least four (4) times a year at various locations.

(7) ~~[An applicant shall not retake an examination less than sixty (60) days from the date of his last examination.]~~

(8) A passing score on the examination shall be valid for a period of two (2) years.

Section 5. Experience Requirements. An applicant [All applicants]

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shall meet the experience requirements of this section.

(1) Minimum experience. An [Each] applicant shall have at least two (2) years experience. Applicants shall receive credit for experience as follows:

(a) Credit for experience in the HVAC business obtained after July 1, 1995, shall be for HVAC work under the supervision of a master.

(b) Credit for experience obtained prior to July 1, 1995 shall be for HVAC work as an actively engaged and lawfully established self-employed HVAC contractor/mechanic and for work as an actively engaged and lawfully qualified mechanic under another HVAC contractor.

(2) Records of experience. An applicant's experience shall be listed on the application form. Additional proof of experience may be requested by the board, prior to or after licensing, if the board has reason to believe that the experience shown is insufficient or nonexistent.

Section 6. Renewal and Reactivation Requirements and Procedures. (1) Except for licenses placed in inactive status, application for license renewal shall be filed by each licensee no later than June 30 of each year.

(2) A renewal fee of fifty (50) dollars shall be paid prior to renewal. The department shall send renewal application cards to each licensee each year to be returned, together with the required fee.

(3) Renewal applications filed late, but no later than September 29, shall be accepted, but a restoration fee shall be added to the renewal fee.

(4) Failure to renew by September 29 shall void the license and the applicant shall comply with all requirements for a new license pursuant to Section 3 of this administrative regulation.

(5) Licenses which have been placed in inactive status are exempt from annual renewal. They shall be reactivated upon payment of a renewal fee for the year reactivated, the reactivation fee and compliance with continuing education requirements for each year of inactive status.

(6) The application for renewal or reactivation of a licensed master HVAC contractor shall be denied if any of the following occur:

(a) The applicant fails to pay the fees required for renewal, reactivation and restoration, if applicable; or

(b) The applicant fails to comply with the continuing education requirements of the board; or

(c) The applicant fails to provide the current insurance certificate.

Section 7. Special Service Fees. In addition to other fees required by this administrative regulation, the following fees shall also be applied:

(1) Restoration fee. The fee for renewal of expired licenses shall be fifty (50) dollars.

(2) Inactive status fee. A licensee may place his license in "inactive status" upon payment of twenty (20) dollars. Inactive status shall be maintained until such time as the licensee requests reactivation.

(3) Reactivation fee. A license shall be reactivated upon payment of a fee of twenty (20) dollars and compliance with Section 6(5) of this administrative regulation.

(4) Duplicate license fee. Verified lost or destroyed licenses shall be replaced upon payment of a ten (10) dollar fee.

(5) Change of information fee. The fee for the change of information required by Section 2(4) of this administrative regulation shall be fifteen (15) dollars. If a change of information request is simultaneous with license renewal, this fee shall not be applicable.

Section 8. Revocation or Suspension of Licenses. A license issued pursuant to this administrative regulation may be suspended or revoked by the board for any of the reasons stated in KRS 198B.672.

Section 9. Material Incorporated by Reference. (1) Form HVAC 1, September, 1995, Master HVAC Contractor License Application.

(2) Copies of the application form may be obtained from, examined or copied at the Department of Housing, Buildings and Construction, HVAC Program, 1047 U.S. 127 South, Suite 1, Frankfort, Kentucky 40601, between 8 a.m. and 4:30 p.m., Monday through Friday.

CHARLES A. COTTON, Commissioner

LAURA M. DOUGLAS, Secretary

JUDITH G. WALDEN, General Counsel

APPROVED BY AGENCY: August 6, 1997

FILED WITH LRC: August 27, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 1997, at 10 a.m., local time, in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency, in writing, by October 14, 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 in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden, General Counsel

(1) Type and number of entities affected: All new applicants for licensure.

(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: This amendment does not affect the cost of living.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No impact on cost of doing business.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: This is a licensing program which does not involve permits and no additional paperwork is required.

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: No costs or savings as a result of this amendment.

2. Continuing costs or savings: No costs or savings as a result of this amendment.

3. Additional factors increasing or decreasing costs: There are no additional factors.

(b) Reporting and paperwork requirements: Regular processes used.

(4) Assessment of anticipated effect on state and local revenues: No effect on local revenue.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Renewal License fee of \$50 each for 3500 HVAC contractors.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Statewide

(b) Kentucky: Statewide

(7) Assessment of alternative methods; reasons why alternatives were rejected: All test applicants need same passing score.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Licensing HVAC contractors will improve the safety and health of the public throughout the state by establishing minimum requirements for engaging in the HVAC business. A lower score will assure competency without being too stringent.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There would be no detrimental effect if amendment not implemented.

(c) If detrimental effect would result, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 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 reference material is not being amended. The "incorporated" section is being relocated in compliance with drafting rules.

(11) TIERING: Is tiering applied? Yes. Any applicant can now retake an examination sooner than 60 days.

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

815 KAR 8:020. Journeyman heating, ventilation, and air conditioning (HVAC) mechanic licensing requirements.

RELATES TO: KRS 198B.650 - 689

STATUTORY AUTHORITY: KRS 198B.654

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.654 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations requiring persons engaged in the heating, ventilation and air conditioning (HVAC) installation and repair business to be licensed effective July 1, 1995. This administrative regulation sets forth the required proof of experience, examination, fees, application form and other administrative requirements for licensing journeyman HVAC mechanics. This amendment is necessary to extend continuing education requirements by one (1) year and to include the teaching experience of an HVAC teacher as equal to one (1) year work experience. This amendment is in compliance with HB 189 of the 1996 General Assembly.

Section 1. Definitions. (1) "HVAC" means heating, ventilation and air conditioning, hydronic and burner service systems as defined in KRS 198B.650(1), (2), (8), (9) and (15).

(2) "Master HVAC contractor" or "master" as defined by KRS 198B.650(12) and is authorized to contract for and engage in the business of installation, maintenance, altering, remodeling and repair of HVAC systems.

(3) "Journeyman HVAC mechanic" or "journeyman" as defined by KRS 198B.650(10) and is authorized to install, maintain, alter, remodel, and repair heating systems, ventilation systems, hydronic systems, burner service or cooling systems, under the supervision of a master HVAC contractor.

Section 2. General Requirements. (1) Mandatory licensure. ~~A [Effective July 1, 1995, any]~~ person engaging in HVAC work shall

comply with the applicable requirements in this administrative regulation.

(2) Continuing education. Beginning July 1, 1997, each journeyman licensee shall complete ten (10) hours of continuing education, approved by the board, prior to renewal of the license for the next year.

(3) The journeyman shall be physically on site, personally observe and be responsible for each apprentice assigned to the journeyman in carrying out the installation, alteration and repair of HVAC systems and shall otherwise operate under the general direction of the master.

Section 3. Initial Application Requirements. (1) Filing the application. An [Each] applicant seeking a journeyman license shall meet all of the following application requirements:

(a) An [The] applicant shall submit the journeyman HVAC Mechanic Application on Form HVAC 2, September, 1995, ~~hereby incorporated by reference, to the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite 1, Frankfort, Kentucky, between 8 a.m. and 4:30 p.m., Monday through Friday.~~

(b) The completed application shall be accompanied by a nonrefundable initial license application fee of fifty (50) dollars; and
(c) An [The] applicant shall submit proof of satisfactory completion of the examination required by Section 4 of this administrative regulation; and

(d) An [The] applicant shall be an individual; and

(e) An [The] applicant shall have and shall verify to the board the applicant's experience in the installation, alteration, maintenance and performance of repairs on and alteration of HVAC systems, as required by Section 5 of this administrative regulation; and

(2) Termination of application. The initial application shall remain pending until all requirements are met up to a period of one (1) year after the date the application is submitted. At the end of one (1) year, the application shall be void.

Section 4. Examination Requirements. An [Each] applicant shall take and pass the examination administered in compliance with this section.

(1) The examination shall test the applicant's basic knowledge of codes, standards and of current technological and industry recommended practices with respect to the proper installation, maintenance, repair, remodeling or alteration of HVAC systems.

(2) Reasonable accommodations will be made where necessary to provide accessibility to disabled applicants, upon request; and oral examinations may be given upon good cause shown.

(3) An [The] applicant shall successfully complete the test known as "Kentucky Journeyman Heating, Ventilation and Air Conditioning Mechanic Examination" with a passing score of seventy (70) percent; or, the applicant shall pass another test or method of examination deemed equivalent by and approved by the board.

(4) Requests to sit for the examination shall be made directly to the testing company, Block and Associates, 5209 Linbar Drive, Suite 626, Nashville, Tennessee 37211, or other testing agency approved by the board.

(5) The examination fee shall be forty (40) dollars and shall accompany the application for examination.

(6) The examination shall be provided and administered by the approved testing agency as often as necessary but at least four (4) times a year at various locations.

(7) ~~[An applicant shall not retake an examination less than sixty (60) days from the date of his last examination.]~~

(8) A passing score on the examination shall be valid for a period of two (2) years.

Section 5. Experience Requirements. An applicant ~~[All applicants]~~ shall meet the experience requirements of this section. (1) Minimum experience. An [Each] applicant shall have at least two (2) years

experience. Applicants shall receive credit for experience as follows:

(a) Credit for experience working in the HVAC trades obtained after July 1, 1995, shall be HVAC work under the supervision of a master.

(b) Credit for experience obtained prior to July 1, 1995 shall be for work as an actively engaged and lawfully qualified self-employed contractor/mechanic and for work under another Kentucky HVAC contractor.

(c) Credit for completion of one (1) year of teaching experience in a board or state approved HVAC technical education program shall be considered equivalent to one (1) year employment.

(2) Records of experience. Additional proof of experience may be requested by the board, prior to or after licensing, if the board has reason to believe that the experience shown is insufficient or nonexistent.

(3) A minimum of 3,000 work hours to be completed as part of the two (2) years experience requirement of subsection (1) of this section.

(4) Education may be substituted for experience, pursuant to KRS 198B.658(4), subject to the prior approval of the board.

Section 6. Renewal Requirements and Procedures. (1) Applications for license renewal shall be filed by each licensee no later than June 30 of each year.

(2) A renewal fee of twenty-five (25) dollars shall be paid prior to renewal. The department shall send renewal application cards to each licensee each year.

(3) Renewal applications filed late, but no later than September 29, shall be accepted, but a restoration fee shall be added to the renewal fee.

(4) Failure to renew by September 29 shall void the license and the applicant shall comply with all requirements for a new license pursuant to Section 3 of this administrative regulation.

(5) An [The] application for renewal of a licensed journeyman HVAC mechanic shall be denied if any of the following occur:

(a) An [The] applicant fails to pay the fees required for renewal and restoration, if applicable; or

(b) An [The] applicant fails to comply with the continuing education requirements of the board.

Section 7. Special Services and Fees. In addition to the initial license application fee, examination fee, and renewal fee, the following special fees shall be applied:

(1) Restoration fee. The fee for renewal of expired licenses, pursuant to Section 6(3) of this administrative regulation, shall be twenty-five (25) dollars.

(2) Duplicate license fee. Verified lost or destroyed licenses shall be replaced upon payment of a ten (10) dollar fee.

Section 8. Revocation or Suspension of License. A license issued pursuant to this administrative regulation may be suspended or revoked by the board for any of the reasons stated in KRS 198B.672.

Section 9. Material Incorporated by Reference. (1) Form HVAC 2, September, 1995. Journeyman HVAC Mechanic Application.

(2) Copies of the application form may be obtained from, examined or copied at the Department of Housing, Buildings and Construction, HVAC Program, 1047 U.S. 127 South, Suite 1, Frankfort, Kentucky 40601, between 8 a.m. and 4:30 p.m., Monday through Friday.

CHARLES A. COTTON, Commissioner

LAURA M. DOUGLAS, Secretary

JUDITH G. WALDEN, General Counsel

APPROVED BY AGENCY: August 6, 1997

FILED WITH LRC: August 27, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 1997, at 10 a.m., local time,

in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency, in writing, by October 14, 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 in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden, General Counsel

(1) Type and number of entities affected: All licensed HVAC journeyman and all applicants for HVAC journeyman license.

(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: This amendment does not affect the cost of living.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No impact on cost of doing business.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: This is a licensing program which does not involve permits and no additional paperwork is required.

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: No costs or savings as a result of this amendment.

2. Continuing costs or savings: No costs or savings as a result of this amendment.

3. Additional factors increasing or decreasing costs: There are no additional factors.

(b) Reporting and paperwork requirements: Regular processes used.

(4) Assessment of anticipated effect on state and local revenues: No affect on revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: License fees of journeyman mechanics.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Statewide

(b) Kentucky: Statewide

(7) Assessment of alternative methods; reasons why alternatives were rejected:

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: By removing the overly restrictive 60 days between opportunities to test, more licensed HVAC journeyman mechanics will be available sooner.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There would be no detrimental effect if not implemented, except to individual applicants and masters

for whom they might work.

(c) If detrimental effect would result, explain detrimental effect:

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

(a) Necessity of proposed regulation if in conflict: 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 reference material is not being amended. The "incorporated" section is being relocated in compliance with drafting rules.

(11) TIERING: Is tiering applied? No. All applicants may now retake an examination sooner than 60 days.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of the State Fire Marshal
(Amendment)

815 KAR 15:027. Certificates and fees for boiler and pressure vessel inspection.

RELATES TO: KRS Chapter 236

STATUTORY AUTHORITY: KRS 236.030, 236.130 [~~236.120~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 and 236.130 [~~236.120~~] authorizes the commissioner, through the Board of Boiler and Pressure Vessel Rules, to fix reasonable inspection fees for boilers and pressure piping. This administrative regulation specifies fees for the boiler inspection section. These are the same fee amounts previously existing in 815 KAR 15:020, which has been repealed.

Section 1. Boiler Certificates of Inspection. (1) A boiler or pressure vessel complying with the rules of the department shall be issued the certificate required by KRS 236.130 [~~236.120(1)~~] upon payment of a fifteen (15) dollar fee.

(2) If the owner or user of the boiler or pressure vessel required to be inspected refuses to allow an inspection to be made or refuses to pay the required fee, the inspection certificate shall be suspended by the commissioner until the owner or user complies with the requirements.

(3) If the owner or user operates a boiler or pressure vessel without possessing a valid certificate of inspection, the owner or user shall be subject to the penalties provided for in KRS 236.990.

(4) Certificates shall be located as required by KRS 236.120(1).

(5) Validity of inspection certificates. An inspection certificate, issued in accordance with KRS 236.120, shall be valid until expiration unless a defect or condition affecting the safety of the boiler or pressure vessel is disclosed. A certificate issued for a boiler or pressure vessel inspected by a special boiler inspector shall be valid only if the boiler for which it was issued continues to be insured by an authorized insurance company.

(6) Suspension of certificate of operations. Certificates shall be suspended in accordance with KRS 236.120(3).

Section 2. Fees. (1) Following an inspection, the owner or user of a boiler, pressure vessel or pressure piping, unless exempt under KRS 236.060, shall pay to the department fees in accordance with this section. The fees for new installations of boilers, pressure vessels or pressure piping and fees for repairs shall be in accordance with the fees listed in subsection (5) of this section and shall be submitted by the contractor prior to installation.

(2) Shop inspections made by boiler inspectors for purposes of inspecting the fabrication of the vessel at the request of a boiler manufacturer, installer, engineering contractor or owner shall be charged at the following rates:

(a) \$150 for one-half (1/2) day of four (4) hours or less.

(b) \$200 for one (1) day of over four (4) hours.

(c) \$240 for eight (8) hours or any part of a day on Saturdays, Sundays or public holidays.

(d) Thirty (30) dollars per hour for overtime in excess of eight (8) hours in any one (1) day, plus itemized expenses to include mileage, lodging, meals and incidentals. These charges shall not void regular fees for inspection and certificate when the boilers or pressure vessels are completed.

(3) Charges for inspection of second-hand equipment shall be at the rates specified above plus charges for mileage, lodging, meals and incidentals. These charges shall not void regular fees for inspection and certificate when the boilers or pressure vessels are installed.

(4) ASME and national board inspections. Inspections of the manufacturing facility itself, at the request of the manufacturer, for the issuance of ASME or National Board Certificates of Authorization shall be charged as follows:

(a) Initial inspection for ASME certificates - \$1,200 [~~\$1,000~~].

(b) Reviews for renewal of ASME certificates - \$950 [~~\$750~~].

(c) Initial inspections and renewals for National Board R or VR certificate - \$400 [~~\$200~~].

(5) Inspection of new installations of pressure piping, boilers or pressure vessels shall be charged as follows:

(a) The fees charged for inspection of each boiler or pressure vessel and each pressure piping system shall be based upon the total dollar value of each installation, either actual or estimated. It shall be the obligation of the installing contractor to supply this value which shall include both labor and material costs. An exact figure does not need to be quoted or divulged to the boiler inspector or department, only a designation that the true value lies within certain limits as listed in the left column of the table below. The fees for all new installations of boilers, pressure vessels or pressure piping and fees for repairs are listed in the right column of the table.

Amount in Dollars	Fee
\$2,000 or less	<u>\$70</u> [60]
\$2,001 to \$10,000	<u>\$100</u> [90]
\$10,001 to \$25,000	<u>\$130</u> [120]
\$25,001 to \$50,000	<u>\$160</u> [150]
\$50,001 to \$75,000	<u>\$210</u> [200]
\$75,001 to \$100,000	<u>\$310</u> [300]
\$100,001 to \$150,000	<u>\$410</u> [400]
\$150,001 to \$200,000	<u>\$510</u> [500]
\$200,001 to \$250,000	<u>\$610</u> [600]
\$250,001 to \$300,000	<u>\$710</u> [700]
\$300,001 to \$400,000	<u>\$810</u> [800]
\$400,001 to \$500,000	<u>\$1,010</u> [1,000]
\$500,001 and over	<u>\$1,210</u> [1,200]

(b) The installing contractor, owner or user shall request an inspection of a boiler and pressure piping at least seven (7) days in advance. If the inspection is not made within this time limit, the installation may proceed. Requests for inspection shall be made by letter or telephone to the department.

(6) Inspection of nuclear installations. Nuclear installation inspections shall be charged as set forth under subsection (2) of this section or as determined by contracts between the installer and the department.

(7) Hydrostatic tests. If it is necessary to make a special trip to witness the application of a hydrostatic test, an additional fee based on the scale of fees set forth under subsection (2) of this section shall be charged.

(8) Fees for reinspection of boilers and pressure vessels.

(a) Fees for reinspection of power boilers shall be in accordance with the following tables:

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INTERNAL INSPECTIONS OF POWER BOILERS

Heating Surface (Square Feet)	Fee
100 or less	\$25 [20]
101 to 1,000	\$45 [40]
1,001 to 4,000	\$75 [70]
4,001 to 10,000	\$105 [100]
10,001 and over	\$165 [160]

EXTERNAL INSPECTIONS OF POWER BOILERS

Heating Surface (Square Feet)	Fee
100 or less	\$21 [16]
101 and over	\$25 [20]

(b) Fees for reinspection of heating boilers shall be as follows:
HEATING BOILERS

Boilers with manway where internal inspection required	\$45 [40]
Other heating boilers	\$25 [20]
Hot water supply boilers	\$15 [10]
Miniature boilers	\$15 [10]

(c) The initial installation inspection fee for pressure vessels shall be twenty-five (25) [twenty (20)] dollars.

Section 3. Plan Review of Boiler and Unfired Pressure Vessel Installations. (1) Prior to the construction and installation of any boiler or unfired pressure vessel, the installing contractor shall submit shop drawings and fees for the installation to the chief boiler inspector of the department for review and release for construction.

(2) Fees for plan review shall be provided in accordance with the following table:

Heating Surface (Square Feet)	Fee
100 and under	\$30 [20]
101 to 1,000	\$40 [30]
1,001 to 4,000	\$60 [50]
4,001 to 10,000	\$80 [70]
10,001 and over	\$110 [100]
Unfired pressure vessels	\$30 [20]

CHARLES A. COTTON, Commissioner

LAURA M. DOUGLAS, Secretary

JUDITH G. WALDEN, Office of General Counsel

APPROVED BY AGENCY: September 10, 1997

FILED WITH LRC: September 15, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, October 21, 1997 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 14, 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written

comments on the proposed administrative regulation by the above date to the contact person.

Contact Person: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact Person: Judith G. Walden

(1) Type and number of entities affected: All boiler and pressure vessel owners/users, contractors, installers and insurance companies insuring boiler and pressure vessels.

(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 impact on cost of living or employment in geographical areas will result from implementation of this amendment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: The increased fees are absorbed into the total bid package, therefore, the inspection fee is a part of the total negotiation and no impact is realized.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: Administrative requirements and procedures will remain the same and there will be no impact on costs or competition as fees apply to all job sites.

1. First year following implementation:

2. Second and subsequent years:

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Licensing procedures are in place and there will be no direct or indirect costs or saving involved. Will provide needed revenue to maintain services.

1. First year: Increase will not be applicable to inspection fees this year.

2. Continuing costs or savings: Approximately \$32,000 each succeeding year in additional revenue from increased inspection fees.

3. Additional factors increasing or decreasing costs: Increase or decrease in revenue will be impacted by the number of new installations and related permits and inspections.

(b) Reporting and paperwork requirements: Administrative requirements will remain the same.

(4) Assessment of anticipated effect on state and local revenues: Approximately \$32,000 in additional state revenue; no local revenue increase.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Boiler and pressure vessel permit and inspection fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Statewide

(b) Kentucky: Statewide

(7) Assessment of alternative methods; reasons why alternatives were rejected: This method appears to be the only one consistent with the goal of making each program self-supporting and has proven successful in the past.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Essential boiler inspection services will improve both public health and welfare throughout the state.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Services could not be maintained.

(c) If detrimental effect would result, explain detrimental effect: Reduced services and diminished public safety. Delay of inspections

would increase costs and negatively impact economic development.

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

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

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

(10) Any additional information or comments: Last boiler inspection fee increase approximately 1988-89.

(11) TIERING: Is tiering applied? Yes. Fee increases are spread throughout all types and capacities of installations as opposed to focusing on any particular area.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Fire Prevention
(Amendment)

815 KAR 15:080. Fees for licensing new boiler and pressure vessel contractors.

RELATES TO: KRS Chapter 236

STATUTORY AUTHORITY: KRS 13A.100, 236.210

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.210 authorizes the Commissioner, through the Board of Boiler and Pressure Vessel Rules to establish reasonable fees for the licensing of all new boiler and pressure vessel contractors. This administrative regulation is necessary to establish the fees incident to the licensing of contractors. This amendment is needed to clarify language in accordance with KRS Chapter 13A.

Section 1. (1) All boiler or pressure vessel contractors required by KRS 236.210 to be licensed shall pay the following fees upon application or reapplication for license.

(a) [(1)] Initial fee - \$~~125~~ [100].

(b) [(2)] Annual renewal fee - \$~~100~~ [seventy (70) dollars].

(2) The amended boiler contractor fees shall be applicable to all applications and reapplications filed after December 31, 1997.

CHARLES A. COTTON, Commissioner

LAURA M. DOUGLAS, Secretary

JUDITH G. WALDEN, Office of General Counsel

APPROVED BY AGENCY: September 10, 1997

FILED WITH LRC: September 15, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, October 21, 1997 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 14, 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person.

Contact Person: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact Person: Judith G. Walden

(1) Type and number of entities affected: Approximately 600 licensed boiler and pressure vessel contractors.

(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 impact on cost of living or employment in geographical areas will result from implementation of this amendment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No impact on cost of doing business in geographical areas from implementation of amendment unless contractors pass license fee increase on to consumer which would only be minimal if so. The increased fees are absorbed into the total bid package, therefore, the fee is a part of the total negotiation and no impact is realized.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: Administrative requirements and procedures will remain the same and there will be no impact on costs or competition as fees apply to all licensed contractors.

1. First year following implementation:

2. Second and subsequent years:

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Licensing procedures are in place and there will be no direct or indirect costs or savings involved. Will provided needed revenue to maintain services.

1. First year: Increase will not be applicable to renewals received this year.

2. Continuing costs or savings: Approximately \$18,000 each succeeding year in increased renewal fees.

3. Additional factors increasing or decreasing costs: Increase or decrease in revenue will be in direct proportion to the increase or decrease in licenses issued or renewed.

(b) Reporting and paperwork requirements: Administrative requirements will remain the same.

(4) Assessment of anticipated effect on state and local revenues: Approximately \$18,000 in additional state revenue; no local revenue increase.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Increased licensing and renewal fees for boiler and pressure vessel contractors.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Statewide

(b) Kentucky: Statewide

(7) Assessment of alternative methods; reasons why alternatives were rejected: There are no alternative methods; any alternative method would not provide the increase in services.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Any increase in existing workload would cause a delay in the inspection program and could endanger the public for a period between installation and inspection for operation.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The delay between completed construction and the in-service inspection would be a danger to occupant of a facility.

(c) If detrimental effect would result, explain detrimental effect: Same as (b) above.

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

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

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

administrative regulation with conflicting provisions: None

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. Tiering applied only in the sense that renewals are less than original licenses; every contractor pays same fees.

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

815 KAR 20:020. Parts or materials list.

RELATES TO: KRS 318.010, 318.015, 318.130, 318.150, 318.200

STATUTORY AUTHORITY: KRS 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department, after review by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. This administrative regulation established an "approved parts or materials list" containing the parts and materials that have been approved for use in Kentucky.

Section 1. Definitions. (1) "APML" means the "Approved Parts or Materials List."

(2) "ABS" means acrylonitrile-butadiene-styrene pipe.

(3) "ASTM" means American Society for Testing Materials.

(4) "Parts or materials" means all types of fittings and piping used in the soil, waste and vent systems, house sewers, potable water supply, plumbing fixtures, appurtenances, and mechanical sewage systems in plumbing systems.

(5) "Committee" means the State Plumbing Code Committee.

(6) "Code" is defined by KRS 318.010(11).

(7) "Department" is defined by KRS 318.010(1).

(8) "Person" is defined by KRS 318.010(9).

(9) "PVC" means polyvinyl chloride pipe.

Section 2. Approved Parts or Materials List (APML). (1) A part or material manufactured or produced according to a specification listed in the code shall be considered approved if it meets the latest edition of the specification.

(2) A part or material shall not be used in a drainage or plumbing system, other than those currently authorized by the code, unless the use of the part or material has been considered by the committee and approved by the department as being equal to or better than other similarly approved items for inclusion in the APML. The APML may also specify methods of installation or restrictions applicable to a particular part or material.

Section 3. Amending the APML. (1) A person may petition the committee, in writing, no later than fourteen (14) days prior to the committee's next scheduled meeting for the purpose of amending the APML. The request shall include:

(a) A description of the part or material for which approval is sought;

(b) Available technical data;

(c) A listing of other authorities which have approved the use of the part or material; and

(d) Any other pertinent information requested by the committee.

(2)(a) The committee shall consider all parts or materials for which approval is sought and shall forward its recommendations within thirty (30) days to the department.

(b) A hearing shall be held before the committee if requested, by a person having an interest in the subject matter within thirty (30) days following the determination of the committee.

(c) Upon approval of a recommendation by the department, the APML shall be amended by listing the new part or material in Section 5 of this administrative regulation.

Section 4. Custody of the APML. The Director, Division of Plumbing, shall maintain an up-to-date APML and make it available for inspection during regular office hours. Copies of the APML may be obtained by mailing a self-addressed stamped envelope to the Division of Plumbing, Department of Housing, Buildings and Construction, Frankfort, Kentucky 40601.

Section 5. Content of Approved Parts or Materials List. The following list of parts or materials have been approved by the Kentucky Plumbing Code Committee and the Division of Plumbing and shall be allowed for installation in Kentucky.

(1) Flexible three-fourths (3/4) inch hot and cold water connectors for hot water heaters, minimum wall thickness, .032.

(2)(a) Flushmate water closet tank.

(b) Microphor company. Two (2) quart flush toilets.

(c) Jomar 3 and 4 water conserver water closets to operate efficiently on three and one-half (3 1/2) gallons of water per flush.

(d) Superinse toilet that operates on one (1) gallon of water per flush as manufactured by Universal Rundle for the Thetford Wastewater Treatment Systems.

(e) IFO Sanitar AB Model-3160 and 3180 China Water Closet equipped with a Fluidmaster 4003A-F77 Ballcock.

(f) Cashesaver MX (quantum 150-1) Water Closet Combination and Flushmate II Flushometer/Tank as manufactured by Mansfield Plumbing Products.

(3) Tubular traps with gasket in trap seal.

(4)(a) Polyethylene sump pump basin. Polyethylene sump pump basin shall be constructed of polyethylene material and shall be provided with a sump cover.

(b) Liberty Pump Model 402, Laundry Tray Pump for pipe size one and one-half (1 1/2) inch for light commercial and household usage.

(c) Zoeller Drain pump and HiLo Industries Power Drain for pipe sizes one and one-half (1 1/2) inch and two (2) inch for light commercial and household usage.

(d) Sewage ejector pit - eighteen (18) inch by twenty-two (22) inch with steel cover pit and eighteen (18) inch by thirty (30) inch with steel cover sump pit as manufactured by Lunsford and Associates, Inc.

(e) Little Giant Pump Company, Drainsaur Water Removal System, Model #WRS-6. This approval shall be limited to two (2) drainage fixture units since it has a one and one-half (1 1/2) inch drain.

(f) Add A Drain (Waste Discharge System) as manufactured by Lunsford and Associates.

(g) Sta-Rite Pump Corporation, laundry tray system approved for residential and light commercial use.

(h) Electric Drain System as manufactured by Myers for light commercial and household usage.

(5)(a) No-caulk roof flashing. No-caulk roof flashing shall be eighteen (18) inch by eighteen (18) inch galvanized iron base with a neoprene boot forming a water tight seal with the stack that it serves.

(b) Polyethylene roof flashing. Polyethylene roof flashing shall have a base which shall extend six (6) inches in all directions from the base of a stack and shall have a boot with a preformed thermoplastic rubber gasket.

(c) Dektite pipe flashing system to be used on metal building decks for plumbing vent stacks as manufactured by Buildex Corporation.

(d) Oatey eighteen (18) inch by eighteen (18) inch no caulk thermoplastic flashing, one (1) piece construction, positive double seal in three (3) inch only.

(e) Carlisle syntec systems. Vent flashings for sureseal and Brite-Ply roofing systems as required by Carlisle Corporation.

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(f) Trocal roofing systems. Vent flashings for Trocal roofing systems as required by Dynamit Nobel of American, Inc.

(g) Masterflash Pipe Flashing system for plumbing vent stacks as manufactured by Aztec Washer Company.

(h) Hi-Tuff Roofing Systems pipe flashing system for plumbing vent stacks as required by J.P. Stevens and Company, Inc.

(6)(a) Kitchen sink faucet. Kitchen sink faucets may have corrugated supply piping if the piping has a wall thickness equal to Type M copper pipe.

(b) Sink and lavatory faucets and pop-up lavatory assembly parts manufactured by CPVC plastic as manufactured by Nibco Co.

(c) Series 1000 Automatic Faucets as Manufactured by Hydrotek USA, Inc.

(7) Lab-Line Enfield L-E acid waste systems, one and one-half (1 1/2) through four (4) inch inside measurement for above and below ground installation on acid waste. Underground shall be laid on six (6) inches of sand grillage and shall be backfilled by hand and tamped six (6) inches around piping or surrounded by six (6) inches of sand grillage.

(8) Floor drains, shower drains, urinal drains and clean-outs manufactured by Plastic Oddities, Inc.

(9) Tubular plastic components conforming to ASTM F409-75, bathtub waste and overflow, traps, continuous sink wastes and extension tubes as manufactured by J & B Products Corporation.

(10)(a) Water heaters. Heat pump water heaters as manufactured by Dec International, Inc., Therma-Stor Products Group.

(b) Water heaters, point of use or instantaneous.

1. In-Sink-Erator's Ultra System. For instant hot water to serve individual fixtures, Model #777W, W, WH, WA and WHA, W-152 and W-154.

2. Eemax Electric Tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve; the pressure type with the requirement that the temperature and pressure relief valve be of a one-half (1/2) inch short shank valve and shall be installed with the product.

3. Vitaclimate Control Systems, Inc. - Heatrae Instantaneous Water Heaters Models 7000 and 9000, pressure type, point of use water heater and shall be equipped with an approved temperature and pressure relief valve installed so that the thermo couple of the relief valve extends into the heat chamber discharge.

4. Paloma Automatic Instantaneous Gas Water Heaters Numbers PH-6DN, PH-6DP, PH-12A-DN, PH-12A-DP, PH-12M-DN, PH-12M-DP, PH-16A-DN, PH-16A-DP, PH-16M-DN, PH-16M-DP, PH-24A-DN, PH-24A-DP, PH-24M-DN and PH-24M-DP.

5. Rinnai Gas Fired Instantaneous Water Heaters Model Numbers REU-95GS-2R, REU-95GS-3R, REU-90, REU-130 pressure type and shall be equipped with an approved temperature and pressure relief valve.

6. Elkay Aqua-Temp tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve.

7. International Technology Sales Corporation AEG Telefunken MDT instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve.

8. International Technology Sales Corporation Zanker Faucet Model W05U without a temperature and pressure relief valve.

9. Amtrol hot water maker model numbers WH7P, WH7 and WH7C with a minimum three-fourths (3/4) inch inlet and outlet.

10. Chronomite Laboratories, Inc. - instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve.

11. Chronomite Instant-Flow Tankless Water Heater without a temperature and pressure relief valve.

12. Nova Hot Water Generator Models: VES5/10, VES6/12, VES7/14, VES8/16, VES9/18 and VES11/22 as manufactured by Hot Water Generators, Inc.

13. Aqua Star tankless gas water heaters, model numbers 125 VP and 80 VP and shall be equipped with an approved temperature

and pressure relief valve.

14. Ariston electric water heaters, model numbers P-15S and P-10S and shall be equipped with an approved temperature and pressure relief valve.

15. Vaillant Corporation gas fired point of use water heater.

16. Trinom Hot Man Tankless Water Heater as manufactured by Siemens.

17. Field Controls Company Power Venter - Models PVAE and SWG for use in conjunction with gas and oil fired water heaters.

18. Acutemp Instantaneous Water Heater as manufactured by Keltech, Inc., Model #100/208; #100/240; #150/208; #150/240; #180/208; #180/240; #153/208; #153/240; #183/208; #183/240; #183/480 and #C183/480, all requiring an approved pressure and temperature relief valve.

19. Hot Aqua Instantaneous Tankless Electric Water Heaters, Model Numbers, 18/125PC, 24/125PC, 24/120, 32/120, 24/240, 36/240, 48/240, 59/240, 70/240, 24/208, 35/208, 46/208, 60/208, 28/277, 42/277, 55/277, 69/277, 24/120-P, 59/240-P, 46/208-P, 55/277-P, 18/125PC and 24/125PC. This product is not approved for supplying hot water for showers.

(11) Compression joints. Fail-safe hot and cold water systems.

(12) Orion fittings for acid waste piping systems for above and below ground.

(13) R & G Slone Manufacturing Company. Fuseal mechanical joint for the connection of polypropylene and waste piping.

(14) Johns Manville Flex I drain roof drain system.

(15) Hydrocide liquid membrane (HLM) to be used as a shower pan material conforming to ASTM C836-76. The density of the material shall be at least one-sixteenth (1/16) inch thick.

(16) Scotch-Clad brand waterproofing system as manufactured by the 3M Company for thin-set installation of ceramic and quarry tile in shower stalls, bathrooms, janitorial closets limited to those applications on concrete floors and using metallic soil and waste piping.

(17) Elkay Aqua-chill water dispensers.

(18) Flexible connectors for hot and cold potable water supply in plumbing fixture connections as manufactured by Aqua-Flo Corporation limited to thirty (30) inch length except dishwashers which shall be forty-eight (48) inches maximum.

(19)(a) Delta Faucet Company's quick-connect fitting known as "grabber" to be used with hot and cold potable water installations above ground only.

(b) REMCO Angle Stop Quick connect valve for use with hot and cold potable water installations above ground only.

(20) Interceptors.

(a) Town and Country plastic interceptors to be used as a grease trap.

(b) Grease recovery unit (GRU) as manufactured by Lowe Engineering, Lincoln Park, NJ.

(c) Scienco, Inc., models SI-101-20G, SI-104-35G, SI-102-50G and SI-103-100G with PVC solvent connections.

(d) Rockford separators for grease, oil, hair and solids in various styles and sizes and being more specifically model series G, G LO, G M, G LOM, GF, GFE, GAS, GPS, GSS, OS, RHS, GSC, RMS, RSD, SD, SDE, GTD, and RTD that are used for their intended purpose and installed in accordance to the manufacturer's specification and the plumbing code.

(e) Grease interceptors as manufactured by Enpoco, Inc. of St. Charles, IL.

(f) Grease Traps U.S.A.: Polypropylene grease trap, model number GT-25, as certified by the Plumbing and Drain Institute.

(21) Plastic Oddities Srv (sewer relief vent) clean-out.

(22) Contech A-2000 - a PVC corrugated pipe with smooth interior meeting or exceeding all the material and service test requirements of ASTM D-3034-74 except dimensions at the time of manufacture.

(23) Nonchemical water treatment to control lime scale and corrosion buildup superior water conditioners as manufactured by Kemtune, Inc.

- (24) Eljer plumbing ware - Elgers ultra one/G water closet.
- (25)(a) "Power Flush" and "Quik Jon" as manufactured by Zoeller Company; shall have a three (3) inch vent; alternate additional waste openings to be located in pump chamber above top of base chamber.
- (b) Hydromatic JB-1 System as manufactured by Hydromatic Pumps, Inc.
- (26) Exemplar Energy garden solar water heater.
- (27) ProSet systems for pipe penetrations in fire rated structures. System A for copper and steel pipe. System C using solvent weld joints only. ProSet E-Z flex coupling is approved for similar or dissimilar materials.
- (28)(a) ABS and PVC backwater valves, Models 3281, 3282, 3283 and 3284 for solvent cement joints only as manufactured by Canplas Industries.
- (b) Flood-Gate Automatic Backwater Valve as manufactured by Bibby-Ste-Croix.
- (29) Clamp-All Corporation Pipe Coupling Systems is approved size for size on dissimilar materials on new or existing installations. Snap-All Increaser/Reducer transition bushings are approved for repairs using dissimilar materials or sizes.
- (30) Mission Rubber Company "Band-Seal Specialty Coupling" is approved as a transition between any combination of the following materials: cast iron, copper, galvanized steel, schedule 40 PVC and ABS and SDR 35.
- (31)(a) Laticrete 9235 Waterproof Membrane to be used as a safing material for floors and walls in showers, bathtubs and floor drain pans.
- (b) Ultra-Set as manufactured by Bostik Construction Products to be used as a water proofing material.
- (32) DFW Elastomeric PVC coupling manufactured by DFW Plastics, Inc. for use on building sewers.
- (33)(a) Fernco Lowflex Shielded Couplings, approved for connecting extra heavy, no-hub and service weight cast iron pipe, DWV PVC and ABS pipe, SDR 35 sewer pipe, galvanized steel pipe and copper pipe or as a transition between any of these materials in soil waste and vent systems above or below grade.
- (b) Fernco Proflex Shielded Couplings: Series 3000 for service weight cast iron to plastic, steel or extra cast iron in sizes one and one-half (1 1/2) inch to four (4) inch, Series 3001 for cast iron, plastic or steel to copper in sizes one and one-half (1 1/2) inch to two (2) inch, Series 3003 for copper to copper in one and one-half (1 1/2) inch.
- (34) TBA drain, waste and vent pipe, schedule 40 PVC piping marked "meets dimensional specifications of ASTM D-2665". This pipe has been tested for the tensile strength, durability, etc., of ASTM D-2665 except that it is made from recycled, unused plastics rather than virgin materials.
- (35) Blucher-Josam stainless steel pipe, fittings and drains for disposal of corrosive wastes.
- (36) Paul Panella Industries Hostalen GUR UHMW Polymer Cleanout approved for use on sewers of Schedule 40 PVC, ABS and SDR in four (4) inch and six (6) inch sizes.
- (37) Advanced Drainage Systems, Inc., Series 35 polyethylene corrugated sewer pipe with a smooth interior in sizes four (4) inch through twenty-four (24) inches for underground storm water drainage within a building.
- (38) "Flowguard Gold" one (1) step CPVC cement for joining copper tube size CPVC piping systems through two (2) inches without the requirement of a cleaner or primer.
- (39) E-Z Trap Adapter as manufactured by S & S Enterprises to be used as connection between chrome plated P trap and PVC waste line.
- (40) Canplas Industries LTD Specialty DWV Fittings: Part #3628 ABS or PVC forty-five (45) degree Discharge Closet Flange, Part #2321 Appliance (dishwasher) Wye, Part #3650A Closet Flange Kit for Concrete Installations.

FRANK PHIEFFER, Chairman
 CHARLES A. COTTON, Commissioner
 LAURA M. DOUGLAS, Secretary
 JUDITH G. WALDEN, General Counsel

APPROVED BY AGENCY: August 6, 1997

FILED WITH LRC: August 27, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 1997, at 10 a.m., local time, in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency, in writing, by October 14, 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 in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden, General Counsel

(1) Type and number of entities affected: Manufacturers of new products not yet made part of a national standard allowed by the Kentucky Plumbing Code.

(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 will be no impact on the cost of living or employment with this amendment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: Provides ability of manufacturer to market his product in the state.

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

1. First year following implementation:

2. Second and subsequent years:

(3) Effects on the promulgating administrative body: Formalizes, with proper regulatory oversight the procedure for acceptability of new products in the State Plumbing Code.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Unchanged by this amendment.

(4) Assessment of anticipated effect on state and local revenues: No effect on revenues because the regulation merely identifies existing procedures in regulatory form.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: The previous method of filing new parts or materials

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did not statutorily meet KRS 13A requirements.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Not applicable with this amendment.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Not applicable with this amendment.

(c) If detrimental effect would result, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This is the only known law or policy dealing with this product.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. Tiering was used in that each product presented for approval is considered separately for compliance with generally recognized safety and workability standards.

PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction Division of Plumbing (Amendment)

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

RELATES TO: KRS 318.010, 318.020, 318.040, 318.050, 318.054 [Chapter 318]

STATUTORY AUTHORITY: KRS 318.130 [318.010, 318.020, 318.040, 318.050, 318.054]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.040 requires the department to conduct examinations for master and journeyman plumber applicants. This administrative regulation establishes the [relates to those] requirements and the fees for the examination [required]. It also relates to the time, place and methods of examinations. [This amendment is necessary to increase the renewal fees of licensed master and journeyman plumbers to a level sufficient to meet the costs of carrying out the plumbing program when taken together with permit fees in 815 KAR 20:050. This increase was approved by the Plumbing Code Committee on August 8, 1994.]

Section 1. Applications for Examination for Master or Journeyman Plumber's Licenses. An application [Applications] for examination for master or journeyman plumber's licenses shall be submitted to the Department of Housing, Buildings and Construction on forms furnished by the department.

(2) The [Each] application shall be:

(a) Properly notarized; and

(b) Accompanied by a fee of \$150 for a master plumber's license or fifty (50) dollars for a journeyman plumber's license; and

(c) Include a signed photograph of the applicant not less than two (2) inches square nor larger than four (4) inches square taken within two (2) years of submittal [shall accompany each application].

(3) The application fee [Application fees] shall be submitted at least two (2) weeks prior to the date of examination and remitted by post office or express money order, bank draft or certified check payable to the Kentucky State Treasurer.

Section 2. Examinations for Master or Journeyman Plumber's Licenses. (1) Examination of applicants. Regular examination of applicants for master or journeyman plumber's licenses shall be conducted during the months of February, May, August and Novem-

ber of each year. A special examination [Special examinations] may be conducted at other times as the Department of Housing, Buildings and Construction directs.

(2) Time and place of examination. Notice of the time and place of examination shall be given by United States mail at least one (1) week prior to the date of examination to all persons having applications on file.

(3) Materials required for journeyman plumbers' examinations. An applicant [Applicants] for journeyman plumber's licenses shall furnish the materials required for the practical examination.

(4) The testing requirements shall be designed by the State Plumbing Examining Committee and shall be more complex for the master's examination.

Section 3. Renewals of Master and Journeyman Plumber's Licenses. (1) Renewal fees. The annual license renewal fee shall be \$250 for master plumbers and forty (40) dollars for journeyman plumbers.

(2) Remittance of renewal fees. Renewal fees shall be remitted by post office or express money order, bank draft, or certified check payable to the Kentucky State Treasurer.

Section 4. Expiration, Renewal or Reinstatement of License. All licenses issued under KRS 318.040 shall expire on June 30 as prescribed in KRS 318.054.

Section 5. Requirements for Master Plumber Applicants. In addition to the citizenship and age limitations of KRS 318.040, each person shall meet the following requirements to become licensed as a master plumber:

(1) An applicant shall have [The applicant possessed] a valid journeyman plumber's license for a minimum of two (2) years within the past five (5) years immediately preceding application and shall have [has] been actively employed in plumbing under the supervision of a licensed master plumber for a minimum of two (2) years; or

(2) The applicant shall be a Kentucky registered engineer experienced in mechanical engineering.

(3) An applicant [All applicants] shall successfully complete the examination developed and administered by the State Plumbing Examining Committee. The examination shall be designed to demonstrate that the applicant:

(a) Understands the Kentucky plumbing laws;

(b) Is capable of the design of a plumbing system; and

(c) Understands the technical and practical installation techniques and principles for a safe and sanitary plumbing system.

(4) The examination shall include, but not be limited to:

(a) Answering written questions pertaining to basic principles of plumbing and state plumbing laws; and

(b) Preparing a drawing from a sheet of instruction that describes the number and type of fixtures on each floor. The applicant shall draw all stacks, wastes and vents and insert the proper pipe size required. Oversized piping shall be counted off the same as undersized.

(5) [(4)] The passing grade for master plumbers shall be eighty (80) percent.

Section 6. Requirements for Journeyman Plumber Applicants. In addition to the citizenship and age limitations of KRS 318.040, an applicant [each person] shall meet the following requirements to become licensed as a journeyman plumber:

(1) An applicant shall have [The applicant has] completed two (2) consecutive years experience as an apprentice plumber. Proof of this requirement shall be satisfied by submission of a W-2 form, affidavit of a Kentucky licensed master plumber, or other proof of experience acceptable to the Department.

(2) An applicant shall successfully complete [The applicant successfully completes] the practical and written examination

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developed and administered by the State Plumbing Examining Committee. The examination shall be designed to demonstrate the practical and technical understanding of plumbing principles and the ability to apply those principles for a safe and sanitary plumbing system. The examination shall include, but not be limited to:

(a) Answering written questions pertaining to basic principles of plumbing and state plumbing laws;

(b) [~~as well as~~] Preparing a drawing from a sheet of instruction that describes the number and type of fixtures on each floor. The applicant shall draw all stacks, wastes and vents and insert the proper pipe size required. Oversized piping shall be counted off the same as undersized; and

(c) [~~]~~

(3) ~~The examination shall also include~~ Completing a practical section in which the applicant shall demonstrate ability to properly install plumbing by engaging in certain activities such as properly caulk a cast iron soil pipe spigot into a cast iron hub and soldering copper solder connections.

(3) [(4)] The passing grade for journeyman plumbers shall be seventy-five (75) percent.

Section 7. All Master Plumbers and Journeyman Plumbers shall notify the department of the name of their business and its address, their employer and his address and any time a change of employment is made.

Section 8. General Liability Insurance. (1) A master plumber engaging in plumbing activities requiring a permit and inspections prior to the installation shall have a valid current certificate of general liability insurance from an insurance company authorized by the Kentucky Department of Insurance to do business in this state signed or countersigned by a Kentucky licensed agent, in the minimum amount of \$300,000, including errors and omissions coverage.

(2) A permit shall not be issued by a plumbing inspector unless the certificate of insurance has been filed with the department.

(3) The insurance company shall notify the department within ten (10) days if it cancels the general liability insurance of a master plumber.

This is to certify that the State Plumbing Code Committee has reviewed and approved this administrative regulation, prior to its filing by the Department of Housing, Buildings and Construction with the Legislative Research Commission, as required by KRS 318.130.

Frank Phieffer, Chairman

CHARLES A. COTTON, Commissioner

LAURA M. DOUGLAS, Secretary

JUDITH G. WALDEN, Office of General Counsel

APPROVED BY AGENCY: September 10, 1997

FILED WITH LRC: September 15, 1997 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, October 21, 1997 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 14, 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above

date to the contact person.

Contact Person: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact Person: Judith G. Walden

(1) Type and number of entities affected: Approximately 2,100 master plumbers are licensed by the department.

(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:

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented:

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: Administrative requirements and procedures will remain the same and there will be no impact on costs or competition.

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: Licensing procedures are in place and there will be no direct or indirect cost or savings involved.

1. First year: All licenses issued in current year, no additional revenue.

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: Increase or decrease in revenue will be in direct proportion to the increase or decrease in plumber licenses issued.

(b) Reporting and paperwork requirements: Administrative requirements will remain the same.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: licensing fees for master plumbers.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Statewide

(b) Kentucky: Statewide

(7) Assessment of alternative methods; reasons why alternatives were rejected: Licensing and testing procedures are in place and no additional administrative cost will be incurred.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Essential plumbing regulation services will improve both public health and welfare throughout the state.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Services could not be maintained.

(c) If detrimental effect would result, explain detrimental effect: Reduced services. Also, delays which would increase costs and negatively impact economic development.

(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 in conflict.

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. The requirements for insurance is applicable only to those master plumbers who obtain permits. Therefore, persons who are not actively plumbing may maintain their licenses without insurance.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 20:130. House sewers and storm water piping;
methods of installation.

RELATES TO: KRS 318.010, 318.015, 318.130, 318.150,
310.200

STATUTORY AUTHORITY: KRS 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department, after approval by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky for the construction of house sewers and storm water piping. This administrative regulation identifies the materials and methods of installation that may be used in the construction of house sewers or storm water piping.

Section 1. Independent System. The drainage and plumbing system of new building and of new work installed in an existing building shall be separate and independent of other buildings except as outlined in this administrative regulation. A building shall have an independent connection with either a public or private sewer or sewer system.

Section 2. Exception. If a building stands in the rear of other buildings or on an interior lot and a sewer connection cannot be made available to the rear building through an adjoining alley, court, yard or driveway, the sewer from the front building may be extended to the rear building and it shall be considered as one (1) sewer. This exception shall not apply to corner lots if a sewer connection is available from the street or alley or to a new or existing building which abuts a street or alley.

Section 3. Connection with Private Sewage Disposal System. If a sewer is not available, the house drain from a building shall connect with an approved private sewage disposal system.

Section 4. Excavations. An excavation made for the installation of a house sewer shall be open trench work, and the trenches shall be kept open until the piping has been inspected, tested and approved.

Section 5. Depth of Sewer at the Property Line. (1) The sewer at the property line shall be at a sufficient depth to properly serve a plumbing connection installed in the basement of a building.

(2) A house sewer shall be laid on a grade of not less than one-eighth (1/8) inch nor more than one-fourth (1/4) inch per foot. A sewer shall have at least an eighteen (18) inch cover. Sewer piping installed under property subject to vehicular traffic (e.g., a driveway, parking lot, or similar location shall have at least a twenty-four (24) inch ~~three (3)-foot~~ cover unless constructed of cast iron piping. If less than a twenty-four (24) inch ~~three (3)-foot~~ cover is available, sewer piping shall be encased in a minimum of six (6) inches of concrete on each side and the top. A sewer shall be backfilled by hand and tamped six (6) inches above the piping, or filled with six (6) inches grillage above the piping. Each joint in cast iron and vitrified clay pipe shall be made in conformance with the State Plumbing Code.

Section 6. New House Sewer Connections. A house sewer installed where a private sewerage system has been discarded may connect to the house drain, if the existing plumbing system meets the State Plumbing Code.

Section 7. Materials for House Sewers. A house sewer or combined sewer, beginning two (2) feet outside the foundation wall of a building, shall be made of either extra heavy cast iron pipe, service weight cast iron, aluminum, vitrified clay, concrete, coextruded composite PVC pipe produced and labeled ASTM F-1488, PVC or ABS plastic pipe schedules 40 and 80 and cellular core PVC produced and labeled as ASTM F-891, cellular core ABS produced and labeled as ASTM 628, truss pipe and extra heavy SDR 35 pipe and Type PS-46, Poly(Vinyl Chloride) (PVC) in sizes four (4) inches through fifteen (15) inches produced and labeled as ASTM F 789-82 or PVC ribbed pipe produced and labeled as ASTM 795, polyethylene pipe produced and labeled as ASTM F-714.

Section 8. Material for Storm Sewers Inside Buildings. Material for a storm sewer inside of a building to a point two (2) feet outside a building in sizes eight (8) inches and smaller shall be cast iron pipe, aluminum or Schedule 40 ABS or PVC DWV pipe or PVC pipe produced and labeled as ASTM F-1488. A storm sewer in a size of ten (10) inches and larger shall be either cast iron, aluminum, Schedule 40 ABS or PVC DWV pipe, SDR 35, vitrified clay or concrete conforming to appropriate commercial specifications with approved joints, or polyethylene pipe produced and labeled as ASTM F-714.

Section 9. Change of Direction. A change in direction of a sewer shall be made with long curves, one-eighth (1/8) bends or Y's.

Section 10. Size of House Sewers and Horizontal Branches. The minimum size of a house sewer shall not be less than four (4) inches nor less than that of the house drain. A house sewer receiving a branch shall be sized in the same manner as a house drain (see 815 KAR 20:090).

Section 11. Size of Storm Systems. The required size of a storm sewer shall be determined on the basis of the total drained area in horizontal projection in accordance with the following table. A storm sewer shall not be laid parallel to or within two (2) feet of a bearing wall. The storm sewer shall be laid at a sufficient depth to protect it from freezing.

Diameter of pipe - inches	Maximum drained roof area square feet*	
	Slope 1/8 in. fall to 1 ft.	Slope 1/4 in. fall to 1 ft.
3		1,160
4	1,880	2,650
5	3,340	4,720
6	5,350	7,550
8	11,500	6,300
10	20,700	29,200
12	33,300	47,000
15	59,500	84,000

*The calculations in this table are based on a rate of rainfall of four (4) inches per hour.

Section 12. Combined Storm and Sanitary Sewer System. If a combined sewer system is used, the required size of the house drain or house sewer shall be determined by multiplying the total number of fixture units carried by the drain or sewer by the conversion factor corresponding to the drained area and the total fixture units, adding the product to the drained area and applying the sum of the preceding table for storm water sewers. A combined house drain or house sewer shall not be less than four (4) inches in diameter, and a combined house drain or house sewer shall not be smaller in size than that required for the same number of fixture units or for the same roof area in separate systems.

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CONVERSION FACTORS FOR COMBINED STORM AND SANITARY SYSTEM

Number of fixture units on sanitary system

Drained roof area in square feet	Up to	7 to	19 to	37 to	61 to	97 to	145 to	217 to
	6	18	36	60	96	144	216	324
Up to 120	180	105	60	45	30	22	18	15
121 to 240	160	98	57	43	29	21	17.6	14.7
241 to 480	120	75	50	39	27	20	16.9	14.3
481 to 720	75	62	42	35	24	18	15.4	13.2
721 to 1,080	54	42	33	29	20	15	13.6	12.1
1,081 to 1,620	30	18	16	15	12	11.5	11.1	10.4
1,621 to 2,430	15	12	11	10.5	9.1	8.8	8.6	8.3
2,431 to 3,645	7.5	7.2	7.0	6.9	6.6	6.5	6.4	6.3
3,646 to 5,460	2.0	2.4	3.0	3.3	4.1	4.2	4.3	4.4
5,461 to 8,190	0	2.0	2.1	2.2	2.3	2.4	2.5	2.6
8,191 to 12,285	0	0	2.0	2.1	2.1	2.2	2.3	2.3
12,286 to 18,420	0	0	0	2.1	2.1	2.1	2.2	2.2
18,421 to 27,630	0	0	0	0	2.0	2.1	2.2	2.2
27,631 to 40,945	0	0	0	0	0	2.0	2.1	2.2
40,946 to 61,520	0	0	0	0	0	0	2.0	2.1
Over 61,520	0	0	0	0	0	0	0	2.0

Number of fixture units on sanitary system

Drained roof area in square feet	325 to	487 to	733 to	1,099 to	1,645 to	2,467 to	3,703 to	Over
	486	732	1098	1644	2466	3702	5556	5556
Up to 120	12	10.2	9.2	8.4	8.2	8.0	7.9	7.8
121 to 240	11.8	9.9	9.1	8.3	8.1	8.0	7.9	7.8
241 to 480	11.5	9.7	8.8	8.2	8.0	7.9	7.8	7.7
481 to 720	10.8	9.2	8.6	8.1	7.9	7.9	7.8	7.7
721 - 1,080	10.1	8.7	8.3	8.0	7.8	7.8	7.7	7.6
1,081 - 1,620	9.8	8.4	8.1	7.9	7.7	7.7	7.6	7.5
1,621 - 2,430	8.0	7.9	7.8	7.7	7.6	7.5	7.4	7.4
2,431 - 3,645	6.2	6.3	6.4	6.4	6.8	7.0	7.1	7.2
3,646 - 5,460	4.5	4.7	5.0	5.1	6.1	6.4	6.9	6.9
5,461 - 8,190	2.8	3.2	3.7	4.6	5.0	5.6	6.2	6.4
8,191 - 12,285	2.4	2.5	2.6	2.7	3.5	4.5	5.2	5.6
12,286 - 18,420	2.3	2.3	2.4	2.4	2.6	3.2	4.2	4.7
18,421 - 27,630	2.2	2.3	2.3	2.3	2.4	2.5	2.8	3.1
27,631 - 40,945	2.2	2.2	2.2	2.2	2.2	2.2	2.3	2.4
40,946 - 61,520	2.1	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Over 61,520	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0

(2) For a building constructed after the effective date of this administrative regulation, each plumbing fixture or opening connecting to a combination sanitary and storm sewer system shall either be installed above the elevation of the cover of the nearest manhole serving the main or shall discharge through a sewage ejector to the combined sewer system at an elevation high enough to prevent flooding of the building.

Section 13. House Sewer in Undisturbed or Filled Ground. A house sewer laid in undisturbed ground shall be laid on at least four (4) inches of pea gravel, sand or other approved grillage. A house sewer laid in filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert, or other support that shall be approved by the department. A support in filled ground shall be on a ten (10) foot center to a solid footing, either undisturbed earth or rock. A house sewer constructed of flexible thermoplastic sewer piping shall be installed with at least six (6) inches of gravel on the bottom, top and sides of the piping.

Section 14. Storm Sewers in Undisturbed or Filled Ground. A storm sewer laid in undisturbed ground shall not require grillage. A storm sewer laid in filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert or

other support that shall be approved by the department. A support in filled ground shall be on a ten (10) foot center to a solid footing, either undisturbed earth or rock.

Section 15. Drainage Below Sewer Level (Public). In a public building in which the whole or part of the building drain and plumbing system lies below the level of the main sewer, sewage and waste shall be lifted by an approved artificial means and discharged into the house sewer.

Section 16. Drainage Below Sewer Level (Residential). In a home where the house sewer level is above the basement floor, waste water shall be lifted by means of an approved sump pump. The sump pit shall be constructed of either poured or precast concrete, approved fiberglass or polyethylene material with a tight fitting cover. The sump pit shall be provided with a two (2) inch vent which may also act as a waste and vent for a laundry tray. The pump discharge piping shall discharge into a two (2) inch waste pipe extended inside the building to a height at least twelve (12) inches above the outside grade. The sump pit shall be provided with a tight-fitting concrete cover. On the outside of the building, this waste piping shall connect into a four (4) inch by two (2) inch sanitary tee which shall connect into a four (4) inch P trap and then into the sanitary sewer. The four (4) inch by two (2) inch sanitary tee shall be extended at least two (2) inches above the finished grade and shall be provided with a ventilated cap.

Section 17. Sumps and Receiving Tanks. A subsoil drain shall discharge into an air tight sump or receiving tank located to receive the sewage by gravity. The sewage shall be lifted and discharged into the house sewer by a pump, ejector or an equally efficient method. The sump shall automatically discharge.

Section 18. Ejectors, Vented. A sewage ejector serving a residential installation shall be vented with a two (2) inch vent. An ejector serving a commercial or industrial installation shall be vented with a three (3) inch vent except if a three (3) inch vent stack is serving a fixture that empties into the ejector pit and is located within twenty-five (25) feet of the pit, the ejector may be vented with a two (2) inch vent back to the three (3) inch vent stack. The ejector vent shall not be smaller than that recommended by the manufacturer of the pump. A portion of the building drainage system that is above the cover of the manhole serving the main that can flow by gravity to a sewer shall be installed for gravity flow to the combined sanitary and storm sewer, except for a system designed otherwise by a licensed professional engineer.

Section 19. Ejector Power: Motors, Compressors, and Air Tanks. A motor, air compressor, or air tank shall be located where it is open for inspection and repair at all times. An air tank shall be proportioned to furnish sufficient air at suitable pressure to the ejector to completely empty the sump or storage tank with the compressor not operating. The end pressure in the tank shall not be less than two (2) pounds for each foot of height through which sewage is raised.

Section 20. Ejectors for Subsoil Drainage. If a subsoil catch basin is installed below the sewer level, an approved automatic ejector shall be used. The ejector or a device raising subsoil water shall discharge into a properly trapped fixture or into a storm-water drain.

Section 21. Drainage of Yards, Areas, Roofs, and Traps. (1) A roof, paved area, court, or courtyard shall be drained into one (1) of the following:

- (a) A storm water system;
 - (b) A combined sewerage system; or
 - (c) A surface drainage area unless prohibited by the local health department or sewer district.
- (2) These areas shall not be drained into a sewer intended for

sewage only.

(3) Traps.

(a) If a drain is connected to a combined sewerage system, it shall be trapped.

(b) If a roof leader, conductor, or gutter opening is located more than ten (10) feet from a window, scuttle, or air shaft, a trap shall not be required.

(c) A trap shall be set below the frost line or on the inside of the building.

(d) If a drain is not connected to a combined sewer, a trap shall not be required.

Section 22. Size of Rain Water Leader. An inside leader shall not be less size than the following:

Area of Roof (In Square Feet)	Leader, Diameter (Inches)
Up to 90	1 1/2
91 to 270	2
271 to 810	3
811 to 1,800	3 1/2
1,801 to 3,600	4
3,601 to 5,500	5
5,501 to 9,600	6

Section 23. Inside Conductors or Roof Leaders. If a conductor or roof leader is placed within the walls of a building, or in an interior court or ventilating pipe shaft, it shall be constructed of cast iron pipe, galvanized wrought iron, galvanized steel, copper, aluminum, schedule 40 ABS/PVC DMV pipe or reinforced thermosetting resin pipe produced and labeled as ASTM D-2996 (red and silver thread). The vertical distance of PVC or ABS conductors shall not exceed forty-five (45) feet from the base to the penetration through the roof. Provisions shall be made for the expansion and contraction of plastic pipe.

Section 24. Outside Conductors. If an outside sheet metal conductor or downspout is connected to a house drain, it shall be connected by means of a cast iron pipe extending vertically at least one (1) foot above the grade line. If the downspout runs along a public driveway without a sidewalk, it shall be placed in a niche in the wall, protected by wheel guards, or enter the building through the wall at a forty-five (45) degree slope at least twelve (12) inches above the grade.

Section 25. Defective Conductor Pipes. If an existing sheet metal conductor pipe within the walls of a building becomes defective, the conductor shall be replaced by one which conforms to this administrative regulation.

Section 26. Vent Connections with Conductors Prohibited. A conductor pipe shall not be used as a soil, waste or vent pipe. A soil, waste, or vent pipe shall not be used as a conductor.

Section 27. Overflow Pipes. An overflow pipe from a cistern, supply tank, expansion tank, or drip pan shall connect indirectly with a house sewer, house drain, soil or waste pipe.

Section 28. Subsoil Drains, Below Sewer Level. A subsoil drain shall discharge into a sump or receiving tank and shall be automatically lifted and discharged into the storm drainage system or upon the ground outside the building it serves.

Section 29. Approvals of New Sewer Connections to Existing Buildings. If the local health department or sanitary sewage system board, plant, district or treatment plant owner prohibits the discharge of a basement floor drain or other apparatus into the sanitary sewer

system, an existing basement floor drain or sump pump apparatus shall comply with the new construction requirements of this code and be inspected prior to the approval of a connection for a new sewer line.

FRANK PHIEFFER, Chairman
CHARLES A. COTTON, Commissioner
LAURA M. DOUGLAS, Secretary
JUDITH G. WALDEN, General Counsel

APPROVED BY AGENCY: August 6, 1997

FILED WITH LRC: August 27, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 1997, at 10 a.m., local time, in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency, in writing, by October 14, 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 in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden, General Counsel

(1) Type and number of entities affected: Licensed master and journeyman plumbers; users of the State Plumbing Code.

(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 effect on cost of living or employment with the implementation of this amendment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No change in the cost of doing business with the implementation of this amendment.

(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 reporting or paperwork required by users of the State Plumbing Code.

2. Second and subsequent years:

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No cost or savings on the administrative agency involved in this amendment.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Preparing amendment to Code and distributing the information to users.

(4) Assessment of anticipated effect on state and local revenues: No effect on state or local revenue with the implementation of this amendment.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Division of Plumbing's revenue will not be affected by the enforcement of this amendment.

(6) Economic impact, including effects of economic activities

arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: The administrative regulation is implemented statewide; however, its implementation should have no economic impact to the area or statewide.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: State Plumbing Code Committee and the Board of Housing review proposed amendments and accept on basis within limits defined.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Not applicable with this amendment.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Not applicable with this amendment.

(c) If detrimental effect would result, explain detrimental effect:

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

(a) Necessity of proposed regulation if in conflict: No known conflict.

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. Tiering was used in that the sewer piping required to cover a minimum of 24 inches is different than the depth requirement for water lines.

CABINET FOR HEALTH SERVICES
Department for Public Health
Division for Health Systems Development
(Amendment)

902 KAR 13:120. Emergency medical technician-basic and EMT-first responder automated external [automatic and semi-automatic] defibrillation training and authorization [program].

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS Chapter 13B, 211.964, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.964 requires [directs] the Cabinet for Health Services to adopt [rules and] administrative regulations relating to emergency medical technicians (EMTs). The function of this administrative regulation is to establish [a new emergency medical technician (EMT) procedure, automatic and semiautomatic cardiac defibrillation, and to establish] requirements for training[, examinations] and authorization for an EMT-basic (EMT-B) or an EMT-first responder (EMT-FR) to utilize an automated external defibrillator (AED). [This will be a restrictive procedure while the EMT is employed with an approved ambulance service provider; or with an authorized fire, police or rescue (i.e., public safety) organization having a written affiliation agreement with an approved ambulance service within the same geographic service area.] Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.

Section 1. Authorization. A Kentucky certified EMT-B or EMT-FR who is employed full time, part time, paid or volunteer by a Class I or air ambulance service licensed pursuant to 902 KAR 14:070 or an employer who utilizes an EMT-B or EMT-first responder to provide emergency medical responses shall be authorized to use an AED if the EMT-B, EMT-FR and the employer meet the requirements of this administrative regulation.

Section 2. Initial Training. (1) An EMT-B or EMT-FR shall not be authorized to utilize an AED, unless he has successfully completed:

(a) An employer specific training and orientation program to include:

1. Operating requirements for the specific AED device to be utilized by the employer; and

2. AED utilization protocols established for the employer by the authorizing physician medical director; and

(b) An approved EMT-B training program based upon the 1994 EMT-basic national standard curriculum;

(c) An approved EMT-B transition course based upon the 1994 EMT-Basic national standard curriculum;

(d) A cabinet-approved AED training program which was conducted prior to the effective date of this administrative regulation; or

(e) A course which meets the educational objectives of the American Heart Association advanced cardiac life support or basic life support AED training programs which include AED, or other equivalent nationally recognized AED training program;

(2) An AED training program shall:

(a) Have a physician medical director as required in Section 4 of this administrative regulation; and

(b) Be conducted by a person who is:

1. A Kentucky certified EMT-instructor or EMT-instructor-trainer;

2. A paramedic or registered nurse having credentials from the American Heart Association as an advanced cardiac life support (ACLS) instructor; or

3. A physician who meets the qualifications as required in Section 4 of this administrative regulation.

(3) An AED training program shall be approved by a medical director who meets the qualifications as required in Section 4 of this administrative regulation.

Section 3. Retraining. (1) A Kentucky certified EMT-B or EMT-first responder authorized to use an AED shall demonstrate AED competency to the medical director on at least an annual basis. More frequent competency demonstrations may be required by the medical director.

(2) Written documentation shall be made available to the cabinet, upon request, to support:

(a) Dates of competency reviews; and

(b) Action taken regarding personnel with less than an acceptable competency rating.

Section 4. Medical Direction. An individual serving as the medical director for an EMT-B or EMT-first responder AED program shall:

(1) Be licensed as a physician by the Kentucky Board of Medical Licensure (KBML);

(2) Have a written agreement with the employer of an EMT-B or EMT-first responder to:

(a) Approve and oversee training;

(b) Establish written protocols and standing orders for the use of an AED by an EMT-B or EMT-FR;

(c) Provide specific written authorization for an individual EMT-B or EMT-FR to use an AED;

(d) Remove authorization as required in Section 5 of this administrative regulation;

(e) Approve, oversee, and document results of periodic reviews of established quality assurance procedures regarding personnel use of the AED;

(f) Establish continuing education requirements based on a quality assurance program; and

(g) Provide medical supervision and oversight.

Section 5. Denial of Authorization. (1) Authorization to utilize an AED by a Kentucky certified EMT-B or EMT-FR may be denied, suspended, revoked or restricted by the physician medical director,

employer or cabinet for any of the following reasons:

(a) The medical director has removed permission for the EMT-B or EMT-FR to perform AED and has made it known in writing to the EMT-B or EMT-FR and employer;

(b) The employer has removed permission for the EMT-B or EMT-FR to perform AED and has made it known in writing to the medical director and to the EMT-B or EMT-FR;

(c) The expiration of the certification of the individual EMT-B or EMT-FR;

(d) The individual has discontinued employment with the employer; and

(e) Other disciplinary action has been taken by the cabinet pursuant to 902 KAR 13:090.

(2) If the cabinet denies, suspends, revokes or restricts authorization for an EMT-B or EMT-FR to perform an AED service, a hearing process shall be provided in accordance with the requirements of 902 KAR 1:400.

Section 6. Coordination of Patient Care. (1) If an EMT-B or EMT-FR is employed by an employer that is not a Kentucky licensed Class I ambulance service, the employer shall have a written agreement with a Class I ground ambulance provider within the service area of the employer that allows for and outlines continuation of AED services.

(2) The agreement shall address:

(a) Coordination of medical direction between the medical director of the employer and the medical director of the Class I ambulance service;

(b) Medical records;

(c) Data collection; and

(d) Training of personnel.

(3) If the employer is primarily served by a Kentucky licensed Class I ambulance service that does not provide AED services or advanced life support services, the agreement shall require that the EMT-B or EMT-FR who utilized the AED accompany the patient until the patient is turned over to a higher level of care such as:

(a) A licensed BLS ambulance service which does provide AED services;

(b) A licensed ALS ambulance provider;

(c) A licensed physician; or

(d) A hospital.

(4) If an EMT-B or EMT-FR is authorized to utilize an AED with an employer that is not a licensed Class I ambulance service, the EMT-B or EMT-FR shall verify with his employer that a written agreement is in effect with a Class I ambulance service to provide coordination of AED care.

Section 7. Records and Reports. (1) A Kentucky certified EMT-B or EMT-FR who is authorized to utilize an AED shall maintain or have available on file at the location of the employer, for a period no less than five (5) years, written documentation of the following records:

(a) Authorization or denial of authorization from the employer and the medical director;

(b) Proof of initial training and retraining as required in Sections 2 and 3 of this administrative regulation.

(c) Proof of medical direction as required in Section 4 of this administrative regulation.

(d) Proof of coordination of patient care, if applicable, as required in Section 6 of this administrative regulation.

(2) The records shall be made available for inspection by authorized representatives of the Cabinet for Health Services during regular business hours. (Training Course Requirements. The automatic and semiautomatic defibrillation training course, utilizing automatic external or semiautomatic external defibrillation (AED/SAED) equipment, shall:

(1) Be coordinated by a licensed ambulance service that has filed an appropriate application to and has been approved by the cabinet

for coordinating the training, and the ambulance service shall assume all responsibilities required for conducting the AED/SAED training course;

(2) Include the curriculum developed by the Kentucky Emergency Medical Services Advisory Committee and approved by the Emergency Medical Services Branch of the cabinet. A copy of this publication is incorporated by reference and shall be on file in the office of the Commissioner, Department for Public Health, Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, and shall be available for public inspection between 8 a.m. and 4:30 p.m., Monday through Friday. An equivalent curriculum developed by an outside source, but meeting the course criteria established by the cabinet, may be submitted to and be considered for approval by the cabinet;

(3) Be a minimum of seven (7) hours in duration, presented in two (2) sessions over at least two (2) days;

(4) Utilize equipment, tests, and other materials approved by the cabinet;

(5) Not be started until all equipment and other materials specified are available, in proper quantities, in proper working condition, and placed in secure storage;

(6) Not share equipment between courses unless such equipment is available equally to all defibrillation classes;

(7) Be taught by an instructor, at a ratio of one (1) instructor per six (6) students, approved by the cabinet pursuant to Section 2 of this administrative regulation;

(8) Have a medical director under written contract with the ambulance service provider, who shall review and approve all instruction curriculum and instructors, and who shall be present and participate as appropriate during the training program course;

(9) Have an appropriate number of assistant instructors available for practice sessions so that there are no more than six (6) additional students per assistant. A person meeting the specifications described in Section 2 of this administrative regulation, or an EMT who has completed the AED/SAED training program and is currently authorized and active in performing AED/SAED procedures, may be used as an assistant for practice sessions;

(10) Have a class certification number assigned by the cabinet;

(11) Not permit any absenteeism, or the student shall repeat the entire course;

(12) Not permit any student to be on call during training sessions; and

(13) Require the instructor at the end of each course to submit the following to the ambulance service provider and to the EMS Branch of the cabinet:

(a) A list of names, including EMT certification numbers, of those students who have successfully completed the course requirements for authorization to perform automatic and semiautomatic cardiac defibrillation; and

(b) The name of the ambulance service with which these EMTs will be working, or affiliated.

(c) The ambulance service shall notify any affiliated public safety organization in writing of each affiliated EMT who has successfully completed the course and who is authorized to perform AED/SAED procedures according to the ambulance service medical director protocols.

Section 2. Automatic and Semiautomatic Cardiac Defibrillation Instructors. No person shall hold himself out as an instructor for EMTs in automatic and semiautomatic cardiac defibrillation unless he has been approved by the cabinet to teach the course. One (1) of the following shall be eligible for such approval upon submission of appropriate documentation to the cabinet:

(1) An EMT who is a certified EMT instructor and who is authorized and is currently active in performing AED/SAED procedures;

(2) A paramedic, registered nurse or physician, each of whom is a currently certified advanced cardiac life support (ACLS) instructor.

Section 3. Requirements for Each Eligible Trainee Applicant. Each EMT who is employed (full time, part time, paid or volunteer) with an ambulance service or affiliated fire department, police department, or rescue squad, and who responds on an ambulance, fire apparatus, police vehicle, rescue squad or designated first response unit, shall provide to the AED/SAED lead class instructor:

(1) Proof of current EMT certification. If EMT certification expires, the eligibility as an applicant for AED/SAED training also lapses until the EMT is recertified;

(2) Proof of current cardiac life support skills, (e.g., a current American Heart Association or American Red Cross CPR certification card). Included shall be the provision of an acceptable cardiopulmonary resuscitation (CPR) strip, that is signed by an EMT instructor to verify that the strip was produced by the student applicant within thirty (30) days prior to the commencement date of the class; and

(3) Approval to enroll from the student's emergency medical (ambulance) service provider director and the emergency medical (ambulance) service medical director (EMS-MD).

Section 4. EMT Automatic and Semiautomatic Cardiac Defibrillation Training Program Examination. The cabinet shall prescribe the format and content of the authorization examination, which shall consist of two (2) parts:

(1) Written test. At the end of this course, the student shall demonstrate competency with a written test scoring eighty (80) percent or better that includes the following four (4) enabling objectives:

(a) The student shall identify the function, operation, and proper maintenance of the automatic external devices/shock advisory (semiautomatic) devices, hereafter referred to as AED/SAED.

(b) The student shall define patient assessment, and care and treatment of the sudden death victim.

(c) The student shall list safety measures when using an AED/SAED.

(d) The student shall repeat standing orders and state automatic and semiautomatic cardiac defibrillation training program requirements.

(2) Practical test. At the end of this course, the student shall pass a practical examination managing a simulated cardiac arrest patient using defibrillation that includes the following five (5) enabling objectives:

(a) The student shall demonstrate control of the simulated emergency scene and shall direct the resuscitation efforts.

(b) The student shall demonstrate correct use of standing orders in a simulated cardiac arrest by correctly defibrillating a manikin within ninety (90) seconds of arrival at the manikin's side.

(c) The student shall demonstrate safe use of the AED/SAED and answer questions about the controls, disposable supplies, maintenance, and device "trouble shooting" techniques.

(d) The student shall give an appropriate voice documentation of events at the scene.

(e) The student shall demonstrate appropriate assessment and care of the patient before, during and after defibrillation.

(3) Examiners. AED/SAED instructors approved by the cabinet pursuant to Section 2 of this administrative regulation shall be used as examiners for AED/SAED course practical examinations. An instructor who is employed by the ambulance service for whom the AED/SAED course is conducted shall not be used as an examiner in the practical examination of the course.

(4) Failure of examination and eligibility for retesting.

(a) A student who fails one (1) component of the final examination, written or practical, may be allowed one (1) retest upon recommendation by the instructor and with the approval of the ambulance service medical director.

(b) Failure to successfully pass one (1) retest shall require that the student retake the entire training program course before becoming authorized to perform AED/SAED procedures.

Section 5. Authorization and Continuation of Authorization. (1) The ambulance service or affiliated EMT is authorized to perform AED/SAED procedures by the medical director of the approved ambulance service.

(2) Besides having the approval of the ambulance service medical director, in order to continue the authorization for performance of AED/SAED procedures, the EMT shall during his period of authorization, provide proof to include:

(a) Current certification as an emergency medical technical;

(b) Continued employment and response as an ambulance attendant with an approved AED/SAED ambulance service provider, or a public safety organization service which has a written affiliation agreement with an approved AED/SAED ambulance service within the same geographic service area;

(c) A practical skills review every ninety (90) days to be documented by the EMS medical director or the EMS-MD designee. This practical skills review shall address defibrillation as well as basic life support skills.

(3) The continuing medical education classes shall include, but are not limited to:

(a) Equipment drills with their specific auto or semiautomatic defibrillator; and

(b) Knowledge of current standing orders.

(4) The following are not eligible for credit as in-service training or continuing education:

(a) Ambulance runs, rescues, firefighting, emergency responses, or similar actual emergency activities;

(b) Instruction in material, techniques or procedures not approved to be performed by an EMT authorized to perform automatic and semiautomatic cardiac defibrillation.

(5) Evidence of AED/SAED continuing education shall be submitted to and maintained on file at the ambulance service with which the EMT is employed, or affiliated, subject to inspection by a representative of the Emergency Medical Services Branch of the cabinet.

(6) Each subject or training course claimed shall be signed by the instructor of the subject or course.

(7) The qualifications for instructors who may provide in-service and continuing education for the EMT authorized to perform automatic and semiautomatic defibrillation are the same as those identified under Section 2 of this administrative regulation.

Section 6. Denial of Authorization for the EMT to Perform Automatic and Semiautomatic Defibrillation Procedures. The denial of authorization for the EMT to perform AED/SAED procedures may be put into effect by the EMS-MD or the cabinet for any of the following reasons:

(1) The medical director has removed permission for the EMT to perform AED/SAED procedures and has made it known to the ambulance service provider, with subsequent notice having been made by the ambulance service provider to the affiliated public safety organization, and to the EMS Branch of the cabinet, due to any reason that has been substantiated to be detrimental to patient care or to other emergency medical service personnel;

(2) The expiration of the individual's EMT certification;

(3) The individual has discontinued employment with an approved automatic or semiautomatic defibrillation ambulance service provider, or affiliated public safety organization;

(4) The previously approved ambulance service provider with whom the EMT works or is affiliated, has been denied approval to provide automatic or semiautomatic defibrillation services by either having had its ambulance service license revoked, or it no longer has a medical director under written contract; or

(5) The EMT has had his EMT certification revoked, due to having committed an infraction as specified under 902 KAR 13:090, Section 4, disciplinary actions.

Section 7. Hearing Process for an EMT Denied Authorization. When an EMT has been denied authorization to perform AED/SAED procedures:

(1) At the local level by the EMS-MD, a hearing process shall be assured for the EMT in the EMS-MD/ambulance service provider contract; or

(2) At the state level due to the EMT certification being revoked by the EMS Branch of the cabinet, a hearing process for the EMT shall be in accordance with the requirements of 902 KAR 1:400.

Section 8. Utilization of Services. No ambulance service provider or affiliated public safety organization shall employ, utilize, permit the operation of, or advertise that said provider employs an EMT authorized to perform AED/SAED procedures, unless the provider is approved by the cabinet to provide AED/SAED services. An approved AED/SAED ambulance service provider shall:

(1) Have a written agreement with a medical director to provide medical supervision and control of the AED/SAED authorized EMT who is in the employ of the provider, and the medical director shall:

(a) Be a licensed physician in the Commonwealth of Kentucky;

(b) Be familiar with ACLS standards, and by January 1, 1995 become ACLS certified;

(c) Review and approve all AED/SAED instruction curriculum, and the instructors for the training program;

(d) Participate in the AED/SAED training program, including presentation of lectures and assisting in student practice sessions as appropriate;

(e) Approve each EMT who is to be a student trainee in the AED/SAED training program;

(f) Supply written authorization to the EMTs for standing orders relating to performance of AED/SAED procedures;

(g) Supervise the continuing education and quarterly evaluations of each EMT authorized to perform AED/SAED procedures;

(h) Review patient case records as established by a quality assessment plan, to include review of written documentation and use of electronic voice and electrocardiogram (ECG) recordings of treatment (only when defibrillation machine used) performed by the authorized EMTs in the field;

(i) Exercise authority as appropriate to remove permission for EMT to perform AED/SAED procedures as referenced in Section 6(1) of this administrative regulation, including the provision of written notice to the EMT and ambulance service involved; and

(j) Assure the provision of a hearing process in accordance with Section 7(1) of this administrative regulation.

(2) Be licensed minimally as a basic life support ambulance service in the Commonwealth of Kentucky; and

(3) Submit required information to the EMS Branch of the cabinet prior to the commencement of any AED/SAED training program for EMTs employed by the emergency medical services provider, and at least annually thereafter.

Section 9. Affiliated Public Safety Organization. An EMT employed (paid or volunteer) by a public safety organization shall not perform AED/SAED procedures unless the public safety organization has entered into a written affiliation agreement with an approved ambulance service within the same geographic service area.

(1) Each affiliated EMT applicant for AED/SAED training shall be approved by the ambulance service director and medical director;

(2) The affiliated EMT shall be under the medical control of and may perform AED/SAED procedures only by authorization from the ambulance service medical director;

(3) The public safety organization shall agree to comply with the requirements of this administrative regulation and all other terms agreed upon between the public safety organization and the approved ambulance service, as specified in the written affiliation agreement;

(4) The terms in the written affiliation agreement shall specify the responsibilities each party shall assume and shall include a plan for

implementation of coordinated response activities in order to maximize appropriate patient care.]

RICE C. LEACH, Commissioner

JOHN MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: September 9, 1997

FILED WITH LRC: September 11, 1997 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 1997 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by October 14, 1997. If no notice 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 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, Phone: 502-564-7900.

REGULATORY IMPACT ANALYSIS

Agency contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 13,000-15,000 EMTs and EMT-first responders, and 280 ground ambulance services.

(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. This administrative regulation will have no effect on the cost of living and employment in this state.

(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, when implemented, should decrease the cost of doing business in the state. This administrative regulation relaxes the authorization and training requirements for EMTs and EMT-first responders to use automatic external defibrillators in the prehospital setting. Only those services which are not now providing AED services will have increased costs if they choose to introduce the program. Equipment and consumable supplies cost from approximately \$3,000 to \$8,000 for each AED. Additional costs may be incurred for a medical director and training of staff.

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

1. First year following implementation: This proposed amendment will decrease costs by decreasing compliance reporting and paperwork requirements. This should have no effect on competition.

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This proposed amendment will result in decreasing costs for the promulgating administrative body because there will be less oversight and reporting requirements.

2. Continuing costs or savings: As above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: This proposed amendment will decrease paperwork and reporting requirements.

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

This proposed amendment will have no effect on state revenue. Local revenue may be increased if local services bill for AED services.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: General 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: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were rejected because this proposed administrative regulation is in keeping with AED programs currently updated in other states, recent published studies, and current medical practice.

(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 have a beneficial effect on public health by increasing the availability of prehospital AED services.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: If not implemented fewer AED services will be available which may result in a detrimental effect on public health.

(c) If detrimental result would result, explain detrimental effect: The detrimental effect on the public's health would be that AEDs would be less available and lives may be lost which may have been saved by timely administration of AED services.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. Tiering was not applied because this administrative regulation establishes uniform authorization and training standards for EMTs and EMT-first responders to utilize AEDs in all prehospital emergency situations.

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. Local governments which operate ambulance services; fire; police; and safety organizations may adopt the AED program for Kentucky certified EMTs and EMT-first responders.

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This administrative regulation will affect only those local governments which choose to have medical director and provide this service.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation relates to the provision of emergency medical services.

4. How does this administrative regulation affect the local government or any service it provides? This administrative regulation may affect a local government by increasing costs of emergency medical services, if there is not an existing AED service. If the local government is already providing this service through their safety organizations, costs may go down because of less training and reporting requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

None

2. State compliance standards. None

3. Minimum or uniform standards contained in the federal mandate. None

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

CABINET FOR HEALTH SERVICES Office of Inspector General (Amendment)

902 KAR 20:016. Hospitals; operations and services.

RELATES TO: KRS 214.175, 216B.010 to 216B.130, 216B.990, Chapter 310, 311.241 to 311.247, 311.990, 42 CFR 412.23(e)

STATUTORY AUTHORITY: KRS 216B.042, 216B.105, 314.011(8), 314.042(8), 320.240(14), 42 USC 263a, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 mandate that the Kentucky Cabinet for Health Services regulate health facilities and health services. This administrative regulation provides for the minimum licensure requirements for the operation of hospitals and the basic services to be provided by hospitals. 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) "Accredited record technician" means a person who has graduated from a program for medical record technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as an accredited Record Technician by the American Medical Record Association.

(2) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of radiation producing machines.

(3) "Governing authority" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(4) "Induration" means a firm area in the skin which develops as a reaction to the intradermal injection of five (5) tuberculin units of purified protein derivative by the Mantoux technique when a person has tuberculosis infection.

(5) "Long-term acute inpatient hospital services" means acute inpatient services provided to patients whose average inpatient stay is greater than twenty-five (25) days.

(6) "Medical staff" means an organized body of physicians, and dentists when applicable, appointed to the hospital staff by the governing authority.

(7) [(6)] "Organ procurement agency" means a federally designated organization which coordinates and performs activities which encourage the donation of organs or tissues for transplantation.

(8) [(7)] "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(9) [(8)] "Psychiatric unit" means a department of a general acute care hospital consisting of eight (8) or more psychiatric beds organized for the purpose of providing psychiatric services.

(10) [(9)] "Registered, certified or registry-eligible dietitian" means a person who is certified in accordance with KRS Chapter 310.

(11) [(10)] "Registered records administrator" means a person who is certified as a registered records administrator by the American Medical Record Association.

(12) [(11)] "Restraint" means any pharmaceutical agent or

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physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

(13) [(+2)] "Skin test" means a tuberculin skin test utilizing the intradermal (Mantoux) technique using five (5) tuberculin units of purified protein derivative (PPD). The results of the test must be read forty-eight (48) to seventy-two (72) hours after injection and recorded in terms of millimeters of induration.

(14) [(+3)] "Two (2) step skin testing" means a series of two (2) tuberculin skin tests administered seven (7) to fourteen (14) days apart.

Section 2. Scope of Operation and Services. Hospitals are establishments with organized medical staffs and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical.

Section 3. Administration and Operation. (1) Governing authority licensee.

(a) The hospital shall have a recognized governing authority that has overall responsibility for the management and operation of the hospital and for compliance with federal, state, and local laws and administrative regulations pertaining to its operation.

(b) The governing authority shall appoint an administrator whose qualifications, responsibilities, authority, and accountability shall be defined in writing and approved by the governing authority, and shall designate a mechanism for the periodic performance review of the administrator.

(2) Administrator.

(a) The administrator shall act as the chief executive officer and shall be responsible for the management of the hospital, and shall provide liaison between the governing authority and the medical staff.

(b) The administrator shall keep the governing authority fully informed of the conduct of the hospital through periodic reports and by attendance at meetings of the governing authority.

(c) The administrator shall develop an organizational structure including lines of authority, responsibility, and communication, and shall organize the day-to-day functions of the hospital through appropriate departmentalization and delegation of duties.

(d) The administrator shall establish formal means of accountability on the part of subordinates to whom he has assigned duties.

(e) The administrator shall hold interdepartmental and departmental meetings (where appropriate), shall attend or be represented at the meetings on a regular basis, and shall report to such departments as well as to the governing authority the pertinent activities of the hospital.

(3) Administrative records and reports.

(a) Administrative reports shall be established, maintained and utilized as necessary to guide the operation, measure productivity, and reflect the programs of the facility. These reports shall include: minutes of the governing authority and staff meetings, financial records and reports, personnel records, inspection reports, incident investigation reports, and other pertinent reports made in the regular course of business.

(b) The hospital shall maintain a patient admission and discharge register. Where applicable, a birth register and a surgical register shall also be maintained.

(c) Licensure inspection reports and plans of correction shall be made available to the general public upon request.

(4) Policies. The hospital shall have written policies and procedures governing all aspects of the operation of the facility and the services provided, including:

(a) A written description of the organizational structure of the facility including lines of authority, responsibility and communication, and departmental organization;

(b) Admission policies which assure that patients are admitted to

the hospital in accordance with policies of the medical staff;

(c) Constraints imposed on admissions by limitations of services, physical facilities, staff coverage or other factors;

(d) Financial requirements for patients on admission;

(e) Emergency admissions;

(f) Requirements for informed consent by patient, parent, guardian or legal representative for diagnostic and treatment procedures;

(g) There shall be an effective procedure for recording accidents involving a patient, visitor, or staff, and incidents of transfusion reactions, drug reactions, medication errors, etc.; and a statistical analysis shall be reported in writing through the appropriate committee;

(h) Reporting of communicable diseases to the health department in whose jurisdiction the disease occurs pursuant to KRS Chapter 214 and 902 KAR 2:020;

(i) Use of restraints and a mechanism for monitoring and controlling their use;

(j) Internal transfer of patients from one (1) level or type of care to another (if applicable);

(k) Discharge and termination of services; and

(l) Organ procurement for transplant protocol developed by the medical staff in consultation with the organ procurement agency.

(5) Patient identification. The hospital shall have a system for identifying each patient from time of admission to discharge (e.g., an identification bracelet imprinted with name of patient, hospital identification number, date of admission, and name of attending medical staff member).

(6) Discharge planning.

(a) The hospital shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(b) The professional staff of the facility involved in the patient's care during hospitalization shall participate in discharge planning of the patient whose illness requires a level of care outside the scope of the general hospital.

(c) The hospital shall coordinate the discharge of the patient with the patient and the person or agency responsible for the postdischarge care of the patient. All pertinent information concerning postdischarge needs shall be provided to the responsible person or agency.

(7) Transfer procedures and agreements.

(a) The hospital shall have written patient transfer procedures and agreements with at least one (1) of each type of other health care facilities which can provide a level of inpatient care not provided by the hospital. Any facility which does not have a transfer agreement in effect but has documented a good faith effort to enter into such an agreement shall be considered to be in compliance with this requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and shall establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arranging for appropriate and safe transportation.

(b) If the patient is transferred to another health care facility or to the care of a home health agency, a transfer form shall accompany the patient or be sent immediately to the home health agency. The transfer form shall include at least: attending medical staff member's instructions for continuing care, a current summary of the patient's medical record, information as to special supplies or equipment needed for patient care, and pertinent social information on the patient and family. When such transfer occurs, a copy of the patient's signed discharge summary shall be forwarded to another health care facility or home health agency within thirty (30) days of the patient's discharge.

(c) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(8) Medical staff.

(a) The hospital shall have a medical staff organized under bylaws approved by the governing authority, which is responsible to the governing authority of the hospital for the quality of medical care provided to the patients and for the ethical and professional practice of its members.

(b) The medical staff shall develop and adopt policies or bylaws, subject to the approval of the governing authority, which shall:

1. State the necessary qualifications for medical staff membership including licensure to practice medicine or dentistry in Kentucky, except for graduate physicians in their first year of hospital training. For purposes of this document, medical staff shall mean physicians, and dentists when applicable.

2. Define and describe the responsibilities and duties of each category of medical staff (e.g., active, associate, courtesy, consulting, or honorary), delineate the clinical privileges of staff members and allied health professionals, and establish a procedure for granting and withdrawing staff privileges to include credentials review.

3. Provide a mechanism for appeal of decisions regarding staff membership and privileges.

4. Provide a method for the selection of officers of the medical staff.

5. Establish requirements regarding the frequency of, and attendance at, general staff and department or service meeting of the medical staff.

6. Provide for the appointment of standing and special committees, and include requirements for composition and organization, frequency of and attendance at meetings, and the minutes and reports which shall be part of the permanent records of the hospital. These committees may include: executive committee, credentials committee, medical audit committee, medical records committee, infections control committee, tissue committee, pharmacy and therapeutics committee, utilization review committee, and quality assurance committee.

(9) Personnel.

(a) The hospital shall employ a sufficient number of qualified personnel to provide effective patient care and all other related services and shall have written personnel policies and procedures which shall be available to all hospital personnel.

(b) There shall be a written job description for each position. Job descriptions shall be reviewed and revised as necessary.

(c) There shall be an employee health program for mutual protection of employees and patients including provisions for preemployment and periodic health examination. The hospital shall comply with the following tuberculosis testing requirements:

1. The skin test status of all staff members shall be documented in the employee's personnel record.

a. A skin test shall be initiated on all new staff members before or during the first week of employment and the results shall be documented in the employee's personnel record within the first month of employment.

b. Skin testing shall not be required at the time of initial employment if the employee documents a prior skin test of ten (10) or more millimeters of induration or if the employee is currently receiving or has completed six (6) months of prophylactic therapy or a course of multiple-drug chemotherapy for tuberculosis.

c. Two (2) step skin testing shall be required for new employees over age forty-five (45) whose initial test shows less than ten (10) millimeters of induration, unless they can document that they have had a tuberculosis skin test within one (1) year prior to their current employment.

d. All staff who have never had a skin test of ten (10) or more millimeters induration shall be skin tested annually on or before the anniversary of their last skin test.

2. All staff who are found to have a skin test of ten (10) or more millimeters induration, on initial employment testing or annual testing, shall receive a chest x-ray unless a chest x-ray within the previous two (2) months showed no evidence of tuberculosis, or the individual

can document the previous completion of a course of prophylactic treatment with isoniazid. Such employees shall be advised of the symptoms of the disease and instructed to report to their employer and seek medical attention promptly if symptoms persist.

3. The hospital administrator shall be responsible for ensuring that all skin tests and chest x-rays are done in accordance with subparagraphs 1 and 2 of this paragraph. All skin testing dates and results and all chest x-ray reports shall be recorded as a permanent part of the personnel record.

4. The following shall be reported by the hospital administrator to the local health department having jurisdiction immediately upon becoming known: names of staff who convert from a skin test of less than ten (10) to a skin test of ten (10) millimeters or more induration at the time of employment; and all chest x-rays suspicious for tuberculosis.

5. Any staff whose skin test status changes on annual testing from less than ten (10) to ten (10) or more millimeters of induration shall be considered to be recently infected with *Mycobacterium tuberculosis*. Such recently infected persons who have no signs or symptoms of tuberculosis disease on chest x-ray or medical history should be given preventive therapy with isoniazid for six (6) months unless medically contraindicated, as determined by a licensed physician. Medications shall be administered only upon the written order of a physician or advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8). If such individual is unable to take isoniazid therapy, the individual shall be advised of the clinical symptoms of the disease, and have an interval medical history and a chest x-ray taken and evaluated for tuberculosis disease every six (6) months during the two (2) years following conversion, for a total of five (5) chest x-rays.

6. Any staff who can document completion of preventive treatment with isoniazid shall be exempt from further screening requirements.

(d) Current personnel records shall be maintained for each employee which include the following:

1. Name, address, Social Security number;
2. Health records;
3. Evidence of current registration, certification, or licensure of personnel;
4. Records of training and experience;
5. Records of performance evaluation.

(10) Physical and sanitary environment.

(a) The condition of the physical plant and the overall hospital environment shall be maintained in such a manner that the safety and well-being of patients, personnel and visitors are assured.

(b) A person shall be designated responsible for services and for the establishment of practices and procedures in each of the following areas: plant maintenance, laundry operations (if applicable), and housekeeping.

(c) There shall be an infection control committee charged with the responsibility of investigating, controlling and preventing infections in the hospital. Infection incident reports shall be filed.

(d) There shall be written infection control policies, which are consistent with the Centers for Disease Control guidelines including:

1. Policies which address the prevention of disease transmission to and from patients; visitors and employees, including but not limited to:

- a. Universal blood and body fluid precautions;
- b. Precautions for infections which can be transmitted by the airborne route; and
- c. Work restrictions for employees with infectious diseases.

2. Policies which address the use of environmental cultures. Results of all testing shall be recorded and reported to the Infection Control Committee; and

3. Policies which address the cleaning, disinfection, and sterilization methods used for equipment and the environment.

(e) The hospital shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of infections.

(f) The hospital buildings, equipment, and surroundings shall be kept in a condition of good repair, neat, clean, free from all accumulations of dirt and rubbish, and free from foul, stale or musty odors.

1. An adequate number of housekeeping and maintenance personnel shall be provided.

2. Written housekeeping procedures shall be established for the cleaning of all areas and copies shall be made available to personnel.

3. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition.

4. Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in closed metal containers and kept separate from other cleaning materials.

5. The facility shall be kept free from insects and rodents with harborages and entrances for these eliminated.

6. Garbage and trash shall be stored in areas separate from those used for preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

(g) Sharp wastes.

1. Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.

2. Needles shall not be purposely bent or broken, or otherwise manipulated by hand as a means of disposal, except as permitted by Centers for Disease Control and Occupational Safety and Health Administration guidelines.

3. The containers of sharp wastes shall either be incinerated on or off site, or be rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Health Services [Human Resources] and the Natural Resources and Environmental Protection Cabinet.

4. Nondisposable sharps such as large-bore needles or scissors shall be placed in a puncture resistant container for transport to the Central Medical and Surgical Supply Department in accordance with 902 KAR 20:009, Section 22.

(h) Disposable waste.

1. All disposable waste shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.

2. The hospital shall establish specific written policies regarding handling and disposal of all wastes.

3. The following wastes shall receive special handling:

a. Microbiology laboratory waste which includes viral or bacterial cultures, contaminated swabs, and specimen containers and test tubes used for microbiologic purposes shall either be incinerated, autoclaved or be rendered nonhazardous by technology of equal or superior efficacy, which is approved by both the Cabinet for Health Services [Human Resources] and the Natural Resources and Environmental Protection Cabinet; and

b. Pathological waste which includes all tissue specimens from surgical or necropsy procedures shall be incinerated.

4. The following wastes shall be disposed of by incineration, or be autoclaved before disposal, or be carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.

5. Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment administrative regulations pursuant to 40 CFR 403 and 401 KAR 5:055, Section 9.

6. Any incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 and 401 KAR 61:010.

(i) The hospital shall have available at all times a quantity of linen essential to the proper care and comfort of patients.

1. Linens shall be handled, stored, and processed so as to control the spread of infection.

2. Clean linen and clothing shall be stored in clean, dry, dust-free

areas designated exclusively for this purpose. Uncovered mobile carts may be used to distribute a daily supply of linen in patient care areas.

3. Soiled linen and clothing shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and will be handled in such a way as to minimize direct exposure of personnel to soiled linen. Soiled linen shall be stored in areas separate from clean linen.

(11) Medical and other patient records.

(a) The hospital shall have a medical records service with administrative responsibility for medical records. A medical record shall be maintained, in accordance with accepted professional principles, for every patient admitted to the hospital or receiving outpatient services.

1. The medical records service shall be directed by a registered records administrator, either on a full-time, part-time, or consultative basis, or by an accredited record technician on a full-time or part-time basis, and shall have available a sufficient number of regularly assigned employees so that medical record services may be provided as needed.

2. All medical records shall be retained for a minimum of five (5) years from date of discharge, or in the case of a minor three (3) years after the patient reaches the age of majority under state law, whichever is the longer.

3. Provision shall be made for written designation of specific location for storage of medical records in the event the hospital ceases to operate because of disaster, or for any other reason. It shall be the responsibility of the hospital to safeguard both the record and its informational content against loss, defacement, and tampering. Particular attention shall be given to protection from damage by fire or water.

(b) A system of identification and filing to insure the prompt location of a patient's medical record shall be maintained:

1. Index cards shall bear at least the full name of the patient, the birth date, and the medical record number.

2. There shall be a system for coordinating the inpatient and outpatient medical records of any patient whose admission is a result of or related to outpatient services.

3. All clinical information pertaining to inpatient or outpatient services shall be centralized in the patient's medical record.

4. In hospitals using automated data processing, indexes may be kept on punch cards or reproduced on sheets kept in books.

(c) Records of patients are the property of the hospital and shall not be taken from the facility except by court order. This does not preclude the routing of the patient's records, or portion thereof, including x-ray film, to physicians or dentists for consultation.

1. Only authorized personnel shall be permitted access to the patient's records.

2. Patient information shall be released only on authorization of the patient, the patient's guardian or the executor of his estate.

(d) Medical record contents shall be pertinent and current and shall include the following:

1. Identification data and signed consent forms, including name and address of next of kin, and of person or agency responsible for patient;

2. Date of admission, name of attending medical staff member, and allied health professional in accordance with subsection (8)(b)2 of this section;

3. Chief complaint;

4. Medical history including present illness, past history, family history and physical examination;

5. Report of special examinations or procedures, such as consultations, clinical laboratory tests, x-ray interpretations, EKG interpretations, etc.;

6. Provisional diagnosis or reason for admission;

7. Orders for diet, diagnostic tests, therapeutic procedures, and medications, including patient limitations, signed and dated by the medical staff member or advanced registered nurse practitioner as

authorized in KRS 314.011(8) and 314.042(8), or therapeutically-certified optometrists as authorized in KRS 320.240(14);

8. Medical, surgical and dental treatment notes and reports, signed and dated by a physician, or dentist, advanced registered nurse practitioner or therapeutically-certified optometrist when applicable, including records of all medication administered to the patient;

9. Complete surgical record signed by attending surgeon, or oral surgeon, to include anesthesia record signed by anesthesiologist or anesthesiologist, preoperative physical examination and diagnosis, description of operative procedures and findings, postoperative diagnosis, and tissue diagnosis by qualified pathologist on tissue surgically removed;

10. Patient care plan which addresses the comprehensive care needs of the patient, to include the coordination of the facility's service departments that have impact on patient care;

11. Physician's, or dentist's, advanced registered nurse practitioner's or therapeutically-certified optometrist's when applicable, progress notes and nurses' observations;

12. Record of temperature, blood pressure, pulse and respiration;

13. Final diagnosis using terminology in the current version of the International Classification of Diseases or the American Psychiatric Association's Diagnostic and Statistical Manual, as is applicable;

14. Discharge summary, including condition of patient on discharge, and date of discharge;

15. In case of death, autopsy findings, if performed; and

16. In the case of death, an indication that the patient has been evaluated for organ donation in accordance with hospital protocol.

(e) Records shall be indexed according to disease, operation, and attending medical staff member. For indexing, any recognized system may be used.

1. The disease and operative indices shall be developed using a recognized nomenclature, and shall include each specific disease created and each operative procedure performed, and shall include all essential data on each patient having that particular condition;

2. The attending medical staff index shall include all patients attended or seen in consultation by each medical staff member;

3. Indexing shall be current, within six (6) months following discharge of the patient.

(12) Organ donation.

(a) The hospital shall establish and maintain a written organ procurement for transplant protocol, in consultation with an organ procurement agency, which encourages organ donation and identifies potential organ donors.

(b) In cases where an individual has died or death is imminent, the patient's attending physician shall determine, in accordance with the hospital's protocol, whether the patient is a potential organ or tissue donor.

(c) The hospital protocol shall include:

1. Criteria, developed in consultation with the organ procurement agency for identifying potential donors;

2. Procedures for obtaining consent for organ donation;

3. Procedures for the hospital administrator or his designee to notify the organ procurement agency of potential organ donors;

4. Procedures by which the patient's attending physician or designee in accordance with hospital protocol shall document in the patient's medical record that the organ procurement agency has been notified in the case of potential donors or contraindications to donation.

5. Procedures for the hospital administrator or his designee to report any information about the possible sale, purchase, or brokering of a transplantable organ to the Cabinet for Health Services, Office of the Inspector General, as required by KRS 311.241(3).

(d) A patient with impending or declared brain death or cardiopulmonary death as determined pursuant to KRS 446.400 should not be considered as a potential donor if contraindications are identified and documented in the patient's medical record.

Section 4. Provision of Services. (1) Medical staff services.

(a) Medical care provided in the hospital shall be under the direction of a medical staff member in accordance with staff privileges granted by the governing authority.

(b) The attending medical staff member shall assume full responsibility for diagnosis and care of his patient. Other qualified personnel may complete medical histories, perform physical examinations, record findings, and compile discharge summaries, in accordance with their scope of practice and the hospital's protocols and bylaws.

(c) A complete history and physical examination shall be conducted and recorded within twenty-four (24) hours after admission of the patient.

(d) The attending medical staff member shall state his final diagnosis, assure that the discharge summary is completed and sign the records within thirty (30) days following the patient's discharge.

(e) Physician services shall be available twenty-four (24) hours a day on at least an on-call basis.

(f) There shall be sufficient medical staff coverage for all clinical services of the hospital in keeping with their size and scope of activity.

(2) Nursing service.

(a) The hospital shall have a nursing department organized to meet the nursing care needs of the patients and maintain established standards of nursing practice. A registered nurse, preferably one who has a bachelor of science degree in nursing, shall serve as director of the nursing department.

(b) There shall be a registered nurse on duty at all times.

1. There shall be registered nurse supervision and staff nursing personnel for each service or nursing unit to insure the immediate availability of a registered nurse for all patients on a twenty-four (24) hour basis.

2. There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the service of a registered nurse.

3. There shall be additional registered nurses for surgical, obstetrical, emergency, and other services of the hospital in keeping with their size and scope of activity.

4. All persons not employed by the hospital who render special duty nursing services in the hospital shall be under the supervision of the nursing supervisor of the department or service concerned.

(c) The hospital shall have written nursing care procedures and written nursing care plans for patients. Patient care shall be carried out in accordance with attending medical staff member's orders, nursing process, and nursing care procedures.

1. The nurse shall evaluate the patient by utilizing the nursing process in accordance with KRS 314.011.

2. A registered nurse shall assign staff and evaluate the nursing care of each patient in accordance with the patient's need and the nursing staff available.

3. Nursing notes shall be written and signed on each shift by persons rendering care to patients. The notes shall be descriptive of the nursing care given and shall include information and observations of significance which contribute to the continuity of patient care.

4. Medications shall be administered by a registered nurse, a physician, or dentist except in the case of a licensed practical nurse under the supervision of a registered nurse.

5. Medications or treatments shall not be given without a written order signed by a physician or dentist, when applicable, or advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8), or therapeutically-certified optometrists as authorized in KRS 320.240(14). Telephone orders for medications shall be given only to a licensed practical or registered nurse or a pharmacist and signed by the physician, dentist, advanced registered nurse practitioner or therapeutically-certified optometrist within twenty-four (24) hours from the time the order is given. Telephone orders may be given to licensed physical, occupational, speech or respiratory therapists in accordance with the therapist's scope of practice and the hospital's protocols.

6. Patient restraints or protective devices, other than bed rails, shall not be used, except in an emergency until the attending medical staff member can be contacted, or upon written or telephone orders of the attending medical staff member. When such restraint is necessary, the least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility and protection. In no case shall a locking restraint be used.

7. Meetings of the nursing staff and other nursing personnel shall be held at least monthly to discuss patient care, nursing service problems, and administrative policies. Written minutes of all meetings shall be kept.

(3) Dietary services.

(a) The hospital shall have a dietary department, organized, directed and staffed to provide quality food service and optimal nutritional care.

1. The dietary department shall be directed on a full-time basis by an individual who by education or specialized training and experience is knowledgeable in food service management.

2. The dietary service shall have at least one (1) registered, certified or registry-eligible dietician either full-time, part-time, or on a consultative basis, to supervise the nutritional aspects of patient care.

3. Sufficient additional personnel shall be employed to perform assigned duties to meet the dietary needs of all patients.

4. The dietary department shall have available for all dietary personnel current written policies and procedures for food storage, handling, and preparation.

5. An in-service training program, which shall include the proper handling of food, safety and personal grooming, shall be given at least quarterly for new dietary employees.

(b) Menus shall be planned, written and rotated to avoid repetition. Nutritional needs shall be met in accordance with recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the National Academy of Sciences and in accordance with the medical staff member's orders.

(c) Meals shall correspond with the posted menu. When changes in menu are necessary, substitution shall provide equal nutritive value and the changes shall be recorded on the menu. Menus shall be kept on file for thirty (30) days.

(d) All diets, regular and therapeutic, shall be prescribed in writing, dated, and signed by the attending medical staff member. Information on the diet order shall be specific and complete and shall include the title of the diet, modifications in specific nutrients stating the amount to be allowed in the diet, and specific problems that may affect the diet or eating habits.

(e) Food shall be prepared by methods that conserve nutritive value, flavor, and appearance, and shall be served at the proper temperatures and in a form to meet individual needs (e.g., it shall be cut, chopped, or ground to meet individual patient needs).

(f) If a patient refuses foods served, nutritious substitutions shall be offered.

(g) At least three (3) meals or their equivalent shall be served daily with not more than a fifteen (15) hour span between a substantial evening meal and a breakfast unless otherwise directed by the attending medical staff member. Meals shall be served at regular times with between-meal or bedtime snacks of nourishing quality offered.

(h) There shall be at least a three (3) day supply of food available in the facility at all times to prepare well-balanced palatable meals for all patients.

(i) There shall be an identification system for patient trays, and methods used to assure that each patient receives the appropriate diet as ordered.

(j) The hospital shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 [(Kentucky's Food Service Establishment Act and Food Service Code)].

(4) Laboratory services. The hospital shall have a well-organized, adequately supervised laboratory with the necessary space, facilities

and equipment to perform those services commensurate with the hospital's needs for its patients. Anatomical pathology services and blood bank services shall be available either in the hospital or by arrangement with other facilities.

(a) Clinical laboratory. Basic clinical laboratory services necessary for routine examinations shall be available regardless of the size, scope and nature of the hospital.

1. Equipment necessary to perform the basic tests shall be provided by the hospital.

2. All equipment shall be in good working order, routinely checked, and precise in terms of calibration.

3. Provision shall be made to carry out adequate clinical laboratory examinations including chemistry, microbiology, hematology, serology, and clinical microscopy.

a. Some of these services may be provided through arrangements with another licensed hospital which has the appropriate laboratory facilities, or with an independent laboratory licensed pursuant to KRS 333.030 and any administrative regulations promulgated thereunder.

b. When work is performed by an outside laboratory, the original report from this laboratory shall be contained in the patient's medical record.

4. Laboratory facilities and services shall be available at all times.

a. Adequate provision shall be made to assure the availability of emergency laboratory services twenty-four (24) hours a day, seven (7) days a week, including holidays, either in the hospital or under arrangements as specified in paragraph (a)3a of this subsection.

b. Where services are provided by an outside laboratory, the conditions, procedures, and availability of such services shall be in writing and available in the hospital.

5. There shall be a clinical laboratory director and a sufficient number of supervisors, technologists and technicians to perform promptly and proficiently the tests requested of the laboratory. The laboratory shall not perform procedures and tests which are outside the scope of training of the laboratory personnel.

6. Laboratory services shall be under the direction of a pathologist or other doctor of medicine or osteopathy with training and experience in clinical laboratory services, or a laboratory specialist with a doctoral degree in physical, chemical or biological sciences, and training and experience in clinical laboratory services.

7. Signed reports of all laboratory services provided shall be filed with the patient's medical record and duplicate copies kept in the department.

a. The laboratory report shall be signed by the technologist who performed the test.

b. There shall be a procedure for assuring that all requests for laboratory tests are ordered and signed by qualified personnel in accordance with their scope of practice and the hospital's protocols and bylaws.

(b) Anatomical pathology. Anatomical pathology services shall be provided as indicated by the needs of the hospital either in the hospital or under arrangements as specified in paragraph (a)3a of this subsection.

1. Anatomical pathology services shall be under the direct supervision of a pathologist on a full-time, regular part-time or regular consultative basis. If the latter pertains, the hospital shall provide for at least monthly consultative visits by a pathologist.

2. The pathologist shall participate in staff, departmental and clinicopathologic conference.

3. The pathologist shall be responsible for establishing the qualifications of staff and for their in-service training.

4. With exceptions of those exclusions listed in written policies of the medical staff, all tissues removed at surgery shall be macroscopically, and if necessary, microscopically examined by the pathologist.

a. A list of tissues which do not routinely require microscopic examination shall be developed in writing by the pathologist or designated physician with the approval of the medical staff.

b. A tissue file shall be maintained in the hospital.

c. In the absence of a pathologist, there shall be an established plan for sending to a pathologist outside the hospital all tissues requiring examination.

5. Signed reports of tissue examinations shall be promptly filed with the patient's medical record and duplicate copies kept in the department.

a. All reports of macro and microscopic examinations performed shall be signed by the pathologist.

b. Provision shall be made for the prompt filing of examination results in the patient's medical record and notification of the medical staff member requesting the examination.

c. Duplicate copies of the examination reports shall be filed in the laboratory in a manner which permits ready identification and accessibility.

(c) The laboratory shall meet the proficiency testing and quality control provisions in accordance with certification requirements under 42 USC Part 263a.

(d) Blood bank. Facilities for procurement, safekeeping and transfusion of blood and blood products shall be provided or be readily available.

1. The hospital shall maintain, as a minimum, proper blood storage facilities under adequate control and supervision of the pathologist or other authorized physician.

2. For emergency situations the hospital shall maintain at least a minimum blood supply in the hospital at all times, shall be able to obtain blood quickly from community blood banks or institutions, or shall have an up-to-date list of donors and equipment necessary to bleed them.

3. If the hospital utilizes outside blood banks, there shall be a written agreement governing the procurement, transfer and availability of blood.

4. There shall be a provision for prompt blood typing and cross-matching and for laboratory investigation of transfusion reactions, either through the hospital or by arrangements with others on a continuous basis, under the supervision of a physician.

5. Blood storage facilities in the hospital shall have an adequate alarm system, which shall be regularly inspected and tested and is otherwise safe and adequate.

6. Records shall be kept on file indicating the receipt and disposition of all blood provided to patients in the hospital.

7. A committee of the medical staff or its equivalent shall review all transfusions of blood or blood derivatives and shall make recommendations concerning policies governing such practices.

8. Samples of each unit of blood used at the hospital shall be retained, according to the instructions of the committee indicated in subparagraph 7 of this paragraph, for further testing in the event of reactions. Blood not so retained which has exceeded its expiration date shall be disposed of promptly.

9. The review committee shall investigate all transfusion reactions occurring in the hospital and shall make recommendations to the medical staff regarding improvements in transfusion procedures.

(5) Pharmaceutical services.

(a) The hospital shall have adequate provisions for the handling, storing, recording, and distributing of pharmaceuticals in accordance with state and federal laws and administrative regulations.

1. A hospital which maintains a pharmacy for the compounding and dispensing of drugs shall provide pharmaceutical services under the supervision of a registered pharmacist on a full-time or part-time basis, according to the size and demands of the hospital.

a. The pharmacist shall be responsible for supervising and coordinating all the activities of the pharmacy department.

b. Additional personnel competent in their respective duties shall be provided in keeping with the size and activity of the department.

2. Hospitals not maintaining a pharmacy shall have a drug room utilized only for the storage and distribution of drugs, drug supplies and equipment. Prescription medications shall be dispensed by a registered pharmacist elsewhere. The drug room shall be operated

under the supervision of a pharmacist employed at least on a consultative basis.

a. The consulting pharmacist shall assist in drawing up correct procedures, rules for the distribution of drugs, and shall visit the hospital on a regularly scheduled basis in the course of his duties.

b. The drug room shall be kept locked and the key shall be in the possession of a responsible person on the premises designated by the administrator.

(b) Records shall be kept of the transactions of the pharmacy or drug room and correlated with other hospital records where indicated.

1. In accordance with accounting procedures of the hospital, the pharmacy shall establish and maintain a system of records and bookkeeping in accordance with policies of the hospital for maintaining adequate control over the requisitioning and dispensing of all drugs and drug supplies and charging patients for drugs and pharmaceutical supplies.

2. A record of the stock on hand and of the dispensing of all controlled substances shall be maintained in such a manner that the disposition of any particular item may be readily traced.

(c) The medical staff in cooperation with the pharmacist and other disciplines, as necessary, shall develop policies and procedures that govern the safe administration of drugs, including:

1. The administration of medications only upon the order of an individual who has been assigned clinical privileges or who is an authorized member of the house staff;

2. Review of the original order, or a direct copy by the pharmacist dispensing the drugs;

3. The establishment and enforcement of automatic stop orders;

4. Proper accounting for and disposition of unused medications or special prescriptions returned to the pharmacy as a result of patient being discharged, or when such medications or prescriptions do not meet sterile and label requirements;

5. Provision for emergency pharmaceutical services; and

6. Provision for reporting adverse medication reactions to the appropriate committee of the medical staff.

(d) Therapeutic ingredients of medications dispensed shall be included in the United States Pharmacopoeia, National Formulary, United States Homeopath-Pharmacopoeia, New Drugs, or Accepted Dental Remedies (except for any drugs unfavorably evaluated therein), or shall be approved for use by the appropriate committee of the medical staff.

1. A pharmacist shall be responsible for determining specifications and choosing acceptable sources for all drugs, with approval of the appropriate committee of the medical staff.

2. There shall be available a formulary or list of drugs accepted for use in the hospital which shall be developed and amended at regular intervals by the appropriate committee of the medical staff.

(6) Radiology services.

(a) The hospital shall have diagnostic radiology facilities. The radiology service shall have a current license or registration pursuant to KRS 211.842 to 211.852 and any administrative regulations promulgated thereunder.

1. The hospital shall provide at least one (1) fixed diagnostic x-ray unit which is capable of general x-ray procedures.

2. The hospital shall have a radiologist on at least a consulting basis to function as medical director of the department and to interpret films that require specialized knowledge for accurate reading.

3. Personnel adequate to supervise and conduct the services shall be provided, and at least one (1) certified radiation operator shall be on duty or on call at all times.

(b) There shall be written policies and procedures governing radiologic services and administrative routines that support sound radiologic practices.

1. Signed reports shall be filed in the patient's record and duplicate copies kept in the department.

2. Radiologic services shall be performed only upon written order of qualified personnel in accordance with their scope of practice and

the hospital's protocols and bylaws, and the order shall contain a concise statement of the reason for the service or examination.

3. Reports of interpretations shall be written or dictated and signed by the radiologist.

4. The use of all x-ray apparatus shall be limited to certified radiation operators, under the direction of medical staff members as necessary. The same limitation shall apply to personnel applying, administering and removing radioactive [radium] elements, [its] disintegration products, and radioactive isotopes. Certified radiation operators, under the direction of a physician may administer medications allowed within their professional scope of practice and context of radiological services and procedures being performed.

(c) The radiology department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards.

(7) Physical restoration or rehabilitation service. If the hospital provides rehabilitation, work hardening, physical therapy, occupational therapy, audiology, or speech pathology services, the services shall be organized and staffed to insure the health and safety of patients.

(a) Hospitals in which physical restoration or rehabilitation services are available shall provide individualized techniques required to achieve maximum physical function normal to the patient while preventing unnecessary debilitation and immobilization.

(b) Written policies and procedures shall be developed for each rehabilitation service provided.

(c) A member of the medical staff shall be designated to have responsibility for coordinating the restorative services provided to the patients in accordance with their needs.

(d) Equipment for therapy shall be adequate to meet the needs of the service and shall be in good condition.

(e) Therapy services shall be provided only upon written orders of qualified personnel in accordance with their scope of practice and according to the hospital's protocols and bylaws.

(f) Therapy services shall be provided by or under the supervision of a licensed therapist, on a full-time, part-time or consultative basis.

(g) Complete therapy reports shall be maintained for each patient provided such services. The reports shall be signed by the therapist who prepared it and shall be a part of the patient's medical record.

(8) Emergency services.

(a) Every hospital shall have procedures for taking care of the emergency patient with at least a registered nurse on duty to evaluate the patient and a physician on call.

(b) If the facility has an organized emergency department or service, policies and an emergency care procedures manual governing medical and nursing care provided in the emergency room shall be established by and be a continuing responsibility of the medical staff.

1. The emergency service shall be under the direction of a licensed physician. Medical staff members shall be available at all times for the emergency service, either on duty or on call. Current schedules and telephone numbers shall be posted in the emergency room.

2. Nursing personnel shall be assigned to, or designated to cover, the emergency service at all times.

3. Facilities shall be provided to assure prompt diagnosis and emergency treatment. A specific area of the hospital shall be utilized for patients requiring emergency care on arrival. The emergency area shall be located in close proximity to an exterior entrance of the facility and shall be independent of the operating room suite.

4. Diagnostic and treatment equipment, drugs, and supplies shall be readily available for the provision of emergency services and shall be adequate in terms of the scope of services provided.

5. Adequate medical records shall be kept on every patient seen in the emergency room. These records shall be under the supervision of the Medical Record Service and, where appropriate, shall be integrated with inpatient and outpatient records. Emergency room records shall include at least:

a. A log book listing chronologically the patient visits to the emergency room including patient identification, means of arrival and person transporting patient, and time of arrival;

b. History of present complaint and physical findings;

c. Laboratory and x-ray reports, where applicable;

d. Diagnosis;

e. Treatment ordered and details of treatment provided;

f. Patient disposition;

g. Record of all referrals;

h. Instructions to the patient or family for those not admitted to the hospital; and

i. Signatures of attending medical staff member, and nurse when applicable.

(9) Outpatient services.

(a) A hospital which has an organized outpatient department shall have written policies and procedures relating to the staff, functions of service, and outpatient medical records.

(b) The outpatient department shall be organized in sections (clinics), the number of which shall depend on the size and degree of departmentalization of the medical staff, the available facilities, and the needs of the patient it serves.

(c) The outpatient department shall have appropriate cooperative arrangements and communications with community agencies such as home health agencies, the local health department, social and welfare agencies, and other outpatient departments.

(d) Services offered by the outpatient department shall be under the direction of a physician who is a member of the medical staff.

1. A registered nurse shall be responsible for the nursing services of the department.

2. The number and type of other personnel employed shall be determined by the volume and type of services provided and type of patient served in the outpatient department.

(e) Necessary laboratory and other diagnostic tests shall be available either through the hospital or a laboratory in another licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any administrative regulations promulgated thereunder.

(f) Medical records shall be maintained and, where appropriate, coordinated with other hospital medical records.

1. The outpatient medical record shall be filed in a location which insures ready accessibility to the medical staff members, nurses, and other personnel of the outpatient department.

2. Information in the medical record shall be complete and sufficiently detailed relative to the patient's history, physical examination, laboratory and other diagnostic tests, diagnosis, and treatment to facilitate continuity of care.

(10) Surgery services.

(a) Hospitals in which surgery is performed shall have an operating room and a recovery room supervised by a registered nurse qualified by training, experience and ability to direct surgical nursing care.

1. Sufficient surgical equipment including suction facilities and instruments in good repair shall be provided to assure safe and aseptic treatment of all surgical cases.

2. When flammable anesthetics are used, precautions shall be taken to eliminate hazards of explosions, including use of shoes with conductive soles and prohibition of garments or other items of silk, wool, or synthetic fibers which accumulate static electricity.

(b) There shall be effective policies and procedures regarding surgical staff privileges, functions of the service, and evaluation of the surgical patient.

1. Surgical privileges shall be delineated for all members of the medical staff doing surgery in accordance with the competencies of each, and a roster shall be maintained.

2. Except in emergencies, a surgical operation or other hazardous procedures shall be performed only on written consent of the patient or his legal representative.

3. The operating room register shall be complete and up to date.

It shall include the patient's name; hospital room number; preoperative and postoperative diagnosis; complications, if any; names of surgeon, first assistant, anesthesiologist or anesthetist, scrub and circulating nurse; operation performed; and type of anesthesia.

4. There shall be a complete history and physical workup in the chart of every patient prior to surgery. If such has been transcribed but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note by the attending medical staff member in the chart. The chart of the patient shall accompany him to the operating suite and shall be returned to the patient's floor or room after the operation.

5. An operative report describing the techniques and findings shall be written or dictated immediately following surgery and signed by the surgeon.

6. All tissues removed by surgery shall be placed in suitable solutions, properly labeled, and submitted to the pathologist for macroscopic and, if necessary, microscopic examinations.

7. All infections of clean surgical cases shall be recorded and reported to the appropriate committee of the medical staff. A procedure shall exist for the investigation of such cases.

(c) Rules and policies related to the operating rooms shall be available and posted.

(11) Anesthesia services.

(a) The hospital which provides surgical or obstetrical services shall have anesthesia services available, and these services shall be organized under written policies and procedures regarding staff privileges, the administration of anesthetics, and the maintenance of safety controls.

(b) A physician member of the medical staff shall be the medical director of anesthesia services. Whenever possible, the director shall be a physician specializing in anesthesiology.

(c) If anesthetics are not administered by an anesthesiologist, the medical staff shall designate a medical staff anesthetist or a registered nurse anesthetist qualified to administer anesthetics under the supervision of the operating surgeon.

(d) Every patient requiring anesthesia services shall have a preanesthetic physical examination by a medical staff member with findings recorded within forty-eight (48) hours of surgery, an anesthetic record on a special form, a postanesthetic follow-up, with findings recorded by the anesthesiologist, medical staff anesthetist, or nurse anesthetist.

(e) The postanesthetic follow-up note shall be written upon discharge from the postanesthesia recovery area or within three (3) to twenty-four (24) hours after the procedures which required anesthesia. This note shall include a record of blood pressure, pulse, presence or absence of the swallowing reflex and cyanosis, any postoperative abnormalities or complications, and the general condition of the patient.

(12) Obstetrics service.

(a) Hospitals providing obstetrical care of patients shall have adequate space, necessary equipment and supplies, and a sufficient number of nursing personnel to assure safe and aseptic treatment of mothers and newborns and provide protection from infection and cross-infection.

1. The obstetrics service shall be under the medical direction of a physician and under the supervision of a registered nurse qualified by training, experience, and ability to direct effective obstetrical and newborn nursing care. In hospitals where the obstetrical caseload does not justify a separate nursing staff, obstetrical nurses shall be designated and shall be oriented to the specific needs of obstetrical patients.

2. A registered nurse shall be on duty in the labor and delivery unit whenever any patient is in the unit. Each obstetrics patient shall be kept under close observation by professional personnel during the period of recovery after delivery, whether in the delivery room or in a recovery area, until she is transferred to the maternity unit.

3. An on-call schedule or other suitable arrangement shall be

provided to ensure that a physician who is experienced in obstetrics is readily available for consultation and obstetrical emergencies.

4. Provisions shall be made for the care of patients in labor with adequately equipped labor rooms.

(b) An adequate supply of prophylaxis for the prevention of infant blindness shall be kept on hand and administered within thirty (30) minutes after delivery, in accordance with 902 KAR 4:020.

(c) The hospital shall comply with the provisions of KRS 214.155 and 902 KAR 4:030 in administering tests for inborn errors of metabolism to infants.

(d) There shall be an acceptable method and procedure for the positive associative identification of the mother and infant. This shall be done in the delivery room at the time of birth and shall remain in place during the entire period of hospitalization.

(e) An up-to-date register book of all deliveries shall be maintained containing the following information:

1. Infant's full name, sex, date, time of birth and weight;

2. Mother's full name, including maiden name, address, birthplace and age at time of this birth;

3. Father's full name, birthplace, age at time of this birth; and

4. Full name of attending physician or nurse midwife.

(f) Each hospital providing maternity service shall provide a nursery which shall not be used for any other purpose. Specific routines for daily care of infants and their environment shall be prepared in writing and posted in the nursery workroom.

(g) A policy shall be established for deliveries occurring outside the delivery room and for patients who are infectious.

(h) Written policies and procedures shall be developed to cover alternative use of obstetrical beds.

(i) The hospital shall comply with the provisions of KRS 214.175 in participating in surveys relating to the determination of alcohol or other substance abuse among pregnant women and newborn infants.

(13) Pediatric services.

(a) Hospitals providing pediatric care shall have proper facilities for the care of children apart from the newborn and maternity nursing services. If there is not a separate area permanently designated as the pediatric unit, there shall be an area within an adult care unit for pediatric patient care. There shall be available beds and other equipment which are appropriate in size for pediatric patients.

(b) There shall be proper facilities and procedures for the isolation of children with infectious, contagious or communicable conditions. At least one (1) patient room shall be available for isolation use.

(c) A physician with pediatric experience shall be on call at all times for the care of pediatric patients.

(d) Pediatric nursing care shall be under the supervision of a registered nurse qualified by training, experience and ability to direct effective pediatric nursing. All nursing personnel assigned to pediatric service shall be oriented to the special care of children.

(e) Policies shall be established to cover conditions under which parents may stay with small children or "room-in" with their hospitalized child for moral support and assistance with care.

(14) Psychiatric services. Hospitals which have a psychiatric unit shall designate the location and number of beds to be licensed as psychiatric beds and meet the requirements of psychiatric hospitals operations and services, licensure administrative regulation.

(15) Chemical dependency treatment services. Hospitals providing chemical dependency treatment services shall meet the requirements of 902 KAR 20:160, Chemical dependency treatment services and facility specifications, Section 3, Administrative and Operation and Section 4, Provision of Services, and designate location and the number of beds to be used for this purpose.

(16) Medical library.

(a) The hospital shall maintain appropriate medical library services according to the professional and technical needs of hospital personnel.

(b) The medical library shall be in a location accessible to the professional staff, and its contents shall be organized and available

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at all times to the medical and nursing staffs.

Section 5. Long-term Acute Inpatient Hospital Services. (1) A hospital licensed pursuant to this administrative regulation and seeking to qualify for available Title XVIII Medicare reimbursement may provide long-term acute inpatient hospital services pursuant to applicable federal law and upon the following conditions:

(a) The area of the hospital designated to provide long-term acute inpatient hospital services shall provide services in compliance with this administrative regulation and shall have:

1. An average length of inpatient stay greater than twenty-five (25) days.

2. A separate governing body.

3. A separate medical staff.

4. A separate chief executive officer.

(b) All services shall be provided through the use of employees or under contracts or other agreements with entities other than the host hospital or a third entity that controls both the hospital and the area designated to provide long-term acute inpatient hospital services, except that food and dietetic services, housekeeping, maintenance and other services necessary to maintain a clean and safe physical environment may be obtained under contracts or other agreements with the host hospital or a third entity that controls both the host hospital and the area designated to provide long-term acute inpatient hospital services or as otherwise permitted by federal law.

(c) Hospitals wishing to provide long-term acute inpatient hospital services may request authorization from the Division of Licensing and Regulation, Office of Inspector General, Cabinet for Health Services. The Division of Licensing and Regulation shall conduct a survey to determine whether the requirements of this section are met and shall notify the hospital of the survey results by letter.

TIMOTHY L. VENO, Inspector General

JOHN MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: September 15, 1997

FILED WITH LRC: September 15, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 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 October 14, 1997, 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, 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 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, Office of the Counsel, Cabinet for Health Services, 275 East Main Street, 4-West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ralph Von Derau

(1) Type and number of entities affected: There are presently 107 licensed acute care hospitals.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public comments addressing this issue were received.

(b) Cost of doing business in the geographical area in which the

administrative regulation will be implemented, to the extent available from the public comment received: No public comments addressing this issue 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: No additional reporting requirements imposed.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Survey costs to determine whether the requirements for providing long-term inpatient hospital services are met.

1. First year: Unable to anticipate.

2. Continuing costs or savings: Unable to anticipate.

3. Additional factors increasing or decreasing costs: No additional factors.

(b) Reporting and paperwork requirements: Paperwork related to surveys and notification of survey results.

(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: General funds.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:

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

(b) Kentucky: No public comments addressing this issue were received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS Chapter 216B mandates that minimum standards be established for licensure.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: These are minimum health care standards intended to protect the public.

(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: Hospitals would be unable to provide long-term acute inpatient hospital services.

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication. 42 CFR 412.23(e)

(a) Necessity of proposed regulation if in conflict: No conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions?

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. This is a licensure program and, as such, applies to all licensed services.

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

904 KAR 2:035. Right to apply and reapply.

RELATES TO: KRS 194.060, 205.175, 205.177, 205.200(1), 205.245, 45 CFR 206.10 [(a)(1)], 42 USC 601 et seq., 1973gg-5 [(4)]
STATUTORY AUTHORITY: KRS [13A-120] 116.048, 194.050(1), 205.200(2), 42 USC 601 et seq., 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 administer public assistance programs including Kentucky Transitional Assistance Program (K-TAP) [Aid-to-Families-with-Dependent-Children (AFDC)] and the state Supplementation Program (SSP) of the aged, blind and persons with disabilities. This administrative regulation sets forth the procedure by which an application for assistance under these programs shall be made. KRS 116.048 designates the cabinet to have responsibility for the administration of public assistance programs as a voter registration agency in accordance with 42 USC 1973gg-10. Therefore, this administrative regulation sets forth policy and procedures necessary to provide an eligible public assistance participant the opportunity to register, or to decline from registering, to vote.

Section 1. Right to Apply or Reapply. (1) Each individual wishing to do so shall have the opportunity to apply or reapply for Kentucky Transitional Assistance Program (K-TAP) [AFDC] or State Supplementation Program (SSP) through the Department for Social Insurance (DSI).

(2) An application shall be considered to have been made:

(a) The date the individual or his representative has signed, under penalty of perjury:

1. The DSI application form, incorporated by reference in 904 KAR 3:030; and

2. The application has been received at the DSI office; or

(b) The date of contact with the agency by a person with a physical or mental disability who needs special accommodation due to the impairment.

(3) If the client is physically unable to come to the office to apply, he may:

(a) Designate an authorized representative to apply for him; or

(b) Request a home visit to complete the application process.

(4) The applicant may be assisted by any individual of his choice in the application process and may be accompanied by this individual in all contacts with the agency.

(5) In accordance with the procedures described in 900 KAR 1:070, interpreter services shall be provided for persons who are:

(a) Deaf; or

(b) Hard of hearing.

(6) Interpreter services shall be provided for a non-English speaking individual, utilizing procedures and forms specified by 900 KAR 1:070.

(7) The cabinet shall not discriminate against any applicant or participant in any aspect of program administration for reasons of age, race, color, sex, disability, religious creed, national origin or political beliefs.

Section 2. Who May Sign an Application. (1) Except for a case based on incapacity, an application for Kentucky Transitional Assistance Program (K-TAP) [AFDC] shall be signed by:

(a) The relative with whom a needy child lives;

(b) The legally appointed guardian [committee] of the relative; or

(c) A representative authorized in writing to act on behalf of the relative.

(2) An application for Kentucky Transitional Assistance Program (K-TAP) [AFDC] based on incapacity shall be signed by:

(a) Any individual listed in subsection (1) of this section; or

(b) An interested party acting on behalf of the applicant.

(3) An application for state supplementation shall be signed by:

(a) The individual who is aged, blind or has a disability;

(b) An interested party;

(c) His legally appointed guardian [committee]; or

(d) The representative payee receiving the Supplemental Security Income (SSI) benefit.

Section 3. Where Applications are Filed and Processed. (1) The

application may be made at any DSI office, and shall be processed in the county of residence.

(2) If the client is applying in a county other than the county of residence and the client is hospitalized:

(a) The DSI office in the county of hospitalization shall take the application and transfer the pending application to the county of residence; and

(b) The DSI office in the county of residence shall process the application using the original application date.

(3) If the client is applying in a county other than the county of residence and the client is not hospitalized:

(a) The DSI office in the receiving county shall:

1. Partially complete the application;

2. Transfer it to the county of residence on the same day the application is taken; and

3. Explain to the client that the application will be processed in the county of residence;

(b) The DSI office in the county of residence shall schedule a face-to-face interview. The application is processed using the original application date.

(4) Application by mail.

(a) A Kentucky resident who is temporarily out-of-state, or someone acting on his behalf may initiate the application process by mail if:

1. An emergency arises from accident or sudden illness;

2. Care and services are needed immediately; and

3. Health would be endangered by returning to the state.

(b) Upon notification of the emergency an application form will be forwarded to the initiating party.

Section 4. Action on Applications. (1) A decision shall be made on each application and payment made within:

(a) Forty-five (45) days for Kentucky Transitional Assistance Program (K-TAP) [AFDC] or State Supplementation Program (SSP); or

(b) Ninety (90) days for State Supplementation Program (SSP) determinations in which permanent and total disability shall be established.

(2) Exception to this time standard may be made if:

(a) The applicant is unable to obtain necessary verification for a determination of eligibility; or

(b) For failure or delay, that cannot be controlled by the department, on the part of the applicant or examining physician.

(3) The case record shall document the cause for the delay when the time standards are not met.

(4) Failure to process an application within the time frame shall not be used as the basis for denial.

Section 5. Voter Registration. (1) In accordance with KRS 116.048 and 42 USC 1973gg-5[+9], an applicant or recipient meeting all of the following criteria shall be provided the opportunity to complete an application to register to vote or update his current voter registration:

(a) Be age eighteen (18) or over; and

(b) Be present in the office at the time of the interview or when a change of address is reported; and

(c) Not be registered to vote or not registered to vote at his current address.

(2) An individual not included in the assistance application shall not be registered to vote in this process, including a:

(a) Payee only;

(b) An authorized representative; or

(c) An individual acting as a responsible party.

(3) An individual providing voter registration services who seeks to unlawfully influence an applicant's political preference or party registration as prohibited by KRS 116.048(4) could be fined or imprisoned, not to exceed five (5) years, or both.

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(4) Forms and information utilized in the voter registration process shall remain confidential and used only for voter registration purposes.

(5) Only Board of Elections officials may view forms and information utilized directly in the voter registration process.

(6) Completion of the Voter Registration Form is only an application to apply to register to vote. The State Board of Elections shall approve the application to register to vote and send a confirmation or denial notice to the applicant.

(7) Forms necessary to apply for assistance or to register A K-TAP (an AFDC) or state supplementation (SSP) participant to vote are incorporated by reference in 904 KAR 3:030, Section 10.

Section 6. Disclosure of Information. Use or disclosure of information obtained from applicant households, exclusively for the program, shall be restricted pursuant to KRS 194.060, 205.175, and 205.177. [to the following individuals:

(1) Public employees including any duly identified representative of the Department of Health and Human Services in the performance of his duties in connection with the administration of the assistance program;

(2) Law enforcement agencies and representatives including county and commonwealth attorneys, county and circuit court judges and grant juries in discovering and prosecuting cases involving fraud;

(3) State and local law enforcement officials who, in the proper exercise of their duties, provide the name and Social Security number of an AFDC recipient, and satisfactorily demonstrate that the recipient is a fugitive felon. Release of information in this situation is limited to address of the AFDC recipient only.

(4) Members of Congress and the General Assembly, limited to cases of individual constituents who have requested information regarding their application or payment status.

(5) Any interested party that has requested a hearing before an agency hearing officer, to the extent necessary for the proper presentation of the case. Information in this situation is limited to that which is applicable to the hearing request.

(6) Officials administering any Federal or federally assisted program which provides assistance in cash or in kind, or services directly to individuals on the basis of need. Disclosure in this situation is limited to AFDC and benefits programs other than Medical Assistance.

(7) Any audit or similar activity conducted in connection with the administration of any federal or federally assisted program.

(8) Any employer to certify receipt of AFDC for purposes of claiming a tax credit under Public Law 94-12.

(9) Any individual or agency agreeing to Departmental standards of confidentiality for the purpose of the provision of social services, employment or training to recipients of AFDC and benefit programs other than Medical Assistance.

(10) Any service providers attempting to provide assistance to JOBS or self-initiated participants. Disclosure of information in this situation is limited to purposes directly connected with providing services or issuing supportive services payments.

(11) Officials administering any federally funded foster care and adoption assistance programs.

(12) Local law enforcement agency, The Kentucky State Police, commonwealth or county attorney to report known or suspected instances of child abuse and neglect of a child receiving assistance.

(13) Attorneys or absent parents who appear in the local office with a court order carrying a signature of a judge.]

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: September 11, 1997

FILED WITH LRC: September 12, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 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 October 14, 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 proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Judy H. Trigg, Cabinet for Families and Children, Office of the Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, (502) 564-7573 (fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marty Mason, Director

(1) The affected entities are families who apply for or receive benefits under the Kentucky Transitional Assistance Program (K-TAP). The AFDC program was replaced by the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP) as the result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. There are approximately 62,034 families in Kentucky (monthly average) who are currently receiving benefits from K-TAP.

(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: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

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

1. First year following implementation: The individuals who are applicants or recipients of AFDC, now K-TAP, will not have any additional compliance, reporting or paperwork requirements.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no additional costs or savings to the agency as a result of the amendments to this regulation.

2. Second and subsequent years: Same

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: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Kentucky: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments

were received.

(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: This administrative regulation is needed to comply with the mandated requirements in 42 USC 601 et seq. and to conform with the mandates found in 904 KAR 2:006E and 2:016E. Pursuant to the approved Title IV-A state plan as required by 42 USC 601 et seq., confidentiality requirements are changed to coincide with requirements in Kentucky statutes only instead of federal regulations and Kentucky statutes.

(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: Pursuant to the approved Title IV-A state plan as required by 42 USC 601 et seq., confidentiality requirements are changed to coincide with requirements in Kentucky statutes only instead of federal regulations and Kentucky statutes. Public assistance benefits received by needy Kentuckians may be jeopardized if Kentucky does not meet the mandated requirements delineated in Kentucky's Title IV-A state plan as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(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: References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP) to conform with the provisions in 904 KAR 2:006E and 2:016E.

(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. 42 USC 601 et seq.

2. State compliance standards. KRS 194.060, 205.175, 205.177, 205.200.

3. Minimum or uniform standards contained in the federal mandate. None

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

CABINET FOR FAMILIES AND CHILDREN

Department for Social Insurance

Division of Management and Development
(Amendment)

904 KAR 2:040. Procedures for determining initial and continuing eligibility.

RELATES TO: KRS 205.200(2), 205.245, 42 USC 601 et seq. [45 GFR 206-10(a)(2)(ii), 206-10(a)(9)(iii), 206-10(a)(9)(iv) 42]

STATUTORY AUTHORITY: KRS [194.050, 194.050(1), 205.200, EO 96-862, 42 USC 601 et seq.

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 administer the following public assistance programs: Kentucky Transitional Assistance Program (K-TAP) [Aid to Families with Dependent Children (AFDC)] and State Supplementation Program (SSP). This administrative regulation sets forth the procedures used to determine initial and continuing eligibility for assistance under these programs.

Section 1. Eligibility Determination Process. (1) Eligibility shall be determined prospectively. To receive or continue to receive assistance, a household shall meet all of the eligibility criteria for the month payment is intended to cover.

(2) Each decision regarding eligibility or ineligibility for assistance shall be supported by facts recorded in the applicant's or recipient's case record.

(a) The applicant or recipient shall be the primary source of information and shall be required to:

1. Furnish verification of:

(a) Income;

(b) Resources; and

(c) Technical eligibility; and

2. Give written consent to those contacts necessary to verify or clarify any factor pertinent to the decision of eligibility.

(b) When informed in writing of the appointment or necessary information to be provided, failure of the applicant or recipient to appear for a scheduled interview or present required information at the time requested shall be considered a failure by the applicant or recipient to present adequate proof of eligibility.

Section 2. Continuing Eligibility. (1) The recipient shall be responsible for reporting within ten (10) days any change in circumstances which may affect eligibility or the amount of payment.

(2) Eligibility shall be redetermined:

(a) When a report is received or information is obtained about changes in circumstances;

(b) At least every twenty-four (24) [twelve (12)] months for State Supplementation Program [SSP] cases in which Supplemental Security Income (SSI) is not received; and

(c) [Except for cases identified in the alternate redetermination plan, at least every six (6) months for AFDC cases; and

(d)] At least every twelve (12) months for Kentucky Transitional Assistance Program (K-TAP) [AFDC] cases, [identified in the alternate redetermination plan:

(3) An AFDC case shall be identified in the alternate redetermination plan if:

(a) The case is not based on a deprivation of unemployment of one (1) of the parents, as specified in 904 KAR 2:006, Section 9; and

(b) The case does not include a recipient who has earned income; or

(c) The application of exclusions and deductions from income, set forth in 904 KAR 2:016, Section 4, permit the case to qualify for the maximum payment for the household size, as specified in 904 KAR 2:016, Section 7; and

(d) At least one (1) of the following conditions shall be met:

1. The household contains a recipient of Supplemental Security Income (SSI) benefits;

2. The case has been active for three (3) or more years; or

3. The case does not contain an adult member. However, if the household contains an otherwise eligible adult who was excluded from the case for failure to comply with a technical requirement, as specified in 904 KAR 2:006 or 904 KAR 2:370, the agency may retain the case in the standard six (6) month redetermination schedule.]

Section 3. Material Incorporated by Reference. (1) The form used for recertification to determine continuing eligibility for Kentucky Transitional Assistance Program (K-TAP), if the Kentucky Automated Management and Eligibility System (KAMES) is unavailable for use,

is the "PR-1", "Program Recertification", edition October 1997.

(2) Material incorporated by reference may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky, 40621. Office hours are 8 a.m. to 4:30 p.m. [Reviews of SSP Cases. (1) SSP cases containing SSI income shall be reviewed every six (6) months to:

- (a) Determine that the special need for which supplementation is granted continues to exist;
 - (b) Verify living situation and income; and
 - (c) Adjust the SSP payment, if appropriate.
- (2) SSP cases not containing SSI income shall be reviewed six (6) months following the yearly redetermination to:
- (a) Review all items subject to change; and
 - (b) Adjust the SSP payment, if appropriate.]

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: September 11, 1997

FILED WITH LRC: September 12, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 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 October 14, 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 proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Judy H. Trigg, Cabinet for Families and Children, Office of the Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, (502) 564-7573 (fax).

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 Kentucky Transitional Assistance Program (K-TAP). The AFDC program was replaced by the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP) as the result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. There are approximately 62,034 families in Kentucky (monthly average) who are currently receiving benefits from K-TAP.

(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: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

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

1. First year following implementation: The individuals who are applicants or recipients of AFDC, now K-TAP, will not have any addi-

tional compliance, reporting or paperwork requirements. Also, we developed a recertification form to be used during recertification interviews when the Kentucky Automated Management and Eligibility System (KAMES) is down.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Increasing recertification periods for K-TAP recipients from 6 months to 12 months and State Supplementation cases from 12 months to 24 months will be cost neutral to the agency. The 6 month reviews for state supplementation cases are eliminated. The time the agency saves in doing recertifications and reviews for recipients will enable current departmental staff to have more time to devote to additional required activities as a result of welfare reform changes such as assisting recipients in obtaining employment.

2. Second and subsequent years: Same

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: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Kentucky: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(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 is needed to comply with the mandated requirements found in 42 USC 601 et seq., and to implement the Kentucky Transitional Assistance Program (K-TAP) that replaces the Aid to Families with Dependent Children Program.

(b) State whether a harmful effect on environment and public health 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: Public assistance benefits received by needy Kentuckians may be jeopardized if Kentucky does not meet the mandates delineated in our Title IV-A state plan as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. If public assistance benefits received by needy Kentuckians are jeopardized, these individuals would lose a source of support for their family including assistance for supportive services such as transportation and child care which enables the parent to remain employed.

(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: References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP) to conform with the provisions in 904 KAR 2:006E and 2:016E.

(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. 42 USC 601 et seq.
2. State compliance standards. KRS 205.200.
3. Minimum or uniform standards contained in the federal mandate. None
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No
5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

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

904 KAR 2:046. Adverse action; conditions.

RELATES TO: KRS 205.200(2), 205.245, 45 CFR 205.10(a)(4), 206.10(a)(4), 42 USC 601 et seq.

STATUTORY AUTHORITY: KRS 13A.120, 194.050(1), EO 96-862, 42 USC 601 et seq.

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 administer public assistance programs including Kentucky Transitional Assistance Program (K-TAP) [Aid to Families with Dependent Children (AFDC)] and mandatory and optional supplementation of persons who are aged, blind and have a disability. This administrative regulation sets forth the conditions under which an application is denied or assistance is decreased or discontinued and advance notice requirements.

Section 1. Definitions. (1) "Applicant" means an individual applying for:

- (a) State supplementation benefits; or
- (b) Kentucky Transitional Assistance Program (K-TAP) [AFDC] benefits.
- (2) "Application" means the process set forth in 904 KAR 2:035.
- (3) "Recipient" means:
 - (a) A person who is aged, blind, or has a disability receiving state supplementation benefits; or
 - (b) A member of a Kentucky Transitional Assistance Program (K-TAP) [an-AFDC] assistance group as defined in 904 KAR 2:016.

Section 2. Reasons for Adverse Action. (1) An application shall be denied if:

- (a) Income or resources exceed the standards for the specific assistance program as set forth in 904 KAR 2:016 and 904 KAR 2:015;
- (b) The applicant does not meet technical eligibility criteria or fails to comply with a technical requirement as set forth in 904 KAR 2:006, 904 KAR 2:015 and 904 KAR 2:370;
- (c) Despite receipt of written notice detailing the additional information needed for a determination, the applicant fails to provide sufficient information or clarify conflicting information necessary for a determination of eligibility;
- (d) The applicant fails to keep the appointment for an interview;
- (e) The applicant requests in writing voluntary withdrawal of application;
- (f) Department staff is unable to locate the applicant; or

- (g) The applicant is no longer domiciled in Kentucky.
- (2) Assistance shall be discontinued or decreased if:
 - (a) Income or resources of the recipient increase or deductions decrease resulting in reduced or discontinued benefits as set forth in 904 KAR 2:016 or 904 KAR 2:015;
 - (b) The recipient does not meet technical eligibility criteria or fails to comply with a technical requirement as set forth in 904 KAR 2:006, 904 KAR 2:015 or 904 KAR 2:370;
 - (c) Despite receipt of written notice detailing the additional information needed for a redetermination, the recipient fails to provide sufficient information or clarify conflicting information necessary for a redetermination of eligibility;
 - (d) The recipient fails to keep the appointment for an interview;
 - (e) The cabinet is recovering Kentucky Transitional Assistance Program (K-TAP) [AFDC] overpayments through recoupment;
 - (f) Department staff is unable to locate recipient;
 - (g) The recipient is no longer domiciled in Kentucky;
 - (h) Change in program policy adversely affects the recipient; or
 - (i) For Kentucky Transitional Assistance Program (K-TAP) [AFDC] only, the grant amount is less than ten (10) dollars.

Section 3. Notification of Denial of Applications. If an application is denied, the applicant shall be given:

- (1) Written notification of the denial which shall include:
 - (a) The reason for the denial; and
 - (b) The cites of the applicable state administrative regulation.
- (2) The right to a fair hearing as provided by 904 KAR 2:055.

Section 4. Advance Notice of a Decrease or Discontinuance. (1) The recipient shall be given ten (10) days advance notice of the proposed action if a change in circumstances indicates:

- (a) A money payment shall be:
 1. Reduced;
 2. Suspended; or
 3. Discontinued; or
- (b) An individual shall be removed from the Kentucky Transitional Assistance Program (K-TAP) [AFDC] grant, even if the grant increases.
- (2) The ten (10) days advance notice of the proposed action shall:
 - (a) Be in writing;
 - (b) Explain the reason for the proposed action;
 - (c) Cite the applicable state administrative regulation;
 - (d) Extend the opportunity to confer with the worker or to request a fair hearing.
- (3) A hearing request received during the advance notice period may result in delay of the decrease or discontinuance pending the hearing officer's decision, as provided in 904 KAR 2:055, Section 4.

Section 5. Exceptions to the Advance Notice Requirement. An advance notice of proposed action shall not be required, but written notice of action taken shall be given, if the decrease or discontinuance results from:

- (1) Information reported by the recipient if the recipient signs a waiver of the notice requirement indicating understanding of the consequences;
- (2) A clear written statement, signed by the recipient, that he no longer wishes assistance is received by the department;
- (3) Factual information that the recipient, or a Kentucky Transitional Assistance Program (K-TAP) [an-AFDC] payee when there is no relative who can serve as a new payee, has died is received by the department;
- (4) Whereabouts of the recipient are unknown and mail addressed to him is returned indicating no known forwarding address; however, a returned check shall be made available to him if his whereabouts become known during the payment period covered by the returned check;
- (5) Establishment by the agency that assistance has been

accepted in another state;

(6) Removal from the home of a Kentucky Transitional Assistance Program (K-TAP) [an AFDC] child by judicial order or voluntary placement in foster care by his legal guardian;

(7) The person who is aged, blind or has a disability and is a supplementation recipient, enters a nursing facility resulting in vendor payment status;

(8) The recipient enters:

(a) A penal institution; or

(b) If under sixty-five (65), a tuberculosis hospital; or

(c) If between twenty-one (21) and sixty-five (65), a mental hospital;

(9) The granting of a special allowance, or time limited assistance, which:

(a) Shall be terminated at the end of a specified period or under specific conditions; and

(b) The recipient shall be informed in writing at the time the allowance or assistance is granted of the automatic termination; and

(c) The notice may be provided at the time of approval, or subsequently.

Section 6. Material Incorporated by Reference. (1) The form necessary for adverse action in the Kentucky Transitional Assistance Program (K-TAP) [AFDC] and Mandatory and Optional Supplementation Programs is being incorporated [effective ~~December 1, 1993~~]. This form is the "KIM-105", "General Notice of Action", edition 8/97 [revised 9/94].

(2) Material incorporated by reference may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: September 11, 1997

FILED WITH LRC: September 12, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 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 October 14, 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 proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Judy H. Trigg, Cabinet for Families and Children, Office of the Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, (502) 564-7573 (fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marty Mason, Director

(1) The affected entities are families who apply for or receive benefits under the Kentucky Transitional Assistance Program (K-TAP). The AFDC program was replaced by the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP) as the result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. There are approximately 62,034 families in Kentucky (monthly average) who are currently receiving benefits from K-TAP.

(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: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

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

1. First year following implementation: The individuals who are applicants or recipients of AFDC, now K-TAP, will not have any additional compliance, reporting or paperwork requirements.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no additional costs or savings to the agency as a result of the amendments to this regulation.

2. Second and subsequent years: Same

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: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Kentucky: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(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: The amendments to this administrative regulation are needed to comply with the mandated requirements in 42 USC 601 et seq. and to conform with 904 KAR 2:006E and 2:016E. The Aid to Families with Dependent Children (AFDC) program no longer exists and has been replaced with Kentucky Transitional Assistance Program (K-TAP), the Temporary Assistance for Needy Families (TANF) block grant program. References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP) to conform with the provisions in 904 KAR 2:006E and 2:016E and the approved Title IV-A state plan.

(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: Public assistance benefits received by needy Kentuckians may be jeopardized if Kentucky does not conform to the mandated requirements delineated in 904 KAR 2:006E and 2:016E pursuant to Kentucky's Title IV-A state plan as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(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: References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP) to conform with the provisions in 904 KAR 2:006E and 2:016E.

(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. 42 USC 601 et seq.

2. State compliance standards. KRS 205.200.

3. Minimum or uniform standards contained in the federal mandate. None

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the Federal mandate. No

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

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

904 KAR 2:055. Hearings and appeals.

RELATES TO: KRS 205.231, 45 CFR 205.10, 255.2, 42 USC 601 et seq.

STATUTORY AUTHORITY: KRS Chapter 13B, 194.050(1), 205.231, 205.237, 45 CFR 205.10, 251.5, EO 96-862, 42 USC 601 et seq.

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 shall provide for a system of hearings to be available to any applicant for or recipient of an assistance program who is dissatisfied with any action or inaction on the part of the cabinet. This administrative regulation sets forth the methods by which the hearing requirement is fulfilled for Aid to Families with Dependent Children now called the Kentucky Transitional Assistance Program (K-TAP), the Home Energy Assistance Program, and the State Supplementation Program.

Section 1. Informing the Applicant or Recipient of His Rights. (1) Each applicant or recipient shall be informed of his right to a hearing:

(a) Orally and in writing when application is made; and

(b) In writing when an action is taken affecting his claim in accordance with KRS 13B.050.

(2) Each applicant or recipient shall be informed of:

(a) The method by which he may obtain a hearing; and

(b) That he may be represented by:

1. An authorized representative who may be:

a. Legal counsel;

b. A relative;

c. A friend; or

d. Other spokesperson; or

2. Himself.

Section 2. Request for a Hearing. (1) An applicant or recipient or an authorized representative acting on his behalf, may request a hearing by filing a request with the Department for Social Insurance at either:

(a) The local office; or

(b) The central office.

(2) The applicant or recipient shall clearly indicate a desire for a hearing by submitting a statement:

(a) In written form; or

(b) Orally, later submitted in writing by the applicant or recipient.

(3) A written request for a hearing may be sent to the Cabinet for Families and Children, Division of Administrative Review, Hearing Branch, 275 East Main, Frankfort, Kentucky 40621.

Section 3. Time Limitation for Hearing Request Regarding Assistance Payments. (1) To be considered timely, a written or oral request from an applicant or recipient shall be received by the department within:

(a) Forty (40) days of the date of the advance notice of adverse action; or

(b) Thirty (30) days of the notice of:

1. Denial of an application; or

2. Decrease or discontinuance of an active case; or

(c) The time period the action is pending if the hearing issue is delay in action.

(2) Up to an additional thirty (30) days for requesting a hearing may be granted if it is determined by the hearing officer that the delay was for good cause in accordance with the following criteria:

(a) The applicant or recipient was away from home during the entire filing period; or

(b) The applicant or recipient is unable to read or to comprehend the right to request a hearing on the:

1. Notice of adverse action; or

2. Notice of decrease or discontinuance; or

(c) The applicant or recipient moved resulting in delay in receiving or failure to receive the:

1. Notice of adverse action; or

2. Notice of decrease or discontinuance; or

(d) Serious illness of the applicant or recipient; or

(e) The reason for the delay was no fault of the applicant or recipient, as determined by the hearing officer.

Section 4. Continuation of Assistance Program Benefits. (1) Assistance shall be continued through the month in which the hearing officer's decision is rendered if the request:

(a) Results from dissatisfaction regarding a proposed discontinuance, suspension or decrease; and

(b) Is received within ten (10) days of the date on the:

1. Advance notice of adverse action; or

2. Notice of decrease or discontinuance.

(2) Assistance shall be reinstated and continued through the month in which the hearing officer's decision is rendered if the request is:

(a) Received within twenty (20) days of the date on the:

1. Advance notice of adverse action; or

2. Notice of decrease or discontinuance; and

(b) The reason for delay meets the good cause criteria contained in Section 3 of this administrative regulation.

(3) Subsections (1) and (2) of this section shall not apply if the program benefit has been reduced or discontinued as a result of a change in law, regulation, or policy of the cabinet.

(4) Continued or reinstated benefits are considered overpayments if the agency decision is upheld.

(5) If the applicant or recipient requests the discontinuance, suspension or decrease in assistance be in effect pending the hearing officer's decision, assistance shall not be continued or reinstated through the month in which the hearing officers' decision is rendered.

~~[(6) Continuation or reinstatement of benefits pending a hearing decision shall not apply to child care and supportive services payments for job opportunities and basic skills participants.]~~

Section 5. Acknowledgment of the Request. (1) A hearing request shall be acknowledged by the hearing branch.

(2) The acknowledgment letter shall contain information regarding:

(a) The hearing process, including the right to case record review prior to the hearing;

(b) The right to representation; and

(c) A statement that the local office can provide information regarding the availability of free representation by legal aid or a welfare rights organization within the community.

(3) Subsequent notification shall comply with the requirements of KRS 13B.050.

(a) All parties to the hearing shall be provided at least twenty (20) days timely notice of the date of the hearing to permit adequate preparation of the case.

(b) The applicant or recipient may request less timely notice of the date set for the hearing to expedite the scheduling of the hearing.

(4) A hearing complying with the requirements of KRS Chapter 13B shall be scheduled on a timely basis to assure that no more than ninety (90) days shall elapse from the date of the request to the date of the decision.

Section 6. Withdrawal or Abandonment of Request. (1) The applicant or recipient may withdraw his request for a hearing prior to release of the hearing officer's decision, but he shall be granted the opportunity to discuss withdrawal with his legal counsel or representative, if any, prior to finalizing the action.

(2) A hearing request shall be considered abandoned if the applicant or recipient fails without prior notification to report for the hearing.

(3) A hearing request shall not be considered as abandoned without extending to the applicant or recipient, and, if applicable, his legal counsel or representative, a period of ten (10) days to establish that the failure was for good cause in accordance with good cause criteria contained in Section 3 of this administrative regulation.

Section 7. Applicant's or Recipient's Rights Prior to a Hearing. (1) An applicant or recipient shall receive notice consistent with KRS 13B.050, including:

(a) His right to legal counsel or other representation;

(b) The right to review the case record relating to the issue; and

(c) The right to submit additional information in support of the claim.

(2) When the hearing involves medical issues, a medical assessment by other than the person or persons involved in the original decision shall be obtained at cabinet expense if the hearing officer considers it necessary.

(3) If a medical assessment at cabinet expense is requested by the applicant or recipient and denied by the hearing officer, the reason for denial shall be set forth in writing.

Section 8. Postponement of a Hearing. (1) The applicant or recipient shall be entitled to a postponement of a hearing if:

(a) The request for the delay is made prior to the hearing; and

(b) The need for the delay is due to an essential reason beyond the control of the applicant or recipient in accordance with good cause criteria contained in Section 3 of this administrative regulation.

(2) The decision to grant the postponement shall be made by the hearing officer.

(3) The postponement of the hearing shall not exceed thirty (30) days from the date of the request.

Section 9. Corrective Action for Assistance Program Benefits. (1) If after a review of the case record, but prior to scheduling a hearing, the hearing officer determines that action taken or proposed to be taken is incorrect, he shall authorize corrective action in the form of:

(a) Assistance to which the applicant or recipient would have been entitled but for the incorrect decision; or

(b) If the issue was a proposed action, continuing assistance.

(2) The applicant or recipient then shall be given the opportunity to withdraw the hearing request, but the hearing shall be scheduled if the applicant or recipient wishes to pursue the request.

Section 10. Conduct of a Hearing. (1) The hearing shall be conducted in accordance with the requirements of KRS 13B.080 and 13B.090.

(a) The hearing officer shall:

1. Be impartial; and

2. Disqualify himself for any reason set forth in KRS 13B.040.

(b) The applicant or recipient may challenge the hearing officer by presentation of factual evidence that the impartiality criteria are not met.

(2) The hearing shall be conducted in-state where the applicant or recipient may attend without undue inconvenience.

(3) If necessary to secure full information on the issue, the hearing officer may examine each party who appears and his witnesses.

(4) The hearing officer may schedule a hearing and take additional evidence as is deemed necessary.

(5)(a) Parties to a telephonic hearing who wish to introduce documents or written materials not yet supplied to the opposing parties into the record at the hearing shall immediately mail copies of the documents to the hearing officer and to the opposing party.

(b) All parties to the telephonic hearing shall submit all available documentary evidence to be used during the hearing to the hearing officer and the opposing party prior to convening of the hearing.

(c) Failure to provide both the hearing officer and the opposing party with copies of evidence referenced in paragraphs (a) and (b) of this subsection may result in its being excluded from the record.

Section 11. The Decision. (1) After the hearing is concluded, the hearing officer shall set forth in writing his finding of facts and conclusions of law:

(a) Specifying the reasons for the decision; and

(b) Identifying the supporting evidence and regulations.

(2) A copy of the decision shall be mailed to:

(a) The applicant or recipient and his representative; and

(b) The local office of the Department for Social Insurance.

(3) The decision, with respect to the issues considered, shall be final unless further appeal is initiated within twenty (20) days from the date of mailing of the decision.

Section 12. Appeal from Decision of Hearing Officer. (1) Any applicant or recipient or his authorized representative wishing to appeal the decision of a hearing officer may do so by filing an appeal to an appeal board appointed in accordance with KRS 205.231(3).

(2) The appeal request shall be considered timely, when an oral or written request is received in a local office or the hearing branch of the Department for Social Insurance within twenty (20) days of the date on which the hearing officer's decision was mailed; or

(3) If the good cause criteria in Section 3 of this administrative regulation is met, an appeal request received within thirty (30) days of the hearing officer's decision shall be considered timely.

(4) The request shall be:

(a) Filed in writing or orally, later reduced to writing; and

(b) Considered filed on the day it is received.

Section 13. Applicant's or Recipient's Rights Prior to Appeal Board Consideration. (1) An appeal to the appeal board shall be acknowledged in writing to the applicant or recipient and his authorized representative.

(2) The acknowledgment shall:

(a) Offer the opportunity to file a brief or submit new and additional proof; and

(b) State the tentative date on which the board will consider the

appeal.

Section 14. Appeal Board Review. (1) An appeal to the appeal board shall be considered upon:

- (a) The records of the department; and
- (b) The evidence or exhibits introduced before the hearing officer unless the applicant or recipient specifically requests permission to file additional proof.

(2) When an appeal is being considered on the record, the parties may:

- (a) Present written arguments; and
- (b) At the board's discretion, be allowed to present oral arguments.

(3) If needed, the appeal board may direct the taking of additional evidence to resolve the appeal.

(4) Evidence shall be taken by the board after seven (7) days notice to the parties, giving them the opportunity:

- (a) To object to introduction of additional evidence; or
- (b) To rebut or refute any additional evidence.

Section 15. The Appeal Board Decision. (1) The decision of the appeal board, duly signed by members of the board, shall:

(a) Set forth in writing the facts on which the decision is based; and

(b) Except as provided in subsection (2) of this section, be irrevocable in respect to the issues in the individual case unless set aside through the judicial review process pursuant to KRS 13B.140 and 13B.150.

(2) The appeal board shall be allowed to reverse the decision in subsection (1) of this section if the following criteria are met:

(a) The correct determination of eligibility based on incapacity or disability is the only issue being considered in the appeal board decision; and

(b) Within twenty (20) days of the appeal board decision, the applicant or recipient, whose incapacity or disability is the issue of the hearing, receives and provides to the appeal board an award letter for benefits based on disability including:

- 1. Supplemental security income;
- 2. Retirement, survivors and disability insurance;
- 3. Federal black lung benefits;
- 4. Railroad retirement benefits; or
- 5. Veterans Administration benefits based on 100 percent disability.

Section 16. Payments of Assistance. (1) Payments of assistance to carry out decisions of hearing officers or the appeal board shall be made promptly and shall include:

(a) The month of application; or

(b) Providing it is established that the applicant or recipient was eligible during the entire period in which assistance was withheld, the month in which incorrect action of the cabinet adversely affected the applicant or recipient.

(2) For reversals involving reduction of benefits, action shall be taken to restore benefits within ten (10) days of the receipt of the hearing decision.

Section 17. Limitation of Fees. (1) Although the cabinet and its officers and employees, either in their official or personal capacity, are not liable for payment of any attorneys fees, the cabinet shall, in accordance with KRS 205.237, set the maximum fee that an attorney may charge the applicant or recipient for representation in all categories of public assistance as follows:

(a) Seventy-five (75) dollars for preparation and appearance at hearing before a hearing officer;

(b) Seventy-five (75) dollars for preparation and presentation, including any briefs, of appeals to the appeal board;

(c) \$175 for preparation and presentation, including pleadings and

appearance in court, of appeals to the circuit court;

(d) \$300 for preparatory work and briefs and all other matters incident to appeals to the Court of Appeals.

(2) The fee agreed to by the representative and his client within the above maximums shall be deemed to have the approval of the cabinet.

(3) Enforcement of payment of the fee shall be a matter entirely between the counsel or agent and the applicant or recipient. The fee shall not be deducted, either in whole or in part, from the benefit checks otherwise due and payable to the applicant or recipient.

Section 18. Special Provisions Relating to Participants in a Work-related Program under the Kentucky Works [Job Opportunities and Basic Skills] Program. (1) A participant in a work-related program under the Kentucky Works [Job Opportunities and Basic Skills] Program may request a hearing for the resolution of a complaint with respect to:

- (a) On-the-job working conditions; and
- (b) Workers' compensation coverage; and
- (c) ~~Wage rates used in calculating the hours of participation required of individuals in community work experience programs of the Job Opportunities and Basic Skills Program.~~

(2) A participant in a work-related program under the Kentucky Works [Job Opportunities and Basic Skills] Program may appeal a hearing decision regarding an issue listed in subsection (1) of this section within twenty (20) days of the receipt of the state's written decision.

(a) The appeal shall be sent to the Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 1111 20th Street, NW, Washington, DC 20036.

(b) Copies of the appeal, and any brief in support thereof, shall be sent to:

1. The Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; and

2. The Assistant Secretary for Family Support, Department of Health and Human Services, 370 L'Enfant Promenade, SW, Sixth Floor, Washington, DC 20447.

(c) The appeal shall contain the following information:

1. The full name, address and telephone number of the Kentucky Works [Job Opportunities and Basic Skills] Program participant;

2. The provisions of the Social Security Act or federal regulations believed to have been violated;

3. A copy of the original complaint filed with the state; and

4. A copy of the state's findings and decision regarding the complaint.

Section 19. Material Incorporated by Reference. (1) The form necessary for requesting a hearing, appeal, or withdrawal is being incorporated. ~~[effective June 1, 1996:]~~ This form is the "PAFS-78", "Request for Hearing, Appeal, or Withdrawal", edition June 1997, ~~[revised May 1, 1996.]~~

(2) Material incorporated by reference may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky, 40621. Office hours are 8 a.m. to 4:30 p.m.

JOHN L. CLAYTON, Commissioner
VIOLA P. MILLER, Secretary
CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: September 10, 1997

FILED WITH LRC: September 12, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 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 October 14, 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 proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Judy H. Trigg, Cabinet for Families and Children, Office of the Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, (502) 564-7573 (fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marty Mason, Director

(1) The affected entities are families who apply for or receive benefits under the Kentucky Transitional Assistance Program (K-TAP). The AFDC program was replaced by the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP) as Reconciliation Act of 1996. There are approximately 62,034 families in Kentucky (monthly average) who are currently receiving benefits from K-TAP.

(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: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

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

1. First year following implementation: The individuals who are applicants or recipients of AFDC, now K-TAP, will not have any additional compliance, reporting or paperwork requirements.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Continuation of child care and supportive services payments pending a hearing decision is \$234,000 per year for child care costs and \$80,600 in transportation costs to the agency.

2. Second and subsequent years: Same

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: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Kentucky: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(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: This administrative regulation is needed to conform with the mandates found in 904 KAR 2:006E and 2:016E. Continuation of child care and supportive services payments pending a hearing decision will be additional benefits to recipients while the hearing decision is pending. This change conforms with changes made in 904 KAR 2:016E.

(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: Public assistance benefits received by needy Kentuckians may be jeopardized if Kentucky does not conform with provisions in 904 KAR 2:006E and 2:016E as delineated in Kentucky's Title IV-A state plan as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The continuation of supportive services while a recipient is waiting a hearing decision is an additional benefit which will help the recipient who is in a Kentucky Works component to continue to participate in the component or remain employed if working.

(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: References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP), and references to the Job Opportunities and Basic Skills (JOBS) Program have been changed to the Kentucky Works Program to conform with the provisions in 904 KAR 2:006E and 2:016E.

(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. 42 USC 601 et seq.

2. State compliance standards. KRS 205.200, 205.231, 205.237.

3. Minimum or uniform standards contained in the federal mandate. None

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

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

904 KAR 2:060. Delegation of power for oaths and affirmations.

RELATES TO: KRS 205.170, 45 CFR 205.32, 42 USC 601 et seq.

STATUTORY AUTHORITY: KRS 194.050(1), 205.170, 42 USC 601 et seq., 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 administer a money payment program under 42 USC 601 et seq., Kentucky

Transitional Assistance Program (K-TAP) [Aid to Families with Dependent Children], and provide supplemental payments to persons who are aged, blind or have a disability. KRS 205.170 empowers the Secretary for Human Resources or his duly authorized representative to administer oaths and affirmations to obtain information from an applicant or recipient in the administration of the Aid to Families with Dependent Children now called Kentucky Transitional Assistance Program (K-TAP) and state supplementation programs. This administrative regulation sets forth the designation of certain employees by the secretary of the cabinet to administer oaths and affirmations to an applicant or a recipient of a money grant in limited situations.

Section 1. Specific Worker Designation. The following classifications of employees shall be designated as duly authorized representatives of the Secretary of the Cabinet for Families and Children [Human Resources] to administer an oath or affirmation to an applicant or recipient:

- (1) A field services supervisor;
- (2) A field services manager; and
- (3) A regional administrator.

Section 2. Purpose. (1) An oath or affirmation shall be administered by a designated representative to an applicant or recipient for the purpose of obtaining his sworn statement[
(+) regarding a claim that a check issued from a money payments program of the cabinet has been:

- (a) Lost;
- (b) Misplaced; or
- (c) Stolen;
- (2) To request a replacement check; or
- (3) When a check endorsement is viewed.

Section 3. Process. (1) An affidavit shall be used when:

(a) A check is reported lost or stolen to request a replacement check within six (6) months of intended receipt; or

(b) [When] A check endorsement is viewed.

(2) If the payee reports nonreceipt, loss or theft of a check, the payee shall come into the office to complete an affidavit within four (4) work days of reporting nonreceipt of the check. This process will place a stop payment on the check.

(3) If the original check has been cashed, a photocopy of the cashed check shall be forwarded to the local office.

(a) The payee shall view the endorsement; and

(b) If the signature is not that of the payee, the payee shall sign the affidavit stating the signature on the photocopy is not his signature and he received no benefit from the cashing of the check.

(4) The affidavit shall also be used to request reissuance of the check in question.

(5) The time limitation that a lost or stolen check may be replaced shall not exceed six (6) months from the date of intended receipt.

Section 4. Material Incorporated by Reference. (1) Forms necessary for the administration of an oath or affirmation for the Kentucky Transitional Assistance Program (K-TAP) [Aid to Families with Dependent Children] and state supplementation programs are being incorporated [effective November, 1993]. These forms include:

(a) "PA-60", "Affidavit", edition 5/97 [revised 4/95];

(b) "PA-61", "Notice of Returned Check and Authorization for Disposition", edition [revised] 7/94.

(2) Material incorporated by reference may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

JOHN L. CLAYTON, Commissioner

VIOLA P. MILLER, Secretary

CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: September 11, 1997

FILED WITH LRC: September 12, 1997 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on October 21, 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 October 14, 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 proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Judy H. Trigg, Cabinet for Families and Children, Office of the Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Telephone: (502) 564-7900, (502) 564-7573 (fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marty Mason, Director

(1) The affected entities are families who apply for or receive benefits under the Kentucky Transitional Assistance Program (K-TAP). The AFDC program was replaced by the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP) as the result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. There are approximately 62,034 families in Kentucky (monthly average) who are currently receiving benefits from K-TAP.

(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: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

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

1. First year following implementation: The individuals who are applicants or recipients of AFDC, now K-TAP, will not have any additional compliance, reporting or paperwork requirements.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no additional costs or savings to the agency as a result of the amendments to this regulation.

2. Second and subsequent years: Same

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: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were

received.

(b) Kentucky: No requests for a hearing were received as a result of the publication of the Notice of Intent and no written comments were received.

(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: The amendments to this administrative regulation are needed to comply with the mandated requirements in 42 USC 601 et seq. and to conform with the mandates found in 904 KAR 2:006E and 2:016E. The Aid to Families with Dependent Children (AFDC) program no longer exists and has been replaced with Kentucky Transitional Assistance Program (K-TAP), the Temporary Assistance for Needy Families (TANF) block grant program. References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP) to conform with the provisions in 904 KAR 2:006E and 2:016E and requirements in the approved Title IV-A state plan. Time limitations for the replacement of a lost or stolen check is set at six (6) months from the date of intended receipt.

(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: Public assistance benefits received by needy Kentuckians may be jeopardized if Kentucky does not comply with the provisions found in 904 KAR 2:006E and 2:016E pursuant to our approved Title IV-A state plan as required by 42 USC 601 et seq.

(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: References to Aid to Families with Dependent Children (AFDC) have been changed to Kentucky Transitional Assistance Program (K-TAP) to conform with the provisions in 904 KAR 2:006E and 2:016E.

(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. 42 USC 601 et seq.

2. State compliance standards. KRS 205.200, 205.170.

3. Minimum or uniform standards contained in the federal mandate. None

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

NEW ADMINISTRATIVE REGULATIONS FILED AS OF NOON, SEPTEMBER 15, 1997

GENERAL GOVERNMENT CABINET
Kentucky Board of Dentistry
(New Administrative Regulation)

201 KAR 8:411. Repeal of 201 KAR 8:410.

RELATES TO: KRS 313.160

STATUTORY AUTHORITY: KRS 313.220(4)

NECESSITY, FUNCTION, AND CONFORMITY: 201 KAR 8:410 is no longer required because KRS Chapter 13B has preempted this administrative regulation.

Section 1. 201 KAR 8:410, Procedures for disciplinary hearings, is hereby repealed.

PATRICIA G. HOWELL, RDH, President

MARK BRENGELMAN, Assistant Attorney General

APPROVED BY AGENCY: September 9, 1997

FILED WITH LRC: September 12, 1997 at 4 p.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on October 24, 1997, at 3 p.m., local time, at 10101 Linn Station Road, Suite 540, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 17, 1997, five (5) 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 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: Mr. Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223, Phone: (502) 423-0573, Fax: (502) 423-1239.

REGULATORY IMPACT ANALYSIS

Contact person: Gary Munsie, Executive Director

(1) Type and number of entities affected: Approximately persons, including dentists, hygienists, and persons allegedly practicing dentistry or dental hygiene without license as required by KRS Chapter 313, against whom the agency proceeds under KRS Chapter 13B.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: This will clearly define and streamline the procedures used to handle all complaints received by the agency and provide clearly defined steps for the agency to

take in handling the complaints.

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Would allow the agency to notify the public via a press release or other method.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Agency funds and annual 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: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: None 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: The procedures as set forth in KRS Chapter 13B will allow the agency to handle notices of administrative hearing in a defined manner so as to fulfill its mandate to regulate the practice of dentistry and dental hygiene in Kentucky for the protection of the public.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Public health may be harmed by preventing the agency from fulfilling its mandate to regulate the practice of dentistry and dental hygiene in Kentucky by having conflicting and duplicative law in KRS Chapter 13B and 201 KAR 8:410.

(c) If detrimental effect would result, explain detrimental effect: Agency procedures would remain unclear and vague.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS Chapter 13B.

(a) Necessity of proposed regulation if in conflict: This regulation will repeal 201 KAR 8:410 which is in conflict with statutory law, KRS Chapter 13B.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: The conflict will be harmonized by the repeal of 201 KAR 8:410.

(10) Any additional information or comments: This amended regulation will repeal 201 KAR 8:410 and allow the agency to provide due process licensees and protect the public by allowing the agency to handle efficiently and competently the administrative hearings it conducts in accord with statutory law, KRS Chapter 13B, based on complaints from the public and other agencies.

(11) TIERING: Is tiering applied? (Explain why tiering was or was not used) No. The apply equally to all licensees.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of September 9, 1997

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 9, 1997, at 10 a.m. in Room 149 of the Capitol Annex. Representative John Arnold, Chairman, called the meeting to order, and the roll call was taken. The minutes of the August 12, 1997 meeting were approved.

Present were:

Members: Representative John Arnold, Chairman; Senators Richard Roeding, Joey Pendleton, Nick Kafoglis; Representatives Jimmy Lee, James Bruce, Woody Allen.

LRC Staff: Greg Karambellas, Steve Lynn, Donna Little, Susan Wunderlich, Angela Phillips, Donna Valencia, Don Hines, Kim Burch.

Guests: Representative Roger Thomas; Robert A. Bowman, Personnel Board; Daniel F. Egbers, Personnel Cabinet; John Scott, Bruce McCutchen, Debra Gabbard, Joe Hall, Jennifer Hays, Revenue Cabinet; Ralph Schiefferle, Division of Water; Angela Robinson, Finance and Administration Cabinet; Marilyn Eaton-Thomas, Kentucky Infrastructure Authority; Leisa Drexler, Joyce A. Bonick, Sharon Weisenbeck, Nathan Goldman, Board of Nursing; Dave Nicholas, Division of Occupations and Professions; Tom Bennett, Mark Cramer, Scott Porter, John Wilson, Pete Pfeiffer, Roy A. Grimes, Department of Fish and Wildlife Resources; Sarah M. Jackson, David Reichert, Division of Charitable Gaming; Jack Damron, Brenda Priestley, Department of Corrections; Ron Christopher, Joe Rogers, Edward Sue Perkins, Transportation Cabinet; Ronda Tamme, OTEC; Reecie Stagnolia, Harlan Stubbs, Department for Adult Education and Literacy; Beverly Haverstock, Workforce Development Cabinet; Linda Graves, Department for Employment Services; Lawrence W. Cook, Mona Carte, Department of Insurance; Eric Friedlander, Robert Calhoun, John Walker, D.W. Swain, Gary Beville, William O'Banion, Cabinet for Health Services; Cookie Whitehouse, Michael Cheek, Cabinet for Families and Children; Brian K. Reams, Ambulance Providers; John Brazel, Kentucky Chamber of Commerce; Lowell Reese, Kentucky Roll Call; John F. Nichols, Jr., Associated Industries of Kentucky; Gay Dwyer, Kentucky Retail Federation; Lori Padgett, Matt Klein, Patricia K. Howard, Central Baptist Hospital; Murry A. Raines, Jean Cherry, Ronald G. Sowell, Commonwealth Health Corporation; Tom Grissom, Vencor, Inc.; Raymond H. Eldridge, Jr., Mountain EMS, Inc.; Benny Coyt, Kelly L. Harrison, Mountain Lifeline EMS; Ruby Jo Cummins, Kentucky Association of Health Facilities; Jeffrey L. Durham, Mediplex Rehabilitation Hospital; James Hacker, Ambulance Inc. of Laurel County; Dot Darby, Baptist Healthcare System; Thomas Krause, Highpark Regional Specialty Hospital; Joe Bradshaw, Knox County EMS; Billy R. Miller, Somerset-Pulaski County EMS; Matthew Couch, Perry County EMS; Laura Randall, NKEMS, Inc.; Michael Mason, Allen's Ambulance Service; Marie Alagia Cull; Ted Bradshaw, IIAK.

The following administrative regulations were found deficient by the Subcommittee:

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Division of Water Patrol

402 KAR Chapter 4. (402 KAR 4:010, 020, 030, 035, 040, 050, 060, 070, 080, 090, 100, 110, 120, 130, 140, 150, 160, 170, 180, 190, 200) At its August meeting, the Subcommittee approved a motion to consider the above-referenced administrative regulations for the following reasons: (1) two sets of water patrol administrative regulations currently existed; (2) amendments to applicable statutes transferred the authority to regulate water patrol from the Natural Resources Cabinet to the Department of Fish and Wildlife; (3) the Department of Fish and Wildlife had promulgated administrative regulations governing water patrol; (4) following the transfer of the

authority to the Department for Fish and Wildlife, the Natural Resources Cabinet had not repealed the administrative regulations it had promulgated on the same subject; (5) Subcommittee staff had sent two or three letters in the last two years to the Cabinet requesting the repeal of these administrative regulations; and (6) if the Subcommittee reviewed these administrative regulations at its September meeting, it could find them deficient because: (a) the administrative regulations duplicated the administrative regulations promulgated by the Department of Fish and Wildlife; and (b) the Cabinet was no longer authorized to promulgate administrative regulations governing the subject matter.

Subcommittee staff stated that: (1) she had requested that 401 KAR Chapter 4 be considered by the Subcommittee because the authority over water patrol administrative regulation was: (a) transferred to the Department of Fish and Wildlife; and (b) taken away from Natural Resources; (2) the administrative regulations had not been repealed even though: (a) Secretary Phillip Shepherd had been notified twice that he needed to repeal the administrative regulations; and (b) Secretary James Bickford had also been notified; and (3) the Subcommittee should find these administrative regulations deficient because: (a) they were a duplication of the administrative regulations promulgated by the Department of Fish and Wildlife; and (b) the Natural Resources Cabinet was not authorized to regulate water patrol.

The Subcommittee approved a motion by Chairman Arnold, seconded by Senator Pendleton, to find these administrative regulations deficient for the reasons explained by Subcommittee staff.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Personnel Board

101 KAR 1:365. Appeal and hearing procedures. Robert Bowman, Personnel Board, and Daniel Egbers, General Counsel, Personnel Cabinet, represented the Cabinet.

This administrative regulation was amended as follows: (1) a new section 1 was created to cross-reference relevant statutory definitions; (2) a new section 2 was created to require that an appeal of an action alleged to be based on discrimination shall be governed by the defined terms; (3) Section 1 was amended to clarify the time period for filing an appeal; (4) Sections 1, 4, and 6 were amended to comply with the drafting requirements of KRS 13A.222(4); and (5) Section 7 was amended to: (a) correct the edition date for the material incorporated by reference; and (b) delete language that incorporated by reference statutory definitions.

Revenue Cabinet: Income Tax; General Administration

103 KAR 15:050. Filing dates and extensions. Jennifer Hays, Division of Tax Policy, represented the Cabinet.

In response to a question by Representative Bruce, Ms. Hays stated that: (1) Margaret Handmaker was the Secretary of the Cabinet; and (2) Alex Rose was the Commissioner.

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 1, 3, 4, 5, and 6 were amended to comply with the drafting requirements of KRS 13A.222(4); and (3) Sections 2 and 5 were amended to delete language that repeated or summarized statute, as required by KRS 13A.120(2)(e) and (f).

Finance and Administration Cabinet: Kentucky Infrastructure Authority: Authority

200 KAR 17:070. Drinking Water State Revolving Fund, priority formula and application requirements. Marilyn Eaton-Thomas, Secretary-Treasurer, represented the Authority.

This administrative regulation was amended as follows: (1) Sections 1, 3, 4, 5, 6, 7, 8, and 11 were amended to comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); (2) Sections 4, 5, 8, and 11 were amended to clarify requirements; and (3) Sections 4 and 13 were amended to: (a) specify the required forms and census material; and (b) incorporate the material by reference.

Board of Ophthalmic Dispensers

201 KAR 13:080. Inspection of establishments. David Nicholas, Director, Division of Occupations and Professions, represented the Board.

Mr. Nicholas stated that the Division of Occupations and Professions provided administrative services to 17 licensure boards, including the Board of Ophthalmic Dispensers.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to accurately state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); (3) a new Section 1 was created to clarify that the administrative regulation applied to a person practicing ophthalmic dispensing as defined in KRS 326.010(2); and (4) Sections 1 through 4 were amended to comply with the drafting requirements of KRS 13A.222(4).

Board of Nursing

201 KAR 20:411. Sexual Assault Nurse Examiner Program standards and credential requirements. Sharon Weisenbeck, Executive Director, and Nathan Goldman, General Counsel, represented the Board.

In response to questions by Senator Roeding, Mr. Goldman stated that: (1) Section 5 of this administrative regulation authorized the Board to deny, revoke, or suspend the approval status of a SANE course for cause; (2) the term "for cause": (a) related to the competency or the ability of a credentialed nurse to perform the function of a sexual assault nurse examiner; and (b) was not specifically defined in the administrative regulation; and (3) the Board was authorized by KRS 314.091 to take disciplinary action against the license of a nurse.

Subcommittee staff stated that: (1) because the initial reviewer may have been unaware of legal terminology, it might have been unclear that the term "for cause" restricted the Board from taking action against a licensee unless there was a violation of a: (a) statute; (b) administrative regulation; or (c) court case; and (2) while an administrative regulation could not give unfettered discretion to an agency, the use of the term "for cause" meant that the Board was required to have a valid cause as defined by applicable statutory and regulatory requirements before it could take disciplinary action against a licensee.

In response to questions by Senator Kafoglis, Mr. Goldman stated that: (1) at the recommendation of its advisory committee, this administrative regulation did not address sexual assault examinations for children under the age of thirteen; (2) the advisory committee: (a) advised the Board on sexual assault nurse examiners; (b) included representatives of rape crisis centers and the Chief Medical Examiner; (c) decided that it was premature to begin training nurses in testimony about children because: 1. that was a difficult training area; and 2. Dr. George Nichols, Chief Medical Examiner, recommended against it; (d) wanted to concentrate the implementation of the program on training and course work for adults; and (e) would expand the program at a later date to include training relating to sexual assault examinations

for children; (3) to be credentialed as a sexual assault nurse examiner, a nurse was required to: (a) be a registered nurse; (b) complete the training program established by the administrative regulation; and (c) successfully complete the required examination; and (4) the Board monitored the sexual assault nurse examiner program through its regulation of the: (a) providers; and (b) nurses.

Ms. Weisenbeck stated that: (1) the advisory council was made up of a number of people outside the board, including: (a) the chief medical examiner; (b) a representative from the Attorney General's Office; (c) a representative from the Cabinet for Health Services; and (d) representatives from a number of groups; and (2) there had been much inter-agency cooperation in developing this program.

Mr. Goldman stated that the advisory committee: (1) was created by statute to advise the Board on this program; (2) reported to the Board; (3) drafted the administrative regulation; and (4) recommended the Board promulgate the administrative regulation.

Subcommittee staff stated that: (1) the issues raised in the initial staff review regarding the implementation and oversight of the program were addressed by KRS 314.142; and (2) KRS 13A.120(2)(e) and (f) prohibited repeating or summarizing the provisions of a statute in an administrative regulation.

In response to a question by Representative Allen, Ms. Weisenbeck stated that the fees for the sexual assault nurse examiners were newly established because the program was newly established.

Mr. Goldman stated that 201 KAR 20:240, Section 9, established the fees for the program.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to accurately state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); and (3) 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).

Board of Social Work

201 KAR 23:020. Fees. David Nicholas, Director, Division of Occupations and Professions, represented the Board.

In response to questions by Senator Roeding, Mr. Nicholas stated that: (1) while the Board did not have a budget surplus each year, the Board did have a surplus some years because: (a) the fees were collected based on a three-year licensing system; and (b) in those years in which fees were collected there would be a surplus; (2) at the end of the three year cycle, there was not a surplus; (3) the new fees were published in the Board's newsletter; (4) the Board: (a) felt the actual increase was insignificant because the average increase was less than \$5 a year per licensee; (b) licensed approximately 3,000 social workers; and (c) existed on the money it received from licensees; (5) his division: (a) charged: 1. each board it represented an administrative fee for providing administrative services to the board; and 2. the Board of Social Work \$35,000 a year; (b) was probably going to increase the amount of the fee because the Division was requested to: 1. increase agency receipts; and 2. decrease general fund participation; (6) the Board of Social Work did not receive general funds; (7) the increase would allow the Board to pay the administrative fees charged by the Division; (8) the increase from \$115 to \$140 was: (a) for the examination fee; (b) not for the: 1. renewal; or 2. application fee; and (c) necessary to replicate the fee the Board paid for the national examination; (9) he had advised the Board that it should not charge more money to an applicant for an examination than it paid for the examination; (10) the Board would actually lose money because the fee did not include the costs of processing the application or fees; and (11) most social workers in Kentucky were exempt from the requirements of KRS Chapter 335, including licensure, because they were employed by the Cabinet for Families and Children.

In response to a question by Representative Allen, Mr. Nicholas

stated that the Board: (1) did not receive any General Fund dollars; and (b) had not received General Fund dollars since it had been established in 1974.

This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations.

Pursuant to KRS 13A.040(9), the Regulations Compiler had already made these amendments to the administrative regulation prior to its publication in the Administrative Register.

201 KAR 23:060. Licensed social workers, certified social workers, and licensed clinical social workers. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4); and (2) Section 2 was amended to clarify the requirements for a licensed clinical social worker.

201 KAR 23:070. Qualifying education and qualifying experience under supervision. In response to a question by Senator Roeding, Subcommittee staff stated that the amendment corrected the statutory citations in the administrative regulation to clarify that the Board had the authority to promulgate this administrative regulation.

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, 2, 4, 5, and 6 were amended to comply with the drafting requirements of KRS 13A.222(4); (3) new Sections 2 and 3 were created to establish the standards for the practice of clinical social work and supervision in the body of the administrative regulation, rather than including those standards in definitions, as required by KRS 13A.222(4)(e); and (4) Section 5 was amended to clarify what information was required to be included in the written notification to clients.

201 KAR 23:080. Code of ethical conduct. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 13 were amended to comply with the drafting requirements of KRS 13A.222(4); and (2) Section 2 was amended to clarify: (a) that illegal discrimination was prohibited; and (b) what information was required to be included in the required notice.

201 KAR 23:140. Per diem compensation for board members. In response to a question by Representative Bruce, Mr. Nicholas stated that the per diem: (1) was increased from \$50 a day to \$100 a day; and (2) had not been increased since 1978.

This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 were amended to comply with the drafting requirements of KRS 13A.222(4).

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Fish

301 KAR 1:201. Fishing limits. Tom Bennett, Commissioner; Pete Pfeiffer, Director of the Division of Fisheries; Roy Grimes, Director of the Division of Wildlife; and Scott Porter, Attorney, represented the Cabinet.

In response to a question by Representative Bruce, Mr. Bennett stated that: (1) this administrative regulation did not address mussels; (2) once a year, the Fish and Wildlife Commission met to set fishing administrative regulations for the coming season; (3) this was done at its August meeting; (4) the Department proposed the fishing administrative regulations for the following license year beginning March 1st; and (5) this would give the Department time to print 750,000 fishing guides between now and March 1, 1998.

Sections 1 and 2 were amended to comply with the: (1) formatting requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

Game

301 KAR 2:082. Importing and holding exotic wildlife. In response

to a question by Representative Allen, Mr. Bennett stated that: (1) an example of an exotic animal would be a: (a) lion; (b) tiger; (c) leopard; (d) viper; (e) cobra; or (f) sea snake; and (2) this administrative regulation addressed animals that: (a) were not native to Kentucky; (b) could not be expected to survive in the wild in Kentucky; or (c) would be dangerous to local wildlife if released into the wild in Kentucky.

In response to a question by Representative Bruce, Mr. Bennett stated that this administrative regulation controlled the transport of exotic animals in Kentucky.

In response to a question by Representative Allen, Mr. Bennett stated that the: (1) Department had not heard serious concerns about turkey mites; and (2) health of the turkey flock was excellent.

Representative Allen stated that: (1) he was: (a) not worried about the turkey flock; and (b) worried about himself; (2) when he went into the woods, turkey mites ate him alive; (3) he would like to introduce the Department biologist to turkey mites which were eating everyone alive; (4) he was aware of the difference between turkey mites and chiggers; (5) he wished the biologist would come down to Western Kentucky to take a little trip with him; (6) he would have a tub of water and bleach for the biologist to get into when he returned from the trip; and (7) the water and bleach would give a little relief, but not much.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; (2) Section 3(2)(a) was amended to incorporate by reference the application for transportation permit, as required by KRS 13A.225(1); (3) Section 4 was amended to delete language that repeated or summarized KRS 82.082 and 82.705, pursuant to KRS 13A.120(2); and (4) Sections 1, 3, and 6 were amended to comply with the formatting requirements of KRS 13A.220(4).

Justice Cabinet: Division of Charitable Gaming: Charitable Gaming

500 KAR 11:001. Definitions. Sarah Jackson, Director, and David Reichert, Attorney, represented the Division.

In response to questions by Representative Lee, Mr. Reichert stated that his review of the statutes and case law, and conversations with the U. S. Attorney's office, indicated that State law did not apply to gaming at the Fort Knox military base, which is an exclusive jurisdiction federal installation.

Representative Lee stated that: (1) a military post could operate any type of game it wanted inside the gate; (2) the small charitable organizations in the community around a federal installation had to show a 40% profit or they could not operate; (3) this situation created an uneven playing field; (4) the state was faced with a very serious problem of professional companies establishing themselves on federal installations; and (5) with the amount of profit that was required by current statutes and administrative regulations, all of the money raised by the charitable organizations would dry up because they could not compete with activities at the base.

This administrative regulation was amended as follows: (1) the TITLE was amended to clarify that the definitions applied to 500 KAR Chapter 11, pursuant to KRS 13A.222(4); (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to correct a statutory citation; and (3) Section 1 was amended to comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

500 KAR 11:025. Quarterly reports. This administrative regulation was amended as follows: (1) the TITLE was amended to clarify that this administrative regulation applied to reports filed by a licensed charitable organization, pursuant to KRS 13A.222(4); (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to accurately state the necessity for and function served by this administrative regulation, pursuant to KRS 13A.220(3)(f); and (3) Sections 1, 2, 3, 4, and 6 were amended to comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

500 KAR 11:080. Charity fundraising event. In response to a question by Representative Bruce, Mr. Reichert stated that: (1) this administrative regulation: (a) permitted certain wheel games to be conducted under the regular license of an organization; and (b) did not require the organization to apply to the Division for a special license; (2) an organization had to obtain a permit from the Department; and (3) charitable organizations would be benefited by this administrative regulation.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 4, 5, 7, and 8 were amended to comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

500 KAR 11:090. Special limited charitable games. In response to a question by Representative Bruce, Mr. Reichert stated that: (1) a special limited charitable game was a casino type game similar to: (a) craps; and (b) poker; (2) charitable organizations could conduct these types of games up to four times a year under the statute; and (3) this administrative regulation: (a) provided that the Division would not license an organization at a particular location more than seven times a year; and (b) correlated with the current licensing statute.

In response to a question by Senator Roeding, Ms. Jackson stated that: (1) the Division held hearings on these administrative regulations; (2) the Kentucky Charitable Gaming Association, a trade association representing a considerable number of licensees, was present; (3) the Division of Charitable Gaming Advisory Commission looked at these administrative regulations on several occasions during meetings; and (4) Mr. Reichert included articles on these administrative regulations in the last newsletter issued in the early summer.

Representative Bruce stated that Ms. Jackson was: (1) doing a fine job; and (2) using common sense in a very difficult commission.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to accurately state the necessity for and function served by the administrative regulation, pursuant to KRS 13A.220(3)(f); and (2) Section 1 was amended to comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Department of Corrections: Division of Adult Institutions: Office of the Secretary

501 KAR 6:110. Roederer Correctional Complex. Jack Damron, Attorney, represented the Department.

Subcommittee staff stated that: (1) an issue was raised by this administrative regulation; (2) KRS 196.270: (a) required: 1. the establishment of a centralized canteen operation; and 2. each institution to participate in the canteen operation; and (b) provided that the directors of the canteen may: 1. consolidate the assets of the existing canteens; and 2. employ the staff and inmates necessary to efficiently manage the canteen; (3) there was a question of whether the Department had statutory authority to contract out the management of the canteen; (4) while the statute did not prohibit contracting out, a lack of a prohibition did not necessarily mean an action was appropriate; (5) this was an issue that the subcommittee may want to request LRC to refer to the appropriate interim committee for possible legislative action to clarify the statute; and (6) a motion was needed to refer this matter to LRC.

The Subcommittee approved a motion by Representative Lee, seconded by Senator Kafoglis, to request LRC to refer this issue to the appropriate standing committee.

This administrative regulation was amended as follows: (1) RCC 02-03-01 was amended to provide that the institution request a pre-audit from the Finance and Administration Cabinet, pursuant to KRS 13A.120(2)(h)(1); (2) RCC 13-05-02 and 13-07-03 were amended to delete language that repeated or summarized a statute, as required by KRS 13A.120(2)(e) and (f); (3) RCC 16-01-03 was amended to incorporate by reference the Special Visit Request Form, as required

by KRS 13A.225(1); (4) RCC 25-04-02 was amended to: (a) delete provisions that repeated or summarized 501 KAR 1:030; and (b) require that parole eligibility be calculated in accordance with 501 KAR 1:030; (5) RCC 02-01-01, 02-02-02, 02-02-03, 02-03-01, 02-04-01, 06-04-01, 08-01-01, 08-08-01, 11-02-01, 11-03-01, 11-06-01, 13-02-01, 13-05-02, 13-06-03, 13-07-03, 13-10-01, 14-01-01, 16-01-03, 17-03-01, 20-01-01, RCC 20-01-01, 21-01-01, 22-03-01, 23-01-01, 24-01-01, and 25-05-01 were amended to comply with the drafting requirements of KRS 13A.222(4); and (6) RCC 22-01-01 was amended to comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Transportation Cabinet: Department of Highways: Division of Traffic: Maintenance

603 KAR 3:080. Advertising devices. Ron Christopher, General Counsel; Sue Perkins, Permits Branch Manager; and Joe Rogers, Permits Branch, represented the Cabinet.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to accurately state the necessity for and function served by the administrative regulation as required by KRS 13A.220(3)(f); (2) Section 8(1) was amended to delete language that repeated KRS 177.867(2), as required by KRS 13A.120(2)(e) and (f); and (3) Sections 1, 3, 4, 5, 6, 9, and 12 were amended to comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Education Professional Standards Board

704 KAR 20:670. Kentucky teaching certificates. Ronda Tamme, Office of Teacher Education and Certification, represented the Board.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct a statutory citation; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to accurately state the necessity for and function served by the administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 1 was amended to alphabetize the definitions, as required by KRS 13A.222(4)(e); (4) Section 2 was amended to clearly establish the requirements for issuance of a statement of eligibility for a provisional teaching certificate; and (5) Sections 4, 5, 6, and 7 were amended to comply with the drafting requirements of KRS 13A.222(4).

Workforce Development Cabinet: Department for Adult Education and Literacy: Adult Education and Literacy

785 KAR 1:010. Testing program. Beverly Haverstock, General Counsel; Reecie Stagnolia, Director, Division of Management Support Services; and Harlan Stubbs, Department for Adult Education and Literacy, represented the Cabinet.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 were amended to comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

785 KAR 1:020. High school equivalency diploma. 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 3 were amended to comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); and (3) Section 2 was amended to delete language that repeated or summarized statute, as required by KRS 13A.120(2)(e) and (f).

Department of Insurance: Rates and Rating Organizations

806 KAR 13:130 & E. Experience modification factors for workers' compensation insurers. Mona Carter, Director, Department of Property

and Casualty Division, and Larry Cook, Counsel, represented the Department.

In response to questions by Senator Roeding, Ms. Carter stated that: (1) this administrative regulation: (a) did not require insurance companies to release proprietary information; (b) governed the employer's loss information; and (c) allowed an employer to divulge lost runs in order to shop his business; and (2) the relevant statutes had been: (a) enacted during the 1994 Regular Session of the General Assembly; and (b) clarified during the Special Session of the General Assembly on Workers' Compensation.

In response to a question by Representative Bruce, Ms. Carter stated that: (1) the insurance companies and workers compensation were required to report their investments and activities, including the amount of profit made on workers compensation; (2) originally the reports were collected by her department; (3) the responsibility for collecting the reports was transferred to the Department for Workers Claims; and (4) while she did not know who collected that information at this time, she knew that the reports were still required.

Representative Bruce stated that he wanted LRC staff to check on the status of this requirement.

This administrative regulation was amended as follows: (1) Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4); (2) Section 1 was amended to specify the authority of the department; and (3) Section 3 was amended to incorporate by reference the required manual.

806 KAR 13:140 & E. Notice of right to seek review of application of workers' compensation insurance rates. Section 1 of this administrative regulation was amended to comply with the drafting requirements of KRS 13A.222(4).

Cabinet for Health Services: Department for Public Health: Division of Health Systems Development: Emergency Medical Services and Ambulance Service Providers

902 KAR 14:084. Class III ground ambulance providers. Robert Calhoun, Emergency Medical Services Branch, represented the Department. Dot Darby, Baptist Healthcare System; Billy R. Miller, Somerset-Pulaski County EMS; and Laura Randall, Northern Kentucky EMS, Inc., spoke in favor of the administrative regulation.

Subcommittee staff stated that: (1) Ms. Darby would: (a) propose an amendment to this administrative regulation; and (b) explain the: 1. amendment; and 2. reasons for the amendment; (2) if the Subcommittee agreed to the amendment, a Subcommittee member needed to propose the amendment; and (3) the agency needed to agree to the amendment.

Mr. Calhoun stated that: (1) legislation was enacted during the 1996 Regular Session of the Kentucky General Assembly which created classes of ambulance services; and (2) this administrative regulation: (a) governed Class III ambulance services, which were authorized to transfer critical patients between health facilities; and (b) was: 1. developed by an ad hoc group that consisted of representatives of hospital-based ambulance services; 2. reviewed by the Kentucky EMS Council; 3. recommended in its current form at the May 1997 meeting of the EMS Council; and 4. promulgated by the Cabinet after this process had been completed.

Ms. Darby stated that she recommended the following three amendments to this administrative regulation: (1) amend three lines of Section 2(10) to delete language relating to unusual circumstances because its meaning was ambiguous; (2) amend Section 10(4)(e) to delete two references to Class II ambulance providers, because the references were not appropriate; and (3) amend Section 10(4)(e) to insert "as determined by the sending facility or the sending physician", because it was necessary to specify that the determination on the level of ambulance to be requested should be from the sending facility or physician.

Mr. Calhoun stated that the Cabinet was in agreement with the amendment.

Mr. Miller stated that: (1) he represented: (a) himself; and (b)

several Eastern Kentucky ambulance services; (2) he supported this administrative regulation and the amendment; (3) Section 1(12) of the administrative regulation, that defined "mobile intensive interfacility care", should be amended to: (a) delete "which exceed the normal scope of service of a Class I ground ambulance provider"; and (b) in lieu thereof, insert "which exceed the normal scope of service of the Class I ground ambulance provider within the service area"; and (4) this amendment was necessary because: (a) different protocols had been established for different Class I ambulance services; (b) the current language referenced the normal scope and service of a Class I provider, which did not address the protocols that had been established in each service area; and (c) the protocol in one area might authorize a Class I transport for a service that required a Class III transport in another service area.

Mr. Calhoun stated that the Cabinet was in agreement with the amendment.

Ms. Darby stated that she agreed with the amendment.

In response to questions by Senator Roeding, Mr. Calhoun stated that: (1) a Class III ambulance service was only permitted to transfer patients with critical medical conditions that were emergencies; (2) a Class III ambulance provider could not respond to a 911 call to the side of a road or a home because a Class III provider was limited to providing transport between hospitals; (3) an ambulance service that was already on a legitimate run was not allowed to stop and render aid unless arrangements were made to care for the original patient; (4) because volunteer services in Kentucky were licensed as Class I ambulance services, the volunteer services were not governed by this administrative regulation; and (5) he shared the concerns expressed by Senator Roeding that the interests of patient care and meeting current standards needed to be balanced with the burden placed on volunteers.

Ms. Randall stated that: (1) the Northern Kentucky EMS: (a) supported the concept of critical care transport for: 1. truly critical patients; and 2. neonates who needed to go to Children's Hospital in Cincinnati; and (b) might be at a disadvantage because of their proximity to Cincinnati; (2) the eight hospital-based ambulance services in the Cincinnati area wanted a Certificate of Need to operate in Kentucky; (3) there was a hospital that: (a) advertised itself as a critical care transport unit; (b) had a paramedic and a nurse in the ambulance; (c) transported patients who: 1. were not critical care patients; and 2. were stable MI patients: a. in need of transport to another facility for an angiocatheterization; b. with a keep-open IV; and c. without running medication; and (d) justified the runs by the potential that something might happen to the patient while in transport; (4) ambulance services in Kentucky lost those runs because the other hospital was: (a) sending a higher level of care; and (b) charging three times the rate; (5) in numerous medical publications, Medicare experts have told the ambulance industry to charge more for a critical care transport because a nurse was on board; (6) the real difference in critical care transports was the level of care of the patient who had an IV in place which the two paramedics on board a Class I ambulance could monitor; (7) Northern Kentucky EMS: (a) was non-profit; (b) provided paramedic service to six counties in Northern Kentucky; (c) lost money in this situation because it was a more expensive operation; and (d) relied on inter-facility transportation to offset the losses incurred in providing 911 services; (8) she thought there would be an influx of out-of-state hospitals entering Kentucky under the utilization process because the definition of critical care run was a fine line; (9) an example of an appropriate transport was a transport of a child involved in a car accident when the child: (a) needed to be transported to Children's Hospital in Cincinnati for a twenty-four hour neurological observational review; and (b) was: 1. stable; and 2. examined by a Board-certified emergency physician; (10) in this example, when the physician called Children's Hospital, the Hospital wanted to send its own ambulance team to protect its utilization rights; (11) this meant the Northern Kentucky EMS did not make the transport; and (12) the Northern Kentucky EMS did not want

to transport patients that truly needed a higher level of care.

Mr. Calhoun stated that: (1) this administrative regulation: (a) created a licensing process to address this issue; and (b) was a delicate balance, because the EMS Council tried to protect the economic viability of the community ambulance services who were always available; (2) currently a service was not legally permitted to operate in Kentucky without having a: (a) CON; and (b) license; and (3) if a service was operating without these two items, the service was operating in violation of the existing licensure laws in Kentucky.

Ms. Randall stated that a draft of the administrative regulation required contacting the appropriate Level I facility in the transferring area to determine if an appropriate level ambulance was available to make the transfer before another team came in.

Mr. Calhoun stated that the EMS Council did not include those provisions in the final version of the administrative regulation because: (1) the subject matter was already addressed in the utilization criteria; and (2) the class was required to have the utilization requirements in place to justify each run it made.

The Subcommittee approved a motion by Senator Kafoglis, seconded by Representative Bruce, to amend this administrative regulation as requested by Ms. Darby.

The Subcommittee approved a motion by Representative Lee, seconded by Senator Kafoglis, to amend this administrative regulation as requested by Mr. Miller.

This administrative regulation was amended as follows: (1) Section 1(12) was amended to require a transport to be operated under the approved medical protocols which exceed the normal scope of service of the Class I ground ambulance provider within the service area; and (2) Section 2(10) was amended to: (a) delete language relating to unusual circumstances; (b) delete references to Class II ambulance providers; and (c) require that the determination on the level of ambulance to be requested be made by the sending facility or physician.

902 KAR 14:100. Advanced life support (ALS) medical first response providers. In response to a question by Senator Roeding, Subcommittee Staff stated that: (1) the issue raised in the initial staff review regarding Section 3 of the administrative regulation was addressed in another administrative regulation; and (2) the initial reviewer was not aware that licensing was governed by another administrative regulation.

Mr. Calhoun stated that: (1) this administrative regulation established a new class of a license provider for a non-transporting advanced life support response service; and (2) the service: (a) did not transport patients; and (b) was required to comply with the legislation enacted during the 1996 Regular Session of the Kentucky General Assembly.

This administrative regulation was amended as follows: Sections 1, 2, 3, 4, 6, 8, 9, and 10 were amended to: (1) clarify requirements; and (2) comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

The Subcommittee determined that the following administrative regulations complied with statutory requirements:

Personnel Cabinet: Unclassified

101 KAR3:045E. Compensation plan and compensation incentive systems. Robert Bowman, Personnel Board, and Daniel Egbers, General Counsel, Personnel Cabinet, represented the Cabinet.

Mr. Egbers stated that: (1) this emergency administrative regulation was: (a) promulgated at the request of the Department of Military Affairs to address a situation that would not re-occur; (2) the federal government had set aside an amount of money: (a) for state employees who: 1. had worked on the RETROEUR project that involved: a. bringing back material from the Middle East after Operation Desert Storm; and b. disposing of that material; 2. were: a. federally-funded time-limited employees; and b. not in the classified service; and (b) to provide for these individuals a severance pay

associated with the: 1. elimination of the project; and 2. termination of their employment; and (3) if this administrative regulation was not promulgated as an emergency, the money would have been lost.

Board of Social Work

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. David Nicholas, Director, Division of Occupations and Professions, represented the Board.

Mr. Nicholas stated that: (1) the Board of Social Work was an agency represented by his division; (2) KRS Chapter 335, relating to social workers, had been amended by omnibus legislation enacted during the 1996 Regular Session of the General Assembly; and (3) this administrative regulation repealed several existing administrative regulations that were not needed as a result of the omnibus legislation.

Transportation Cabinet: Department of Highways: Division of Traffic

603 KAR 5:050. Uniform traffic control devices.

Workforce Development Cabinet: Department for Employment Services: Division for Unemployment Insurance

787 KAR 1:200E. Maximum weekly benefit rate. Beverly Haverstock, General Counsel, and Linda Graves, Department for Employment Services, represented the Cabinet.

Subcommittee staff stated that: (1) there was a typographical error in the emergency administrative regulation; (2) the figure in Section 1(2) for the average monthly employment should: (a) be 1,577,870; and (b) not be 1,557,870; and (3) this error: (a) did not affect the amount of money paid under this administrative regulation to the beneficiaries; and (b) would be corrected when the ordinary administrative regulation was filed.

Department of Insurance: Health Care Malpractice

806 KAR 40:020. Charitable health care provider registration. Mona Carter, Director, Department of Property and Casualty Division; and Larry Cook, Counsel, represented the Department.

In response to a question by Senator Pendleton, Ms. Carter stated that: (1) a bill was passed for the charitable health care providers to have their medical malpractice reimbursed by the state; and (2) the Department: (a) was the reporting authority; and (b) certified the existence of the registration prior to forwarding the request for payment to the Finance and Administration Cabinet.

In response to a question by Chairman Arnold, Ms. Carter stated that: (1) the charitable health care providers have been defined by statute as licensed medical organizations that provide free service to constituents in the state; and (2) there were eight charitable health care providers in Kentucky.

Cabinet for Health Services: Department for Public Health: Division of Health Systems Development: Health Services and Facilities

902 KAR 20:016E. Hospitals, operations and services. Eric Friedlander, Office Of Program Support; John Walker, Office of Counsel, Cabinet for Health Services; Ronald G. Sowell, Executive Vice-President, Commonwealth Health Corporation; Tom Grissom, Vice-President, Vencor, Inc.; Ruby Jo Cummins, Director of Regulatory Affairs, Kentucky Association of Health Care Facilities; and Jeffrey L. Durham, Chief Executive Officer, Mediplex Rehabilitation Hospital, appeared before the Subcommittee.

Mr. Friedlander stated that this administrative regulation: (1) gave a hospital the opportunity to pursue federal Medicare participation as an extended care hospital; and (2) would allow a hospital to operate outside the prospective payment system as an extended care hospital.

Mr. Walker stated that: (1) this administrative regulation merely

reflected the fact that the federal Health Care Financing Administration ("HCFA") had recognized long term care hospitals as a type of service for which Title XVIII Medicare reimbursement may be allowed; (2) the Cabinet had a contract with HCFA to do its certification inspections for Medicare certification; (3) if a hospital wishes to qualify for Title XVIII Medicare program, it must allow the state to inspect it for certification purposes; (4) once the state has determined that the hospital is eligible for certification, the federal government certifies the hospital; (5) with respect to the Medicaid program: (a) no Medicaid expenditure was involved; and (b) this was a Title XVIII Medicare reimbursement issue, rather than a Title XIX Medicaid issue; and (6) with respect to the length of stay for a patient in an extended acute care facility: (a) the Medicare program will determine the appropriate limitations; and (b) because it is exempt from the prospective payment system, there may not be a limitation.

In response to a question by Chairman Arnold relating to the expenditure of state money, Mr. Walker stated that: (1) no state money was involved; (2) federal money was expended; and (3) the amendment to this administrative regulation would enable hospitals to enhance their ability to take advantage of Title XVIII Medicare reimbursement.

Representative Lee asked Cabinet personnel: (1) to explain the impact of this administrative regulation on patients; (2) whether and how this administrative regulation benefited patients; and (3) whether patients were not already adequately served by the long term care beds available under Title XVIII Medicare money through long term care facilities. Mr. Friedlander stated that the Cabinet hoped that the amendment to this administrative regulation would: (1) benefit a patient who would be either: (a) an "outlier" in need of care for a period longer than allowed under the prospective payment system; or (b) placed in a high level nursing facility; and (2) benefit such patients by: (a) making these new facilities available for patients who might otherwise be shifted earlier to placement in a nursing facility that could properly take care of their needs but would not be a hospital setting; (b) reducing the back and forth shifting of the patient; and (c) resulting in the patient being in a better condition when the patient transferred to a nursing facility.

Representative Lee asked whether: (1) there was any indication that this occurred now; and (2) the patients' needs were not being served. Mr. Friedlander stated that he could not give a specific example. Representative Lee: (1) stated that a question had been raised over the length of stay of a long term care status patient; and (2) asked whether the stay would not be subject to the 100 day Medicare limitation imposed with regard to stays in a long term care facility. Mr. Friedlander stated that he did believe this limit would apply, because a hospital qualifying under the amendments to this administrative regulation would be: (1) an acute care facility; and (2) exempt from the prospective payment system. In response to Representative Lee's request for a more definitive statement of the limit of the stay in a facility established pursuant to the amendments to this administrative regulation, Mr. Friedlander stated that the average length of stay within the entire unit would have to be at least 25 days. Representative Lee asked whether guidelines existed under this program that would limit the number of days a patient could stay prior to transfer. Mr. Friedlander stated that: (1) he was not aware that a stay in the type of facility established by the amendment to this administrative regulation would count against the long term care day Medicare limit; and (2) since the level of care was strictly acute care, the stay would not count against the 100 days.

In response to a question by Representative Lee relating to whether the facility would be subject to Certificate of Need requirements: (1) Mr. Friedlander stated that the amendments to this administrative regulation that established this type of facility would permit licensure under the existing license of the hospital; and (2) Mr. Walker stated that the standard established by the amendments to this administrative regulation reflected the standards established by the federal regulation, 42 C.F.R. 412.23. Representative Lee asked

whether state or Subcommittee approval or disapproval of the federal program permitting licensure of long term care hospitals under the amendments to this administrative regulation would be relevant or have an effect. Mr. Walker stated that, until the federal government altered or abolished the program, the state was obligated to inspect a hospital for certification as eligible that wanted to take advantage of the avenue to Title XVIII reimbursement offered under this federal program. Representative Lee stated that: (1) there had to be guidelines relating to the length of stay; (2) it appeared that at the end of whatever eligibility period was established for these hospitals, the patient would have to be transferred to a long term care facility under Medicaid, which would entail an additional disruption of the patient's life; (3) this program was a federal program independent of state or legislative control; and (4) that it disturbed him that regardless of the opinion of the Subcommittee or General Assembly regarding this program, the program would be offered.

In response to a question by Senator Kafoglis, it was stated that: (1) other hospitals, in Kentucky and other states, were reimbursed under Medicare through this program; and (2) this federal program was not new. Mr. Friedlander stated that: (1) during the last budget cycle, a recommendation on the federal level to end this program had not been approved; and (2) enactment of the budget bill contained certain expansions relating to exemptions under the exempted hospital programs. In response to a question by Senator Kafoglis, Mr. Friedlander stated that it was correct that: (1) currently, there were quite a few "outliers", those with acute care in hospitals for whose care hospitals were not reimbursed; and (2) under this program, hospitals that qualified would be reimbursed by federal funds for such acute care at no cost to the state and considerable advantage to a qualifying hospital. Agency personnel agreed with Senator Kafoglis that this program would help ease the very critical long term care bed problem that has resulted in a waiting list for long term care.

Mr. Sowell stated that: (1) Commonwealth Health Corporation was the parent company of the medical center at Bowling Green; (2) their purpose in establishing a hospital-within-a-hospital that is permitted under the amendments to this administrative regulation is to serve patients who have complex medical conditions whose admission to the facility would indicate that they were not appropriate patients for placement in a nursing home; (3) the intention is to establish an area within the hospital that: (a) would be another hospital, a separate entity; and (b) would care for these patients by: 1. providing focus and rehabilitation care for them; 2. preparing them for discharge; and 3. maybe removing the need to place these patients in a nursing home; (4) such patients: (a) could be assisted and perhaps stabilized for the next required step in their medical treatment, if they were retained longer in a hospital; (b) could be provided services that currently could not be provided because of a lack of funds; and (c) if their condition still required transfer to a nursing home, would perhaps not have to stay as long as they now do because of the treatment that could be provided; (5) fewer patients would be required to expend all their resources or spend down to qualify for Medicaid for subsequent transfer or treatment; (6) the study done for the medical center at Bowling Green showed that, annually, \$10 million of federal money would be available to this state to pay for the care of Medicare patients that are projected for the facility; (7) he had informed the Governor and legislators that the facility would not seek Medicaid certification; (8) this program will not cost the state money budgeted for Medicaid; (9) through the provider tax, the facility would be paying money into the state budget on the revenues received from the federal program; and (10) this program presented an outstanding opportunity: (a) for the provision of services that had not previously been provided; and (b) to fund the provisions of services with federal funds.

In response to a question by Representative Lee relating to the existence of HCFA guidelines for the determination of appropriate care and when care would no longer be appropriate at these facilities, Mr. Sowell stated that a hospital-within-a-hospital would be required

to: (1) comply with the federal section 49 that governs all hospitals within Kentucky; and (2) meet very strict criteria established for hospitals-within-a-hospital in 42 C.F.R. 412.23(e). In response to a question by Representative Lee relating to the condition of, and the reimbursement of, costs attributable to the patients who would be served by these facilities, Mr. Sowell stated that: (1) the patients would not be sufficiently medically stable to be transferred to a nursing home; (2) services would be reimbursed by Medicare funds; and (3) the patients were not the type of patient that, because of the unavailability of funds, would have to be taken care of at a no cost basis.

In response to a question by Representative Lee relating to the reason the hospital-within-a-hospital would be opposed if it was taking patients of long term care facilities, Mr. Sowell stated that he: (1) did not believe that Vencor cared about the Bowling Green facility because it did not have a presence in the Bowling Green market area; and (2) believed it was concerned about a competitive threat from other hospitals in: (a) their market area, such as Louisville; or (b) an area in which it is present with a long term care hospital. Representative Lee asked whether the patients eligible under this program normally would: (1) not be transferred to a long term care facility because of the treatment needed; and (2) be kept on a no-cost basis in a hospital because the point of pay had expired. Mr. Sowell stated that the patients: (1) possibly could be transferred to a long term acute care hospital such as the type operated by Vencor in Louisville; and (2) could not be transferred to a nursing home, because they would not be medically stable. Representative Lee: (1) stated that at Hart Memorial Hospital, there are patients who have been there for a long period of time with no point of pay for them; and (2) asked whether the hospital would benefit from Title XVIII money under this program. Mr. Sowell stated that: (1) the hospital: (a) would qualify and benefit, if it could justify having a hospital-within-a-hospital; or (b) could transfer such patients to the Bowling Green facility; (2) facilities, such as Mediplex Rehabilitation Hospital, would have patients appropriate for transfer under this program; (3) there would be patients from other acute care hospitals in his region that would be appropriate for transfer; and (4) not all patients that would enter a hospital-within-a-hospital would come from the medical center at Bowling Green.

In response to a question by Representative Lee relating to the payment, under this program and Title XVIII, of the cost for provision of patient services which had been provided without reimbursement, Mr. Sowell stated that the: (1) Bowling Green facility had incurred costs for uncompensated care provided Medicare patients of over \$3.5 million annually; (2) cost of that care was borne by other citizens of the Commonwealth in the effect this has on the cost paid by them for their medical care; and (3) Congress: (a) recognized that the federal government was getting a free ride on these patients; and (b) created this program to permit hospitals-within-a-hospital outside the prospective payment system.

Mr. Grissom stated that: (1) Vencor operated: (a) the only long term care hospital in Kentucky; and (b) 16 nursing homes in Kentucky; (2) Vencor's Louisville long term hospital: (a) had a Certificate of Need; (b) was licensed as an acute care hospital; and (c) was certified as a long term hospital by HCFA; (3) the amendments to this administrative regulation relied on a section of the current federal regulation that allowed an area within a hospital to: (a) be certified by the state as a hospital-within-a-hospital; and (b) qualify for Medicare eligibility; (4) what is being proposed in this administrative regulation is either: (a) the creation of a new service; or (b) a new hospital within an existing hospital that already has a license and a Certificate of Need; (5) Vencor was concerned that: (a) even though there was no emergency justifying an emergency administrative regulation, an emergency administrative regulation was promulgated; and (b) the amendments to this administrative regulation would allow the Cabinet for Health Services to conduct a certification survey under contract with HCFA, because no hospital would qualify for federal reimburse-

ment unless the certification survey has been completed by the state; (6) there is no provision in state law or administrative regulation that permits the licensure, certification, or the granting of a Certificate of Need to a physical area such as the floor, wing, or unit of a hospital for long term care; (7) this administrative regulation: (a) is needed so that the state can certify to the federal government that a hospital is a hospital-within-a-hospital; and (b) does not require certification, licensure, or a certificate of need; (8) the operative term in this administrative regulation is "authorize"; (9) this term has no standing in current statutes; (10) Vencor was concerned that while this was an opportunity to take advantage of reimbursement that the Cabinet alleged would have no Medicaid implications or impact on state money, Vencor had notified the Cabinet that Chapter XIX of the Kentucky Hospital Operations Manual provides that reimbursement for these services, for co-pays and deductibles, for Medicare patients was a requirement of the state Medicaid agency; (11) because the Cabinet had been led to believe that state money would not be involved, Vencor had notified the Cabinet that: (a) it had calculated the potential liability to Kentucky taxpayers from the state Medicaid fund; (b) the potential liability would be as much as \$28,000 per discharge; and (c) these patients would be: 1. long term patients; and 2. eligible for daily co-pays and deductibles: a. at one-fourth of an \$800 rate, \$200 a day for the 30 day period between the 60th and 90th day of Medicare benefits; and b. eligible for \$400, or 50% of the initial deductible between the 90th and 150th day, if the life-term benefit is used; (12) Vencor hoped that the Cabinet would withdraw this administrative regulation because of the effect on state money; (13) Vencor believed that this administrative regulation did not comply with state law; and (14) Vencor requested that the Subcommittee: (a) determine that this administrative regulation did not comply with statutory authority; or (b) request the Cabinet to: 1. withdraw this emergency administrative regulation; 2. make appropriate changes; and 3. file an ordinary administrative regulation.

Mr. Sowell stated that: (1) no federal law required Kentucky to reimburse a provider that has not been licensed with a Medicaid number any share of co-pay or deductible money; (2) he assumed that the Cabinet had not withdrawn this emergency administrative regulation because it had checked federal law and determined that the information provided by Vencor was incorrect; and (3) Commonwealth Health Corporation had assured the Cabinet that it would enter into a written agreement with the state that it: (a) had not, and would not, apply for a Medicaid number; and (b) would apply for a Medicaid number only if the state determined to cover these types of services under Medicaid.

In response to a question by Representative Lee, Mr. Sowell stated that Commonwealth Health Corporation would not lobby the state to determine these that these types of services should be covered under Medicaid, unless the Subcommittee determined that it wanted services provided to Medicaid recipients. Mr. Sowell agreed with Representative Lee's statement that Mr. Sowell's response could be construed as a statement that Commonwealth Health Corporation would not lobby the state to determine that these types of services should be covered under Medicaid.

Ms. Cummins stated that: (1) she had submitted written testimony to the Subcommittee; (2) the Kentucky Association of Health Care Facilities ("Association") believed that: (a) the facts related to this emergency administrative regulation did not meet the requirements established by KRS Chapter 13A for the promulgation of an emergency administrative regulation; (b) the facility established by this administrative regulation: 1. fell within the purview of Certificate of Need requirements; and 2. constituted a change in the licensed capacity and health service area; (c) applications for the establishment of this type of facility should complete the formal review procedure; and (d) the budgetary impact on the state of this type of facility would be brought out if the Certificate of Need procedure were followed; (3) there were over 12,000 certified Medicaid beds; (4) the Association believed nursing home facilities could provide the

services; (5) what is being established by this administrative regulation was a sub acute care unit; and (6) the services could be provided in long term care facilities.

Mr. Durham stated that: (1) he was a licensed nursing home administrator; (2) he disagreed with Ms. Cummins that free-standing nursing facilities were able to care for patients who would be appropriate for admission into a long term care hospital; (3) these patients: (a) required continuing care in an acute care facility; (b) were often medically unstable who required quite sophisticated ancillary services that long term care hospitals-within-a-hospital would be able to provide, including: 1. 24-hour pharmacy services; and 2. staff lab services, if the medical stability of patients became questionable; and (4) as a nursing home administrator and a CEO of a free standing rehabilitation hospital, he believed that these patients could not be adequately cared for in a nursing home.

Senator Pendleton stated that: (1) while it had been stated that there were 12,000 nursing home beds available in the state, in western Kentucky he could not find a nursing home for those of his constituents who needed a nursing home; and (2) it appeared that this program would help those in western Kentucky: (a) for whom nursing homes were not available; and (b) who could receive services close to home.

Ms. Cummins stated that there were 26,000 Medicaid licensed beds.

In response to a question by Senator Pendleton, Mr. Durham stated that he was CEO of Mediplex Rehabilitation in Bowling Green, that was a licensed: (1) nursing facility; and (2) comprehensive physical rehabilitation hospital. Mr. Durham stated that, with regard to questions raised by Representative Lee relating to payment and the 100 day issue: (1) patients in a long term care hospital would receive Part A Medicare benefits; (2) receipt of these benefits would not impact their eligibility for subsequent 100 days skilled nursing care under Part A; (3) patients could stay as long as they needed to be in a long term care hospital; and (4) if they met the criteria for skilled nursing services, they could transfer to a nursing home, and still be eligible for a full 100 days nursing facility care under Medicare.

Representative Lee asked whether, under Title XVIII, patients could also: (1) spend the 100 days within a hospital-within-a-hospital; and (2) not be transferred to a long term care facility. Mr. Durham stated that: (1) the discussion related to two, different programs; (2) the 100 days was separate from the Part A benefits for the hospital; (3) the patient would stay in the long term care hospital-within-a-hospital as long as the patient was medically unstable, critically, very seriously ill; (4) that could be a period for which: (a) Medicare paid 100 % payment during the first 60 days after a deductible; (b) Medicare paid with a copayment by the patient during days 61 through 90; and (c) there were 60 lifetime reserve days; and (5) if, at the end of the final 60 day period, the patient still needed Medicare defined skilled care, he could stay a full 100 days, with Medicare payment for: (a) the first 20 days at 100% and (b) days 21 through 100, after a copayment.

Representative Lee asked Ms. Cummins to explain the impact of this administrative regulation on the Medicare bed facilities she represented, if the facilities were not equipped to handle this type of patient and the patient remained in the hospital without reimbursement. Ms. Cummins stated that: (1) the facilities she represented qualified for Medicare reimbursement; (2) in order to participate in the Medicaid program, a percentage of the nursing home beds had to be Medicare; and (3) once a patient did not need acute care services, the patient would be transferred to their long term care facilities, that were skilled nursing facilities with Medicare certification that allowed accessing the 100 Medicare days; and (4) once Medicare payment was no longer available, the nursing home would be reimbursed by Medicaid. Representative Lee stated that this did not explain the impact on the facilities represented by Ms. Cummins since the: (1) patients would not use the 100 days prior to transfer to her facilities; and (2) when required care was deemed appropriate, transfer to a

skilled Medicare facility would occur.

Mr. Grissom stated that: (1) the patient would receive the appropriate care that a skilled nursing home was qualified to deliver; (2) the services would be delivered under the 100 day benefit at a different cost than that incurred in a hospital; (3) if delivered in a hospital, some hospitals had skilled nursing beds for which the Medicare reimbursement rate was the Medicare skilled nursing care reimbursement rate; (4) this administrative regulation would have the patient remain in an acute care hospital and receive reimbursement that is cost based, rather than fixed or capitated; (5) under the current DRG system, there is an outlier payment; (6) hospitals are eligible for and receive outlier payment; (7) this administrative regulation: (a) proposed a payment each day through the total 150 day period; and (b) was proposed for the state, and not limited to Warren County or the Bowling Green Medical Center; (8) Mr. Sowell's hospital did have a Medicaid provider number; (9) if Mr. Sowell's hospital was prepared to sign an agreement not to request Medicaid reimbursement under this administrative regulation, the Cabinet should include the prohibition against Medicaid reimbursement in this administrative regulation so that it would apply throughout the state; and (10) under this administrative regulation, Mr. Sowell's hospital could qualify for Medicaid reimbursement.

Mr. Sowell stated that: (1) federal law did not require Kentucky to provide Medicaid coverage for the services that would be provided by a hospital-within-a-hospital and the High Park Regional Specialty Hospital; and (2) the High Park Regional Specialty Hospital would: (a) not apply for a Medicaid number; and (b) enter into a contract so providing.

Mr. Grissom stated that: (1) state law provided for Medicaid reimbursement; and (2) Medicaid provision was contained in the state's Cabinet's Medicaid Operations Manual.

Chairman Arnold stated that: (1) whatever action the Subcommittee took, the federal program would be placed into effect; and (2) hospitals that would apply under this program and administrative regulation would be applying for a program that was federally established and regulated.

Representative Bruce: (1) stated that: (a) this administrative regulation was an emergency administrative regulation; (b) the ordinary administrative regulation would be reviewed by the Subcommittee; and (c) when the ordinary was reviewed by the Subcommittee, he would determine the truth of the matter; and (2) made a motion to: (a) deny the Cabinet's request for deferral; and (b) approve this administrative regulation.

The Subcommittee unanimously approved Representative Bruce's motion.

The following administrative regulations were deferred to the next Subcommittee meeting upon agreement by the Subcommittee and the promulgating agency:

Kentucky Asset/Liability Commission

200 KAR 23:010E. Guidelines for use of financial agreements.

Board of Nursing

201 KAR 20:240. Fees for applications and for services. Sharon Weisenbeck, Executive Director; Nathan Goldman, General Counsel; and Leisa Drexler, Budget Officer, represented the Board.

In response to questions by Senator Roeding, Mr. Goldman stated that: (1) the Board had not previously decreased the fees that were being raised in this administrative regulation; (2) while one fee had been decreased in a prior amendment, the fee was not being changed at this time; (3) the previous amendment was made to: (a) delete language that stated that the fee would not exceed a certain amount, because this language violated KRS Chapter 13A that required the specification of the fee; and (b) specify the exact fee; and (4) this administrative regulation increased the fee for continuing education approval from: (a) \$100 to \$200 for an initial provider

approval; and (b) \$50 to \$100 for a biennial renewal of approval.

In response to questions by Senator Roeding, Ms. Weisenbeck stated that: (1) the fee increases would be passed on to the: (a) provider who provided the continuing education; or (b) nurses who were required to obtain the continuing education courses; (2) the fees had not been changed for 10 years; (3) the Board had absorbed some of these costs through other fees which the nurses have paid; (4) the Board conducted a study and looked at what it actually cost to approve these providers; (5) the Board wanted to recover these costs; (6) because the Board did not want to increase the fees any sooner than it had to, the Board had subsidized the costs of the work of the staff in the office for a number of years; (7) after a review of its budget, the increasing costs, and the tremendous program that the Board had for disciplinary action that involved nurses who did not get their continuing education, it was determined that other fees were subsidizing these costs; (8) because they have a revolving trust fund, there was a carry-forward in the Board's budget last year of approximately \$1 million; (9) the Board's budget was about \$2.7 million; (10) the budget figure also included a scholarship fund that was a part of a legislative mandate that included about \$300,000 to \$400,000; (10) the Board also was under a mandate to provide a para-assistance program that was \$132,000 a year; (11) these expenditures were: (a) outside the operating fund; (b) reduced the carryover to \$500,000; and (c) already dedicated funds; (12) the majority of the fees were received the first quarter of a biennium because licenses were renewed every two years; (13) of the approximate 65,000 nurses, about 45,000 nurses renewed their licenses the first quarter of the first year of a biennium; (14) the Board was required to budget appropriately for the years in which license renewals were not received; (15) because last year was the year of the renewal fee, there was money carried forward for the current fiscal year; (16) the surplus the prior year was \$500,000 to \$600,000, which was the amount of the dedicated funds; and (17) the money was exclusive of operating funds.

Mr. Goldman stated that the dedicated funds included \$300,000 to \$400,000 which: (1) the Board awarded annually in scholarships; and (2) was included in the carry-forward to be awarded to the scholarship recipients each year.

In response to questions by Senator Pendleton, Ms. Weisenbeck stated that: (1) the nurses had been notified about the procedures for the promulgation of the administrative regulation; (2) the administrative regulation had been published; and (3) the Board had scheduled two public hearings on the administrative regulations.

In response to a question by Representative Allen, Ms. Weisenbeck stated that: (1) the Board: (a) was a trust and agency fund; and (b) operated solely from program fees; and (2) the fees collected by the Board did not go to state government or the general fund.

In response to questions by Representative Lee, Ms. Weisenbeck stated that: (1) the restricted fund supports all Board activities; (2) the notice regarding the administrative regulation was published in the board newsletter, which: (a) was: 1. sent to all licensees both in-state and out-of-state; and 2. published three times a year; (b) informed licensees of: 1. the Board activities; and 2. information the nurses needed to know; and (c) specifically stated the amount of the new fees; (3) she had not received any complaints from nurses about the fee increase; and (4) no one was present at the Subcommittee meeting to speak against the administrative regulation.

Mr. Goldman stated that no one had signed up or requested a hearing either at the notice of intent or the administrative regulation stage.

Representative Lee stated that: (1) he thought that agencies sometimes did not do a good job of notifying persons affected by a proposed fee increase; (2) if nurses were aware of the fee increase, someone would be present at the Subcommittee meeting to speak in opposition to the proposal; (3) the members would be contacted with opposition to the fee increase when it was time for: (a) license renewals; or (b) continuing education; and (4) the nurses would

believe the state of Kentucky, rather than the Board, increased the fees.

Ms. Weisenbeck stated that she was also amazed that a public hearing was not requested on this administrative regulation.

Mr. Goldman stated that: (1) the renewal fee: (a) was increased to \$55 for two years; (b) was one of the lowest fees charged for a licensed professional; and (c) did not include a large fee increase; and (2) he paid a much higher annual fee for his license to practice law.

Representative Lee stated that: (1) he did not have a problem with the amount of the fee increase; (2) rate increases were: (a) not viewed as a request from the agency; and (b) viewed as a rate increase by the members of the General Assembly; (3) the agency needed to do a better job communicating with its licensees regarding: (a) the amount of the fee increase; and (b) the need for the increase; and (4) he realized that a fee increase was necessary at times to comply with the increased cost of living.

Representative Bruce stated that the agency should defer this administrative regulation until the October 14 meeting of the Subcommittee to give the members a chance to communicate with the nurses in their districts about the fee increase.

Ms. Weisenbeck stated that she would agree to the deferral.

In response to questions by Senator Kafoglis, Ms. Weisenbeck stated that: (1) there were currently 65,000 nurses in Kentucky, including active and inactive licensees; (2) the number of nurses was increasing by 2,500 to 3,000 annually; (3) according to the first year projections, the fee increase would: (a) affect the 15,000 LPN nurses who renewed their licenses that year; and (b) be less than \$100,000 for that year; (4) the remainder of the nurses would renew their licenses the following year; and (5) the fee for an inactive license was not increased.

Mr. Goldman stated that nurse licenses were renewed every other year with the: (1) LPN licenses renewed in odd-numbered years; and (2) RN licenses renewed in even-numbered years.

In response to questions by Senator Kafoglis, Ms. Weisenbeck stated that: (1) the fee increase for the RN: (a) was \$10; and (b) would affect the 35,000 RNs; (2) while it was difficult to calculate the percentage of the increased revenue amount, (a) the increase was about \$300,000 for the RNs; and (b) the percentage was 15-20 percent; and (3) the Kentucky Nurses Association: (a) supported the administrative regulation; and (b) did not have a representative at the Subcommittee meeting.

The Subcommittee approved a motion by Representative Bruce, seconded by Representative Lee, to defer this administrative regulation.

Chairman Arnold stated that the agency should be prepared to answer the questions raised by Subcommittee members at the next meeting of the Subcommittee.

Senator Kafoglis stated that the Board should report how much of an increase in revenue was anticipated from the fee increase over a budgeted year.

Representative Lee stated that: (1) the Board should document the need for the fee increase; (2) a fee should not be increased just because it had not been increased in ten years; and (3) he wanted to know: (a) the dollar amount that the increase would generate for the Board; and (b) the necessity for that increased amount.

Ms. Weisenbeck stated that she would provide documentation relating to the activities of the Board, including: (1) its disciplinary program; (2) legislatively-mandated programs; and (3) other activities of the Board.

Chairman Arnold stated that the report should include information on the costs of investigating and governing the nurses.

Subcommittee staff stated that the agency needed to refile the proposed amendment to the administrative regulation before the next meeting.

ADMINISTRATIVE REGISTER - 1002

Department of Agriculture: Division of Markets: Organic Agricultural Product Certification

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

Justice Cabinet: Department of Corrections: Division of Adult Institutions: Office of the Secretary

501 KAR 6:130. Western Kentucky Correctional Complex.

Department of State Police: Sex Offender Registration System

502 KAR 31:010. Sex offender registration system.

Candidate Selection

502 KAR 45:145E. Merit Pay Program.

Department of Juvenile Justice: Child Welfare

505 KAR 1:030E. DJJ policy and procedures manual.

Transportation Cabinet: Department of Highways: Division of Traffic

603 KAR 5:070E. Motor vehicle dimension limits.

Workforce Development Cabinet: State Board for Adult and Technical Education: Management of the Kentucky TECH System

780 KAR 2:130E. Minimum standards of admission for postsecondary students.

Personnel System for Certified and Equivalent Employees

780 KAR 3:070. Attendance, compensatory time, and leave.

780 KAR 3:080. Extent and duration of school term, use of school days and extended employment.

Unclassified Personnel Administrative Regulations

780 KAR 6:060. Attendance, compensatory time, and leave.

Cabinet for Health Services: Department for Public Health: Division of Health Systems Development: Controlled Substances

902 KAR 55:095E. Prescription for Schedule II controlled substance - facsimile transmission or partial filling.

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

904 KAR 2:017E. Kentucky Works supportive services.

904 KAR 2:035E. Right to apply and reapply.

904 KAR 2:040E. Procedures for determining initial and continuing eligibility.

904 KAR 2:046E. Adverse action; conditions.

904 KAR 2:055E. Hearings and appeals.

904 KAR 2:060E. Delegation of power for oaths and affirmations.

904 KAR 2:370E. Technical requirements for Kentucky Works.

Department for Social Services: Division of Family Services: Child Welfare

905 KAR 1:180E. DSS policy and procedures manual.

Cabinet for Health Services: Department for Medicaid Services: Division of Administration and Development: Medicaid Services

907 KAR 1:160E. Home and community based waiver services.

907 KAR 1:170E. Payments for home and community based waiver services.

907 KAR 1:710. Managed behavioral health care initiative (1915b Waiver).

907 KAR 1:720E. Coverage and payments for the Kentucky Early Intervention Program services provided through an agreement with the state Title V agency.

Department for Mental Health and Mental Retardation Services: Mental Health

908 KAR 2:200E. Coverage and payment for Kentucky Early Intervention Program services.

OTHER BUSINESS

Revenue Cabinet

Sales and Use Tax; General Exemptions

103 KAR 30:091. Sales to farmers. At its August meeting, the Subcommittee had approved a motion to request the Revenue Cabinet to reconsider its ruling denying exemption from the sales tax of the sale of liquefied petroleum gas used in grain drying in light of the: (1) prohibition established in KRS Chapter 13A against administrative body action except by the promulgation of an administrative regulation when an administrative regulation was required; (2) exemption of such sales in this administrative regulation; (3) prohibition established by KRS Chapter 13A against the modification of an administrative regulation by an action or document other than an administrative regulation; and (4) absence of a clear statutory requirement for the imposition of the tax on such sales.

Representative Bruce gave Subcommittee members a copy of a letter from the Cabinet stating that the Cabinet had determined: (1) not to tax such sales; and (2) to notify appropriate taxpayers that it would not tax such sales. Representative Bruce stated that since the Cabinet had complied, there was no need for it to send a representative to the meeting.

The Subcommittee adjourned at 12:20 p.m. until October 14, 1997 at 10 a.m. in Room 149 of the State Capitol Annex.

ADMINISTRATIVE REGISTER - 1003

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Meeting of August 20, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Health and Welfare during its meeting of August 20, 1997, having been referred to the Committee on August 14, 1997, pursuant to KRS 13A.290(6):

902 KAR 20:036
902 KAR 100:040
902 KAR 100:073
904 KAR 3:020
904 KAR 3:042
907 KAR 1:003
907 KAR 1:645
907 KAR 1:655
907 KAR 1:665

No action was taken by the committee on the administrative regulations.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the August 20, 1997 meeting, which are hereby incorporated by reference.

INTERIM JOINT COMMITTEE ON EDUCATION Meeting of September 4, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Education during its meeting of September 4, 1997, having been referred to the Committee on August 14, 1997, pursuant to KRS 13A.290(6):

102 KAR 1:175
702 KAR 7:065
704 KAR 7:130
704 KAR 20:165
704 KAR 20:710
750 KAR 2:010

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the September 4, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT Meeting of August 27, 1997

The following administrative regulation was considered by the Interim Joint Committee on Local Government during its meeting of August 27, 1997, having been referred to the Committee, pursuant to KRS 13A.290(6): 807 KAR 5:063.

Committee activity in regard to the review of the above-referenced administrative regulation is as follows:

Guests: Tom Dorman, Amy Dougherty, and Wayne Bates, Public Service Commission; Robert Wratcher and Larry Broudy, Crown Communications, Pittsburg, Pennsylvania; Neil Hackworth and Jerry Deaton, Kentucky League of Cities; Karen Garrison, Kentucky Association of Counties; Richard Tanner, Kentucky Magistrates and Commissioners Association; Jim Carlross, Ericsson GE Mobile Communications; W. Brent Rice, GTE Mobilnet Service Corporation; Terry McBrayer, Ericsson GE Mobile Communications and GTE Mobilnet Service Corporation; Lawrence Hester, Kerry James, and John Cooper, BellSouth; and Sam McNamara, Frankfort Attorney.

Discussion: The discussion from the minutes of the August 27, 1997 meeting relevant to the administrative regulation proposed for amendment is as follows:

"The next item of business was review of proposed administrative regulation 807 KAR 5:063, which relates to the filing requirements and procedures for proposals to construct antenna towers for cellular telecommunications services or personal communications services. Representative Riggs recognized Mr. Tom Dorman with the Public Service Commission (PSC). Mr. Dorman introduced Ms. Amy Dougherty, Counsel for the PSC, and Mr. Wayne Bates, with PSC's Engineering and Service Division.

Ms. Dougherty explained that the regulation contained the filing requirements for companies that want permission from the PSC to construct cellular towers. She noted that legislation was passed in 1996, which applies to Jefferson County only, that require that a utility submit a proposal to construct a cellular antenna tower to the local planning commission before it applies to the PSC for approval.

Representative Graham asked if the PSC had the final say of where the towers are built. Mr. Dorman replied yes, except in Jefferson County.

Representative Crimm commented that cellular towers seem to pop up every day. He stated that towers are constructed in the grassy areas on the interstates in Oklahoma. He asked if Kentucky could do this. Ms. Dougherty stated that they haven't looked at that. She said those areas are often too small for towers.

Representative Crimm asked if each company has to build their own tower or can more than one company use the same tower. Mr. Bates replied that they encourage multiple use towers.

Representative Riggs commented that their encouragement has not produced any multiple use towers.

Representative Brandstetter asked how the new law has affected Jefferson County. Mr. Dorman replied that Jefferson County is still in the process of promulgating the ordinance.

Representative Brandstetter commented that there were some inconsistencies. He said the first inconsistency is that the PSC is making land use decisions and there is the problem. He noted that

they are not asked to make those same decisions on other utilities. Representative Brandstetter stated that the other inconsistency is that there is one law that effects Jefferson County and one that effects the rest of the state. He suggested that the Committee continue to look at this and that some consistencies are needed.

Representative Yonts asked why the regulation just notifies property owners and excludes notifying residents. Mr. Bates replied it is hard to locate all of the residents' names and addresses.

Representative Yonts commented that there are no standards by which the PSC makes these decisions. Mr. Dorman replied that it is an awkward role for the PSC because they are not a planning commission. Representative Yonts stated that there needed to be some standards established either by statute or regulation.

Representative Arnold commented that a cellular tower can only serve so many phones. He said no one likes those ugly towers, but if people want the services there will have to be towers. Representative Arnold added that both sides need to be looked at.

Representative Riggs stated that he was not trying to stop the towers. He said the argument is, who knows best where the towers should be placed.

Representative Brandstetter suggested making the cellular towers a conditional use which has to be agreed to by the planning and zoning commission in residential areas.

Representative Riggs commented that names and addresses of residents can be found because there are directories available.

Ms. Dougherty stated that it was not the intention of the PSC not to give notice of impending towers being built.

Representative Gee commented that legally, the company putting up the tower only has to deal with the property owner, so the residents wouldn't really have any power to stop it.

Representative Riggs offered an amendment to the proposed regulation on Page 5, Section 1(1)(s), line 4, which reads as follows: after the word "provided" by inserting the following: "and that there is no reasonably available opportunity to co-locate, including a statement indicating that the utility first attempted to co-locate on towers designed to host multiple wireless service providers' facilities, and upon failing that, that the utility then attempted to co-locate on existing structures, such as a telecommunications tower, or another suitable structure capable of supporting the utility's facilities". He noted that he wanted to model co-location of towers after the regulations used Pennsylvania.

Representative Riggs then introduced Mr. Bob Wratcher and Mr. Larry Broudy with Crown Communications in Pittsburgh, Pennsylvania, to explain co-location of towers. Mr. Wratcher told the Committee that Crown Communications is a private company that builds towers for multiple companies. He noted that Crown started building multi-use towers about ten years ago.

Mr. Wratcher explained that co-location is working in Pennsylvania. He said it allows a companies who build towers which encourages putting up four or five pieces of company equipment on each tower. Mr. Wratcher noted that all the control in Pennsylvania is done at the local level by municipalities as long as they do not conflict with federal laws.

Senator Stivers asked if towers have other operators besides cellular phone service, like for police. Mr. Broudy replied yes. Senator Stivers also asked if another utility wants to use the same tower, what do they have to do. Mr. Bates replied that they are not required to get another certificate but they would have to notify the PSC.

Representative Riggs commented that in his experience, they do not like to share their towers with other people. He said that is why they build towers not to encourage co-location.

Representative Brandstetter asked how much longer towers would be used and if satellites would eventually be used. Mr. Wratcher replied that there will always be towers, however satellites will eventually supplement the towers.

Senator Tori commented that competition is keen, that is a given. She asked if the towers can be modified to take on more capacity. Mr.

Broudy replied that each tower would have to be looked at individually. He noted that companies do not want to give up any of their space because they might need to expand their own services at a later date. Mr. Broudy explained that most companies did not build a tower that robust. Senator Tori added that co-location is very important.

Representative Riggs recognized Mr. Brent Rice, an attorney in Lexington representing several cellular telephone companies, to address the Committee. Mr. Rice told the Committee that there are a total of seven cellular phone companies operating in the state and in some localities there will be as few as two. He noted that anyone that chooses to build a tower, that is not a utility, still has to address local planning and zoning concerns.

Regarding co-location, Mr. Rice stated that at first there was not a big push do so. But over the last three years, co-location has become desirable because of the cost to build a tower, which is anywhere from \$400,000 to \$1 million. He noted that there is an effort to co-locate because it saves companies a tremendous amount of money.

Referring to the proposed amendment to the regulation, Mr. Rice stated that the language requires a wireless carrier to go to the multiple tower host first. He said they should all be put on the same level playing field and be able to go where they want to go as long as it is an existing tower. Mr. Rice suggested changing the amendment by deleting the word "first" after the word "utility"; by inserting the word "or" after the word "facilities,"; and by deleting the words "and upon failing that, that the utility then attempted to co-locate on". The amendment would then read as follows: "and that there is no reasonably available opportunity to co-locate, including a statement indicating that the utility attempted to co-locate on towers designed to host multiple wireless service providers' facilities, or existing structures, such as a telecommunications tower, or another suitable structure capable of supporting the utility's facilities".

Representative Riggs asked the speakers from Crown Communications their opinion of Mr. Rice's suggested change to the amendment. Mr. Wratcher replied that they saw no problem with it.

Representative Riggs also asked the PSC staff what they thought about the change to the amendment. Mr. Dorman stated that the PSC is agreeable to it.

Representative Clark moved, seconded by Representative Arnold, to adopt the amendment to the originally proposed language. The motion carried by voice vote. Representative Crimm then moved, seconded by Representative Clark, to approve 807 KAR 5:063 as amended. The motion was adopted unanimously on a roll call vote.

Committee Action: A proposal to adopt 807 KAR 5:063 as amended was approved unanimously on a roll call vote at the Committee meeting pursuant to KRS 13A.320.

The wording of the amendment of the administrative regulation is attached to and made a part of this memorandum.

INTERIM JOINT COMMITTEE ON LICENSING AND OCCUPATIONS Meeting of September 12, 1997

The following administrative regulations were available for consideration by the Interim Joint Committee on Licensing and Occupations during its meeting of September 12, 1997, having been referred to the Committee on September 11, 1997, pursuant to KRS 13A.290(6):

811 KAR 1:0090&E
500 KAR 11:001
500 KAR 11:025
500 KAR 11:080
500 KAR 11:090

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The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):
500 KAR 11:090

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum. The regulation was found deficient on the grounds that the Division of Charitable Gaming does not have statutory authority under KRS Chapter 238 to regulate unlicensed premises at which charitable gaming is conducted.

The following administrative regulations were listed on the agenda for consideration by the committee. The committee did not consider the administrative regulations and these regulations were not deferred.

500 KAR 11:001
500 KAR 11:025
500 KAR 11:080

The following administrative regulations were approved at the Committee meeting pursuant to KRS 13A.320:
811 KAR 1:090&E

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the September 12, 1997 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates D2

The Locator Index lists all administrative regulations published in VOLUME 24 of the Administrative Register from July, 1997 through June, 1998. 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 23 are those administrative regulations that were originally published in Volume 23 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1997 bound Volumes were published.

KRS Index D6

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 24 of the Administrative Register.

Subject Index D11

The Subject Index is a general index of administrative regulations published in VOLUME 24 of the Administrative Register, and is mainly broken down by agency.

ADMINISTRATIVE REGISTER - D2

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VOLUME 23

The administrative regulations listed under VOLUME 23 are those administrative regulations that were originally published in Volume 23 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1997 bound Volumes were published.

EMERGENCY ADMINISTRATIVE REGULATIONS: (Note: Emergency regulations expire 170 days from publication, or 170 days from publication plus number of days of requested extensions, or upon replacement or repeal, whichever occurs first)

101 KAR 3:045E	3533	2-28-97
106 KAR 1:091E	3709	3-31-97
Expires		10-17-97
505 KAR 1:020E	3208	2-14-97
Expired		8-18-97
505 KAR 1:030E	3713	3-25-97
Withdrawn		9-15-97
806 KAR 13:130E	3714	3-24-97
806 KAR 13:140E	3715	3-24-97
806 KAR 38:090E	3541	3-11-97
Replaced		9-15-97
811 KAR 1:090E	3717	4-15-97
Replaced		9-12-97
900 KAR 6:015E	2954	12-18-96
Withdrawn		7-21-97
904 KAR 2:006E	4079	4-30-97
Withdrawn		8-14-97
904 KAR 2:016E	4088	4-30-97
Withdrawn		8-14-97
904 KAR 2:370E	3728	3-27-97
Withdrawn		7-11-97
904 KAR 3:020E	3542	2-27-97
Replaced		8-20-94
904 KAR 3:042E	3548	2-27-97
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905 KAR 1:180E	3735	3-19-97
907 KAR 1:022E	3294	1-17-97
Withdrawn		8-14-97
907 KAR 1:025E	3299	1-17-97
Withdrawn		8-14-97
907 KAR 1:160E	3736	4-15-97
907 KAR 1:170E	3739	4-15-97
907 KAR 1:720E	3741	3-18-97
908 KAR 2:200E	3742	3-18-97

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200 KAR 17:070	4246	(See Volume 24)
201 KAR 13:080	4250	(See Volume 24)
201 KAR 23:011	4251	
201 KAR 23:020		
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201 KAR 23:060		
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201 KAR 23:080		
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780 KAR 3:080		
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805 KAR 1:180	3658	(See Volume 24)
807 KAR 5:063	3659	
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902 KAR 100:040		
Amended	3988	8-20-97
907 KAR 1:645	4033	(See Volume 24)
907 KAR 1:655	4035	(See Volume 24)
907 KAR 1:665	4039	(See Volume 24)
907 KAR 1:710	4285	(See Volume 24)

*Statement of Consideration Not Filed by Deadline

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200 KAR 14:081E	487	8-15-97
200 KAR 14:200E	489	8-15-97
200 KAR 23:010E	307	6-25-97
301 KAR 2:225E	842	8-21-97
502 KAR 45:145E	26	6-3-97
505 KAR 1:040E	844	9-15-97
603 KAR 5:070E	27	5-19-97
704 KAR 20:305E	491	8-11-97
780 KAR 2:130E	308	7-14-97
787 KAR 1:200E	310	6-27-97
803 KAR 2:301E	493	8-14-97
803 KAR 2:320E	495	8-14-97
803 KAR 2:403E	501	8-14-97
803 KAR 2:411E	503	8-14-97
803 KAR 2:425E	504	8-14-97
803 KAR 2:500E	506	8-14-97
900 KAR 6:050E	510	7-21-97
902 KAR 17:041E	517	7-23-97
902 KAR 20:016E	32	6-12-97
Reprint	269	6-12-97
902 KAR 55:095E	41	6-12-97
904 KAR 2:006E	518	8-14-97
904 KAR 2:016E	528	8-14-97
904 KAR 2:017E	311	7-14-97
904 KAR 2:035E	42	5-30-97
904 KAR 2:040E	45	5-30-97
904 KAR 2:046E	47	5-30-97
904 KAR 2:050E	49	5-30-97
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Resubmitted	538	8-14-97
904 KAR 2:055E	52	5-30-97
904 KAR 2:060E	55	5-30-97
904 KAR 2:370E	320	7-11-97
906 KAR 1:120E	540	7-25-97
907 KAR 1:022E	542	8-14-97
907 KAR 1:025E	547	8-14-97
907 KAR 1:145E	845	9-11-97
907 KAR 1:151E	848	9-11-97
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301 KAR 2:082	427		Amended	723	
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301 KAR 2:111			Amended	725	
Amended	138		405 KAR 18:060		
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301 KAR 3:022			Amended	747	
Amended	646		500 KAR 11:001		
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805 KAR 1:180			Amended	985	
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806 KAR 13:130			Amended	988	
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806 KAR 13:140			Amended	209	
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806 KAR 39:070			Amended	215	
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806 KAR 40:020			904 KAR 3:060		
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