

ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 25, NUMBER 10
THURSDAY, APRIL 1, 1999

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MEETING NOTICE

The Administrative Regulation Review Subcommittee is **tentatively** scheduled to meet on April 13, 1999, at 10:30 a.m. in Room 149 of the Capitol Annex. See **tentative agenda** on pages 2261-2265 of this Administrative Register.

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

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

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VOLUME 25, NUMBER 10 – APRIL 1, 1999

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA – April 13, 1999 at 10:30 a.m. in Room 149, Capitol Annex**

NOTE: This agenda is subject to change prior to the April 13, 1999 meeting. Please call or e-mail the Regulations Compiler prior to the meeting for any changes.

COUNCIL ON POSTSECONDARY EDUCATION

Public Educational Institutions

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KENTUCKY STATE TREASURER

State Treasury (Deferred from December)

20 KAR 1:040E. Unclaimed properties; claims.

20 KAR 1:070E. Unclaimed property; administrative hearing, appeals process.

20 KAR 1:080E. Reports to be filed by holders of unclaimed property.

**REVENUE CABINET
Department of Law
Division of Tax Policy**

Corporation License Tax

103 KAR 20:020. Items of capital for corporation license tax.

**FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems**

General Rules

105 KAR 1:205 & E. Eligibility for disability retirement.

**DEPARTMENT FOR LOCAL GOVERNMENT
Office of the Governor**

Development Finance

109 KAR 9:010. Area Development Fund.

Division of Financial Services

Uniform Financial Information Report

109 KAR 13:010. Uniform financial information report.

**FINANCE AND ADMINISTRATION CABINET
Office of Financial Management and Economic Analysis**

Underwriter and Bond Counsel Selection Process

200 KAR 21:010E. Procedure for prequalification of underwriters and bond counsel for state bond issues.

GENERAL GOVERNMENT CABINET

Board of Pharmacy

201 KAR 2:030. License transfer.

201 KAR 2:040. Registration of interns.

201 KAR 2:050. Licenses and permits; fees.

201 KAR 2:165. Transfer of prescription information. (Deferred from March)

201 KAR 2:185. Prescription drug refills. (Deferred from March)

Board of Medical Licensure

201 KAR 9:320. Procedures for physician training and/or supervision of noncertified individuals in the use of automatic external defibrillators (AEDs). (Not Amended After Hearing) (Deferred from November)

201 KAR 9:330 & E. Determination of death by a paramedic.

201 KAR 9:335 & E. Discontinuance of resuscitation by a paramedic.

201 KAR 9:340 & E. Training of paramedics in determination of death and discontinuance of resuscitation.

Board of Nursing

201 KAR 20:400. Delegation of nursing tasks to unlicensed persons.

201 KAR 20:420 & E. Determination of death by a registered nurse employed by an ambulance service.

201 KAR 20:430 & E. Discontinuance of resuscitation by a registered nurse employed by an ambulance service.

201 KAR 20:440 & E. Training of registered nurses employed by an ambulance service in determination of death and discontinuance of resuscitation.

Board of Podiatry

201 KAR 25:031. Continuing education. (Deferred from March)

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

General Administrative Procedures (Deferred from March)

401 KAR 50:010. Definitions and abbreviations of terms used in 401 KAR Chapter 50. (Not Am. After Hear.)

Hazardous Pollutants

401 KAR 57:002. 40 CFR Part 61 national emission standards for hazardous air pollutants. (Public Hearing)

401 KAR 57:019. Repeal of 401 KAR 57:015, 57:021, 57:025, 57:030, 57:035, 57:040, 57:045, 57:050, 57:055, 57:130, 57:270, 57:300, 59:310, 59:450, 59:455, 59:460, 59:465, 59:485, 59:490, 59:495, 59:500, 59:505, 59:535, 59:540, 59:545, 59:550, 59:555, 59:570, 59:575, 59:580, 59:585, 59:590, 59:595, 59:635, 59:705, 59:725, 59:740, 59:745, 59:750, 59:755, 60:042, 60:043, 60:100, 60:110, 60:111, 60:150,

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New Source Standards (Deferred from March)

401 KAR 59:001. Definitions and abbreviations of terms used in 401 KAR Chapter 59. (Not Am. After Hear.)

New Source Performance Standards

401 KAR 60:005. 40 CFR Part 60 standards of performance for new stationary sources. (Public Hearing)

Existing Source Standards (Deferred from March)

401 KAR 61:001. Definitions and abbreviations of terms used in 401 KAR Chapter 61. (Not Am. After Hear.)

General Standards of Performance

401 KAR 63:001. Definitions and abbreviations of terms used in 401 KAR Chapter 63. (Not Am. After Hear.) (Deferred from March)

401 KAR 63:002. 40 CFR Part 63 national emission standards for hazardous air pollutants. (Public Hearing)

Mobile Source-related Emissions (Deferred from March)

401 KAR 65:001. Definitions and abbreviations of terms used in 401 KAR Chapter 65. (Not Am. After Hear.)

Chemical Accident Prevention (Amended After Hearing)

401 KAR 68:010. General provisions.

401 KAR 68:020. Hazard assessment.

401 KAR 68:048. Program 2 prevention program.

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401 KAR 68:090. Emergency response.

401 KAR 68:100. Regulated substances for accidental release prevention.

401 KAR 68:150. Risk management plan.

401 KAR 68:200. Other requirements.

Division of Forestry

Division (Public Hearing in January)

402 KAR 3:020. Master Logger Program.

402 KAR 3:030. Best management practices for timber harvesting operations.

Department for Surface Mining Reclamation and Enforcement

General Provisions

405 KAR 7:097. Reclamation in lieu of cash payment of civil penalties. (Public Hearing)

Bond and Insurance Requirements

405 KAR 10:010E. General requirements for performance bond and liability insurance. (Deferred from February)

PUBLIC PROTECTION AND REGULATION CABINET

Office of the Petroleum Storage Tank Environmental Assurance Fund

Petroleum Storage Tank Environmental Assurance Fund

415 KAR 1:050. Definitions. (Not Amended After Hearing) (Deferred from February)

415 KAR 1:060. Financial responsibility account. (Amended After Hearing) (Deferred from February)

415 KAR 1:070. Petroleum storage tank account. (Amended After Hearing) (Deferred from February)

415 KAR 1:080. Claims procedures. (Amended After Hearing) (Deferred from February)

415 KAR 1:090. Ranking system. (Amended After Hearing) (Deferred from February)

415 KAR 1:100. Third-party claims. (Not Amended After Hearing) (Deferred from February)

415 KAR 1:110. Contractor costs. (Amended After Hearing) (Deferred from February)

415 KAR 1:114. Contractor certification. (Not Amended After Hearing) (Deferred from February)

415 KAR 1:116. Certification of contracting companies. (Amended After Hearing) (Deferred from February)

415 KAR 1:120. Hearings. (Not Amended After Hearing) (Deferred from February)

415 KAR 1:130. Small owners tank removal account. (Not Amended After Hearing) (Deferred from February)

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415 KAR 1:140. Laboratory certification. (Not Amended After Hearing)

JUSTICE CABINET

Abuse Investigations

500 KAR 13:010E. Appeals hearings for substantiated abuse investigations. (Deferred from March)

Department of Corrections

Division of Adult Institutions

Office of the Secretary

501 KAR 6:190 & E. Certification procedures for mental health professionals performing sex offender risk assessments. (Deferred from March)

501 KAR 6:200 & E. Sex offender risk assessment procedure. (Deferred from March)

501 KAR 6:210 & E. Sex offender community notification. (Deferred from March)

Department of Criminal Justice Training

Kentucky Law Enforcement Council

503 KAR 1:100. Certification of instructors. (Deferred from March)

503 KAR 1:140E. Peace officer professional standards. (Public Hearing)

General Training Provisions

503 KAR 3:040. Telecommunications academy trainee requirements; misconduct; penalties; discipline procedures. (Deferred from March)

TRANSPORTATION CABINET

Department of Fiscal Management

Property Acquisition and Uniform Relocation

600 KAR 3:030. Relocation or reconstruction of utility and rail facilities; recordkeeping and audit requirements.

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**Department of Highways
Division of Professional Services**

Professional Engineering and Related Services

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- 600 KAR 6:065. Pooling of professional engineering or related services. (Amended After Hearing)
- 600 KAR 6:070. Contracting for professional engineering or related services. (Amended After Hearing)

**Department of Vehicle Regulation
Division of Vehicle Enforcement**

Division of Motor Carriers

- 601 KAR 1:005. Safety administrative regulation.
- 601 KAR 1:025. Transporting hazardous materials by air or highway.
- 601 KAR 1:040E. Application for operating authority and registration of motor carriers. (Deferred from February)

**Department of Highways
Division of Traffic**

Right-of-Way

- 603 KAR 4:035. Logo signs; placement along fully-controlled and partially controlled access highways.
- 603 KAR 4:045. Cultural and recreational supplemental guide signs.

Right-of-Way

- 603 KAR 4:050. Limited supplemental guide signs. (Amended After Hearing)
- 603 KAR 4:055. Scenic highways and byways. (Amended After Hearing)

Mass Transportation

- 603 KAR 7:080 & E. Human service transportation delivery. (Emergency Expired December 18, 1998) (Not Amended After Hearing) (Deferred from February)

EDUCATION, ARTS AND HUMANITIES CABINET

**Board of Education
Department of Education
Office of District Support Services**

Learning Results Services

- 703 KAR 4:021. Repeal of 703 KAR 4:020 and 703 KAR 4:050.

Office of Learning Programs Development

Office of Instruction

- 704 KAR 3:410. Preschool education program for four (4) year old children.
- 704 KAR 3:420. Preschool associate teachers.

EDUCATION PROFESSIONAL STANDARDS BOARD

Board

- 704 KAR 20:082. Probationary certificate for teachers of children, birth to primary.
- 704 KAR 20:084. Interdisciplinary early childhood education, birth to primary.

EDUCATION, ARTS AND HUMANITIES CABINET

**Board of Education
Department of Education
Office of Learning Programs Development**

Exceptional and Handicapped Programs

- 707 KAR 1:150. Preschool education program for children with disabilities.

EDUCATION, ARTS AND HUMANITIES CABINET

**Department of Libraries and Archives
Division of Public Records**

Archives

- 725 KAR 1:070E. Standards for documents presented for recording. (Deferred from March)

PUBLIC PROTECTION AND REGULATION CABINET

Kentucky Board of Tax Appeals

Tax Appeals

- 802 KAR 1:010. Rules of practice and procedure. (Amended After Hearing) (Deferred from October)

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 (Deferred from March)

- 803 KAR 2:320E. Air contaminants.
- 803 KAR 2:425E. Toxic and hazardous substances.
- 803 KAR 2:500E. Maritime employment.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Insurance

Group and Blanket Health Insurance

- 806 KAR 18:080. Association uniform data collection.

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Public Service Commission

Utilities

807 KAR 5:070. Filing requirements and standards for commission approval of water district commissioner training programs.

**CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health**

Emergency Medical Technicians (Public Hearing)

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902 KAR 13:025. Emergency medical services educational institutions and emergency medical services testing agencies.
902 KAR 13:030. Fees.
902 KAR 13:050. Requirements for examination, certification and recertification of the emergency medical technician-basic.
902 KAR 13:055. Emergency medical technician-basic course requirements.
902 KAR 13:070. Emergency medical technician-basic instructors.
902 KAR 13:080. Emergency medical technician-basic authorized procedures.
902 KAR 13:090. Disciplinary actions.
902 KAR 13:110. Emergency medical technician-first responder training, examination, and certification.
902 KAR 13:131. Repeal of 902 KAR 13:020 and 902 KAR 13:130.

Health Services and Facilities

902 KAR 20:078. Operations and services; group homes. (Not Amended After Hearing) (Deferred from March)

Kentucky Board of Family Health Care Providers

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Department for Community Based Services
Division of Policy Development**

Public Assistance

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904 KAR 2:370 & E. Technical requirements for Kentucky Works. (Public Hearing)
904 KAR 2:500. Family Alternatives Diversion (FAD). (Deferred from March)
904 KAR 2:510. Relocation Assistance Program. (Deferred from March)

Child Welfare

905 KAR 1:370. Criteria for out-of-state placement

Day Care

905 KAR 2:090. Child care facility licensure. (Deferred from February)

CABINET FOR HEALTH SERVICES

Office of Inspector General

906 KAR 1:130. Administrative subpoenas guidelines. (Deferred from March)

Department for Medicaid Services

Medicaid Services

907 KAR 1:002. Definitions. (Deferred from February)
907 KAR 1:013E. Payments for hospital inpatient services. (Deferred from December)
907 KAR 1:019. Pharmacy services. (Amended After Hearing)
907 KAR 1:021. Amounts payable for drugs. (Amended After Hearing) (Deferred from February)
907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services. (Deferred from February)
907 KAR 1:780. Converted dual-licensed hospital-based nursing facility beds. (Public Hearing)

Payment and Services

907 KAR 3:005. Physicians' services. (Deferred from February)
907 KAR 3:010. Reimbursement for physicians' services. (Not Amended After Hearing) (Deferred from March)
907 KAR 3:090E. Acquired brain injury services. (Deferred from March)
907 KAR 3:100E. Payments for acquired brain injury services. (Deferred from March)

Kentucky Children's Health Insurance Program

907 KAR 4:020E. Kentucky Children's Health Insurance Program. (Deferred from March)

**Department for Mental Health and Mental Retardation Services
Division of Substance Abuse**

Substance Abuse

908 KAR 1:310. Certification standards and administrative procedures for driving under the influence programs. (Public Hearing)
908 KAR 1:311. Repeal of 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, and 908 KAR 1:260. (Deferred from July)
908 KAR 1:370. Licensing procedures and standards for persons and agencies operating alcohol and other drug abuse treatment programs. (Amended After Hearing) (Deferred from August)

**CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development**

K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:015E. Supplemental programs for persons who are aged, blind, or have a disability. (Deferred from March)

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Food Stamp Program

- 921 KAR 3:010. Definitions.
- 921 KAR 3:035. Certification process.
- 921 KAR 3:045. Issuance procedures.
- 921 KAR 3:060. Administrative disqualification hearing and penalties.

OTHER BUSINESS:

Justice Cabinet: Department of Juvenile Justice: Child Welfare

- 505 KAR 1:040. Policies and procedures manual.

Cabinet for Health Services: Office of Inspector General: Division of Licensing and Regulation: Certificate of Need

- 900 KAR 6:050. Certificate of need administrative regulations.

Cabinet for Health Services: Department for Public Health: Maternal and Child Health

- 902 KAR 4:110. Abortion information.

Kentucky Commission on Poverty Request Regarding the Kentucky Public Service Commission's Implementation of the Lifeline Program

**EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE
TENTATIVE AGENDA - April 1, 1999, at 10:00 a.m. EST in Room 131 of the Capitol Annex**

KENTUCKY DEPARTMENT OF EDUCATION

- 703 KAR 5:040 Statewide Assessment and Accountability Program: Relating Accountability Index to School Classification (A1-A6);
- 703 KAR 5:050 Statewide Assessment and Accountability Program; School Building Appeal of Performance Judgments; and
- 703 KAR 5:060 Interim Accountability Model.

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.

NOTICES OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATIONS
RECEIVED AS OF NOON, MARCH 15, 1999

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

February 24, 1999

(1) The subject matter of the administrative regulation **11 KAR 5:001** is definitions pertaining to 11 KAR Chapter 5.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, definition of terms pertaining to administration of the KHEAA Grant Programs used in one or more administrative regulations in 11 KAR Chapter 5.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Wednesday, April 21, 1999, at 10 a.m., at 1050 U.S. 127 South, 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 calendar days prior to Wednesday, April 21, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Facsimile number 696-7293.

(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 Higher Education Assistance Authority 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 this administrative regulation is KRS 164.748(4) and 164.753(4).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will define or reference statutory definitions of terms. Particularly, the amendment adds a definition of "academic term" and will conform the definition of "full-time student" to the definition of "full-time student" in federal regulations pertaining to Title IV student financial assistance programs.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) authorizes the authority to promulgate administrative regulations pertaining to grants. This regulation defines or references certain statutory definitions of terms commonly used in the administration of the KHEAA Grant program.

(d) The benefits expected from the administrative regulation are: Establishment of uniform meaning of commonly used terms in the administration of the KHEAA Grant Program. The amendment is intended to add a definition of "academic term" and conform the definition of "full-time student" to the definition of "full-time student" in federal regulations pertaining to Title IV student financial assistance programs.

(e) The administrative regulation will be implemented as follows: Commonly used terminology will be prescribed with uniform meaning.

February 24, 1999

(1) The subject matter of the administrative regulation **11 KAR 5:130** is student application.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an amendment to Section 2 of the administrative regulation governing the subject matter listed above, particularly, the process by which a student may apply for a KHEAA Grant.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Wednesday, April 21, 1999, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky 40601.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 calendar days prior to April 21, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Facsimile number 696-7293.

(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 Higher Education Assistance Authority 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 application for a KHEAA Grant is KRS 164.744(2), 164.746(6), 164.753(4), 164.7535, 164.780 and 164.785.

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will amend an existing administrative regulation, 11 KAR 5:130, as follows: Section 2 of the above cited administrative regulation currently provides that a KHEAA grant will be recomputed or revoked if the applicant notifies KHEAA of a change of educational institution after August 1 or December 1 with

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respect to the fall or the spring semester for which the grant is awarded. The Kentucky Higher Education Assistance Authority intends to amend that section of the administrative regulation to allow the applicant to notify KHEAA within ten (10) days after notification of the award of a change of educational institution if the award is made after August 1 or December 1, respectively.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 164.748(4) requires KHEAA to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. This administrative regulation prescribes the form to be used by a student to apply for and establish financial need for KHEAA grant programs.

(d) The benefits expected from the administrative regulation are: The student can use a single application form for KHEAA grants and institutional and federal programs of student financial assistance at no processing cost to the student. The Kentucky Higher Education Assistance Authority intends to amend Section 2 of the administrative regulation to allow the applicant to notify KHEAA within ten (10) days after notification of the award of a change of educational institution if the award is made after August 1 or December 1, respectively.

(e) The administrative regulation will be implemented as follows: The administrative regulation will require that a student complete and submit in accordance with the instructions provided the 1999-2000 Free Application for Federal Student Aid (FAFSA) in order to be considered for a KHEAA Grant. The applicant shall notify KHEAA in writing of any change in the choice of educational institution.

February 24, 1999

(1) The subject matter of the administrative regulation **11 KAR 15:040** is award determination procedure.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an administrative regulation governing the subject matter listed above, particularly, setting the conditions for Commonwealth Merit Scholarship, renamed Kentucky Educational Excellence Scholarship (KEES) Program by EO 98-1592, eligibility of a student enrolled less than full time.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Wednesday, April 21, 1999, at 10 a.m., at 1050 U.S. 127 South, 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 ten (10) calendar days prior to Wednesday, April 21, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, Facsimile number 696-7293.

(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 Higher Education Assistance Authority 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 scholarship programs in general and the Commonwealth Merit Scholarship in particular is KRS 164.748(4), 164.7881(4)(b) and 164.7885(7).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will provide that an eligible student who is enrolled less than full time shall receive a reduced award amount and that participating institutions that determine full-time enrollment as enrollment less than twelve (12) credit hours per semester, trimester or quarter or those that use credit hours in a program, but do not use a semester, trimester or quarter shall determine enrollment status in the same manner for this program as the institution determines enrollment status for the Federal Pell Grant Program.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 164.748(4) requires KHEAA to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.7885(7) allows the authority to establish by administrative regulation procedures for the administration of the KEES Program. This administrative regulation sets the conditions for KEES eligibility for eligible students enrolled on a part-time basis.

(d) The benefits expected from the administrative regulation are: The administrative regulation is intended to provide for proportionate reduction of the maximum KEES Program award amount.

(e) The administrative regulations will be implemented as follows: The participating institutions shall certify to the authority, according to the terms and conditions set forth in 11 KAR 15:050, as to how many hours the eligible student is enrolled. The amount disbursed shall correspond to a proportionate reduction of the maximum award amount for an eligible student enrolled part-time.

DIRECTORY OF REGISTERED ATHLETE AGENTS

February 26, 1999

(1) **200 KAR 30:010**. Definitions for chapter.

(2) The Directory of Registered Athlete Agents intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999 at 10 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, 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 April 26, 1999 the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.

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

1. I agree to attend the public hearing; or

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2. I will not attend the public hearing.

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

(b) Persons who wish to file this request may obtain a request form from the Nancy Black at Divisions of Occupations and Professions at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the definitions for KRS 164.680-689 is KRS 164.681(4) and Chapter 13A.

(b) The administrative regulation the Division of Occupations and Professions intends to promulgate will define certain terms included in the above-referenced chapter and subsequent regulations to be promulgated.

(c) The necessity and function of the proposed administrative regulation is to define the terms of regulations necessary to implement KRS 164.680-689.

(d) The benefit expected from this administrative regulation is increased clarity of the regulations and statutes pertaining to the Directory of Registered Athlete Agents.

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the definitions as outlined in the regulation.

February 26, 1999

(1) **200 KAR 30:020.** Complaint review.

(2) The Directory of Registered Athlete Agents intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999 at 10 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.

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

1. It is requested, in writing, by a 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 April 26, 1999 the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.

(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 Nancy Black at Divisions of Occupations and Professions at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the complaint review process for KRS 164.680-689 is KRS 164.681(4) and Chapter 13A.

(b) The administrative regulation the Division of Occupations and Professions intends to promulgate will provide a process for the review of complaints under the above-referenced chapter and subsequent regulations to be promulgated.

(c) The necessity and function of the proposed administrative regulation is to provide a procedure for complaints against athlete agents to be reviewed and acted upon to implement KRS 164.680-689.

(d) The benefit expected from this administrative regulation is the Directory of Registered Athlete Agents will have a procedure for review of complaints against athlete agents which is orderly, thorough, and fair to the parties involved.

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the procedures as outlined in the regulation.

February 26, 1999

(1) **200 KAR 30:030.** Requirements for registration.

(2) The Directory of Registered Athlete Agents intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999 at 10 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.

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

1. It is requested, in writing, by a 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 April 26, 1999 the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.

(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 Nancy Black at Divisions of Occupations and Professions at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the minimum requirements for registration for KRS 164.680-689 is KRS 164.681(4) and Chapter 13A.

(b) The administrative regulation the Division of Occupations and Professions intends to promulgate a regulation will provide the minimum

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requirements that an athlete agent must meet to allow him to be registered under KRS 164.680-689.

(c) The necessity and function of the proposed administrative regulation is to provide a procedure for registration of athlete agents to KRS 164.680-689.

(d) The benefit expected from this administrative regulation is it will identify for athlete agents the requirements they must meet to be registered in the Commonwealth.

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the provisions as outlined in the regulation.

February 26, 1999

(1) **200 KAR 30:040.** Fees for registration and renewal.

(2) The Directory of Registered Athlete Agents intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999 at 10 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.

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

1. It is requested, in writing, by a 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 April 26, 1999 the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.

(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 Nancy Black at Divisions of Occupations and Professions at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the minimum requirements for registration for KRS 164.680-689 is KRS 164.681(4) and Chapter 13A.

(b) The administrative regulation the Division of Occupations and Professions intends to promulgate will set the fees which must be paid to register as an athlete agent under KRS 164.680-689.

(c) The necessity and function of the proposed administrative regulation is to set fees which will provide the necessary funds for the directory to operate.

(d) The benefit expected from this administrative regulation is it will provide for the funding of the directory, thereby allowing it to operate, and the Division of Occupations to fulfill its statutory mandate.

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the provisions as outlined in the regulation.

February 26, 1999

(1) **200 KAR 30:050.** Reinstatement of registration.

(2) The Directory of Registered Athlete Agents intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999 at 10 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.

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

1. It is requested, in writing, by a 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 April 26, 1999 the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.

(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 Nancy Black at Divisions of Occupations and Professions at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the minimum requirements for registration for KRS 164.680-689 is KRS 164.681(4) and Chapter 13A.

(b) The administrative regulation the Division of Occupations and Professions intends to promulgate provides procedures for reinstatement of registration for athlete agents that have had their registration suspended or revoked under KRS 164.680-689.

(c) The necessity and function of the proposed administrative regulation is to set procedures for reinstatement of registration after the expiration a suspension of registration, and where registration has been revoked for a period greater than three (3) years.

(d) The benefit expected from this administrative regulation is it provides the directory a procedure for the reinstatement of registrations which protects the public and is fair the athlete agents.

(e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the provisions as outlined in the regulation.

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February 26, 1999

- (1) **200 KAR 30:060.** Annual contact reports.
- (2) The Directory of Registered Athlete Agents intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999 at 10 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by a 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 April 26, 1999 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.
- (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 Nancy Black at Divisions of Occupations and Professions at the address above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the minimum requirements for registration for KRS 164.680-689 is KRS 164.681(4) and Chapter 13A.
 - (b) The administrative regulation the Division of Occupations and Professions intends to promulgate identifies the contents of the annual contact report the athlete agents are required to file under KRS 164.682(5).
 - (c) The necessity and function of the proposed administrative regulation is to implement the statutory mandate and to insure that information in the contact reports provides the directory sufficient information to allow the directory to confirm the contacts between student athletes and athlete agents conform with KRS 164.680-689.
 - (d) The benefit expected from this administrative regulation is it will allow the directory to confirm on an annual basis that all contacts between student athletes and athlete agents conform to KRS 164.680-389 and the regulations promulgated thereunder.
 - (e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the provisions as outlined in the regulation.

February 26, 1999

- (1) **200 KAR 30:070.** Records retention.
- (2) The Directory of Registered Athlete Agents intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999 at 10 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by a 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 April 26, 1999 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.
- (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 Nancy Black at Divisions of Occupations and Professions at the address above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the minimum requirements for registration for KRS 164.680-689 is KRS 164.681(4) and Chapter 13A.
 - (b) The administrative regulation the Division of Occupations and Professions intends to promulgate requires that certain records be maintained by affected individuals agents.
 - (c) The necessity and function of the proposed administrative regulation is to implement the statutory mandate and to insure that information in the contact reports provides the directory sufficient information to allow the directory to confirm the contacts between student athletes and athlete agents conform with KRS 164.680-689.
 - (d) The benefit expected from this administrative regulation is it will allow the directory to confirm on an annual basis that all contacts between student athletes and athlete agents conform to KRS 164.680-389 and the regulations promulgated thereunder.
 - (e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the provisions as outlined in the regulation.

BOARD OF PHARMACY

February 17, 1999

- (1) **201 KAR 2:010.** Schools approved by the board.
- (2) The Kentucky Board of Pharmacy intends to amend an administrative regulation, 201 KAR 2:010 relating to the requirements for acceptable schools and colleges of pharmacy to obtain licensure as a pharmacist in the Commonwealth.

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(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 1999 at 9 a.m. local prevailing time, at 1024 Capital Center Drive, Suite 210-Board Room, 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 April 28, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Michael Moné, Executive Director, Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601, voice: (502) 573-1580; fax (502) 573-1582.

(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 Board of Pharmacy 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 transfer of prescription drug order information is found at KRS 315.050 and 315.191(1)(a).

(b) The amendment to the administrative regulation that the Board of Pharmacy intends to promulgate will address the criteria for graduates of schools and colleges of pharmacy to be eligible for licensure in the Commonwealth as a pharmacist.

(c) The necessity, function, and conformity of the proposed amendment to the administrative regulation is as follows: KRS 315.050 and 315.191(1)(a) authorize and require the Board of Pharmacy to promulgate administrative regulations to establish the parameters by which schools and colleges of pharmacy graduates will be acceptable to be licensed to practice the profession of pharmacy in the Commonwealth.

(d) The benefit expected from the amendment to the administrative regulation is a greater certainty that the public will not be adversely impacted by an overly restrictive administrative regulation relating to the qualifications of graduates of pharmacy schools or colleges of pharmacy from jurisdictions that have substantially similar standards of academic qualifications to those of the United States.

(e) The amendment to the administrative regulation will be implemented as follows: The Board proposes to clarify the acceptability of graduates from schools of pharmacy who meet the standards of the Canadian Council on Pharmaceutical Education.

(8) Any person with a disability for which the Board of Pharmacy needs to make an accommodation in order for the person to participate in the public comment hearing should notify Michael A. Moné at the above-mentioned address no later than April 16, 1999.

February 17, 1999

(1) **201 KAR 2:095. Dispensing responsibilities.**

(2) The Kentucky Board of Pharmacy intends to amend an administrative regulation, 201 KAR 2:095 relating to the dispensing responsibilities of pharmacists and pharmacist interns.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 28, 1999 at 9:15 a.m. local prevailing time, at 1024 Capital Center Drive, Suite 210-Board Room, 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 April 28, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Michael Moné, Executive Director, Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601, voice: (502) 573-1580; fax (502) 573-1582.

(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 Board of Pharmacy 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 dispensing responsibilities of pharmacists and pharmacist interns is found at KRS 315.191(1)(a).

(b) The amendment to the administrative regulation that the Board of Pharmacy intends to promulgate will state clearly existing law and regulation concerning the supervisory relationship between a pharmacist and a pharmacist intern and address when a pharmacist intern may act pursuant to indirect supervision.

(c) The necessity, function, and conformity of the proposed amendment to the administrative regulation is as follows: KRS 315.191(1)(a) authorizes and requires the Board of Pharmacy to promulgate administrative regulations to establish the parameters by which the conduct of pharmacists and pharmacist interns act within the parameters of professional practice.

(d) The benefit expected from the amendment to the administrative regulation is a greater certainty that the public will not be adversely impacted by an allegedly unclear administrative regulation concerning tasks that may be delegated to a pharmacist intern and the nature and extent of the supervision required by the pharmacist when delegating a professional task to the pharmacist intern.

(e) The amendment to the administrative regulation will be implemented as follows: The board proposes to clarify the degree of supervision and the tasks that may be performed by a pharmacist intern acting pursuant to the authority granted to him by a pharmacist.

(8) Any person with a disability for which the Board of Pharmacy needs to make an accommodation in order for the person to participate in the public comment hearing should notify Michael A. Moné at the above-mentioned address no later than April 16, 1999.

KENTUCKY BOARD OF VETERINARY EXAMINERS

March 15, 1999

(1) **201 KAR 16:015. Fees.**

(2) The Kentucky Board of Veterinary Examiners intends to promulgate an administrative regulation governing the subject matter listed

above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 21, 1999, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, 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 April 21, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of administrative regulations relating to fees for certification of animal control agencies and animal euthanasia specialists is KRS 321.207.

(b) The administrative regulations that the Kentucky Board of Veterinary Examiners intends to promulgate will amend 201 KAR 16:015 to comply with statutory revisions that the Kentucky General Assembly made during the 1998 General Session to KRS Chapter 321.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 321.207 allows the board to establish by administrative regulation fees for animal control agencies and animal euthanasia specialist certified under Kentucky law as a condition of certification and certification renewal. This regulation will establish the fees required to obtain and renew the certifications under KRS Chapter 321.

(d) The benefit expected from these administrative regulations is that the fees for certification for animal control agencies and animal euthanasia specialist will be identified.

(e) The administrative regulations will be implemented as follows: Persons interested in operating animal control agencies and becoming animal euthanasia specialist will be required to comply with this administrative regulation, and the Kentucky Board of Veterinary Examiners will enforce the administrative regulations.

March 15, 1999

(1) **201 KAR 16:080.** Certified animal control agencies.

(2) The Kentucky Board of Veterinary Examiners intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 21, 1999, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, 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 April 21, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of administrative regulations relating to certification of animal control agencies is KRS 321.207 and 321.235.

(b) The administrative regulations that the Kentucky Board of Veterinary Examiners intends to promulgate will create 201 KAR 16:080 to comply with statutory revisions that the Kentucky General Assembly made during the 1998 General Session to KRS Chapter 321.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 321.207 allows the board to establish by administrative regulation the qualifications that are necessary for the issuance of the certificates for animal control agencies. This regulation will establish the minimum requirements for certification of animal control agencies and the requirements governing the activities of animal control agencies.

(d) The benefit expected from these administrative regulations is that the requirements for certification for animal control agencies will be identified.

(e) The administrative regulations will be implemented as follows: Persons interested in operating animal control agencies will be required to comply with this administrative regulation, and the Kentucky Board of Veterinary Examiners will enforce the administrative regulations.

March 15, 1999

(1) **201 KAR 16:090.** Certified animal euthanasia specialist.

(2) The Kentucky Board of Veterinary Examiners intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 21,

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1999, at 1 p.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, 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 April 21, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Nancy Black at the above address, or by calling 502/564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of administrative regulations relating to certification of animal control agencies and animal euthanasia specialists is KRS 321.207 and 321.235.

(b) The administrative regulations that the Kentucky Board of Veterinary Examiners intends to promulgate will create 201 KAR 16:090 to comply with statutory revisions that the Kentucky General Assembly made during the 1998 General Session to KRS Chapter 321.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 321.207 allows the board to establish by administrative regulation the qualifications that are necessary for the issuance of the certificates for an animal euthanasia specialist. This regulation will establish the minimum requirements for certification of animal euthanasia specialists and the requirements governing the activities of animal euthanasia specialists.

(d) The benefit expected from these administrative regulations is that the requirements for certification for animal euthanasia specialist will be identified.

(e) The administrative regulations will be implemented as follows: Persons interested in becoming animal euthanasia specialist will be required to comply with this administrative regulation, and the Kentucky Board of Veterinary Examiners will enforce the administrative regulations.

KENTUCKY STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

February 12, 1999

(1) **201 KAR 18:010.** Classes of applicants and examinations.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 27, 1999, at 10 a.m., at the Office of the Board, 160 Democrat Drive, 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 April 27, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone No. (502) 573-2680, Fax No. (502) 573-6687.

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to classes of applicants and examinations is KRS 322.040, 322.080, and 322.290.

(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will amend 201 KAR 18:010. It will establish scope of examinations and qualifications for applicants seeking licensure.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 322.040 requires applicants to successfully pass examinations. This regulation establishes criteria for applicants seeking licensure.

(d) The benefits expected from this administrative regulation are that the procedure for licensure by examination is clarified for applicants and the regulation creates uniform standards for individuals accepted for licensure because these standards are utilized by a majority of other jurisdictions.

(e) This administrative regulation will be implemented as follows: All applicants for licensure through examination will comply with the regulation and the board will enforce the regulation.

February 12, 1999

(1) **201 KAR 18:050.** Branches of professional engineering for testing.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 27,

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1999, at 10 a.m., at the Office of the Board, 160 Democrat Drive, 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 April 27, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone No. (502) 573-2680, Fax No. (502) 573-6687.

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to branches of professional engineering for testing is KRS 322.040, 322.080, and 322.290.

(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will amend 201 KAR 18:050. It will establish disciplines of engineering for testing purposes.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 322.080 requires the board to prescribe the scope of examination with special reference to an applicant's ability. This regulation enumerates nationally recognized branches of engineering for the purpose of testing.

(d) The benefit expected from this administrative regulation is that it provides the board with information about an applicant's ability in a given discipline so as to insure the safety of life, health, and property.

(e) This administrative regulation will be implemented as follows: Applicants will be tested in their specialized disciplines and the board will enforce the regulation.

February 12, 1999

(1) **201 KAR 18:071.** Repeal of 201 KAR 18:070.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 27, 1999, at 10 a.m., at the Office of the Board, 160 Democrat Drive, 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 April 27, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone No. (502) 573-2680, Fax No. (502) 573-6687.

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to repeal of a regulation is KRS 322.290.

(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will not amend an existing regulation. It will serve to repeal 201 KAR 18:070.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The subject matter of the repealed regulation will be incorporated in another regulation.

(d) The benefit expected from this administrative regulation is that it eliminates unnecessary language which is incorporated in another regulation.

(e) This administrative regulation will be implemented as follows: Once the existing administrative regulation is repealed, the repealing regulation is no longer necessary and will not require implementation.

February 12, 1999

(1) **201 KAR 18:080.** Licensing certificates and cards.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 27, 1999, at 10 a.m., at the Office of the Board, 160 Democrat Drive, 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 April 27, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive

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Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone No. (502) 573-2680, Fax No. (502) 573-6687.

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to licensing certificates and cards is KRS 322.110, 322.160, 322.170, and 322.290.

(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will amend 201 KAR 18:080. It will prescribe methods for issuing licenses and cards.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation outlines the board's responsibility under KRS 322.160 and 322.170 to issue and renew licenses.

(d) The benefit expected from this administrative regulation is that the public is provided with licensure information on people governed by KRS Chapter 322.

(e) This administrative regulation will be implemented as follows: Licenses and cards will be issued in accordance with the regulation.

February 12, 1999

(1) **201 KAR 18:091.** Repeal of 201 KAR 18:090.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 27, 1999, at 10 a.m., at the Office of the Board, 160 Democrat Drive, 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 April 27, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone No. (502) 573-2680, Fax No. (502) 573-6687.

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to repeal of a regulation is KRS 322.290.

(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will not amend an existing regulation. It will serve to repeal 201 KAR 18:090.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: Language contained in 201 KAR 18:090 is incorporated into 201 KAR 18:080, which obviates the need for this regulation.

(d) The benefit expected from this administrative regulation is that redundant language will be eliminated from the regulations.

(e) This administrative regulation will be implemented as follows: Once the existing administrative regulation is repealed, the repealing regulation is no longer necessary and will not require implementation.

February 12, 1999

(1) **201 KAR 18:100.** Seals.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 27, 1999, at 10 a.m., at the Office of the Board, 160 Democrat Drive, 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 April 27, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone No. (502) 573-2680, Fax No. (502) 573-6687.

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

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- (a) The statutory authority for the promulgation of an administrative regulation relating to seals is KRS 322.290, 322.340, and 322.400.
- (b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will amend 201 KAR 18:100. It will establish criteria for use of a licensee's personal seal.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation sets forth the requirements and uses of a licensee's personal seal.
- (d) The benefit expected from this administrative regulation is that it assures the public and governmental bodies that work is performed by a licensed individual.
- (e) This administrative regulation will be implemented as follows: All licensees will be required to comply with this administrative regulation and the board will enforce the administrative regulation.

February 12, 1999

- (1) **201 KAR 18:110.** License renewals.
- (2) The Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 27, 1999, at 10 a.m., at the Office of the Board, 160 Democrat Drive, 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 April 27, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone No. (502) 573-2680, Fax No. (502) 573-6687.
- (b) On request for public hearing, a person shall state:
 - 1. "I agree to attend the public hearing."; or
 - 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to license renewals is KRS 322.160 and 322.290.
 - (b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will amend 201 KAR 18:110. It will clarify procedures for complying with KRS 322.160.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation provides notice to a licensee of his responsibility and the procedure for renewal of a license.
 - (d) The benefit expected from this administrative regulation is that it provides for timely renewal of a license to practice.
 - (e) This administrative regulation will be implemented as follows: All licensees will be required to comply with this administrative regulation and the board will enforce the administrative regulation.

February 12, 1999

- (1) **201 KAR 18:120.** Reissuance of license certificate.
- (2) The Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 27, 1999, at 10 a.m., at the Office of the Board, 160 Democrat Drive, 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 April 27, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone No. (502) 573-2680, Fax No. (502) 573-6687.
- (b) On request for public hearing, a person shall state:
 - 1. "I agree to attend the public hearing."; or
 - 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to reissuance of a license certificate is KRS 322.170 and 322.290.
 - (b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will amend 201 KAR 18:120. It will establish fee to reissue certificate and signatures required on certificate.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation established criteria for reissuance of a certificate pursuant to authority of KRS 322.170.
 - (d) The benefit expected from this administrative regulation is that it provides licensees with the opportunity to replace a lost, destroyed, or mutilated certificate with a duplicate. This allows a licensee to comply with the requirement to post a certificate.
 - (e) This administrative regulation will be implemented as follows: All licensees will be required to comply with this administrative regulation and the board will enforce the administrative regulation.

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February 12, 1999

(1) **201 KAR 18:180.** Permit to practice for business entity.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 27, 1999, at 10 a.m., at the Office of the Board, 160 Democrat Drive, 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 April 27, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone No. (502) 573-2680, Fax No. (502) 573-6687.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to permit to practice is KRS 322.060, and 322.290.

(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will amend 201 KAR 18:180. It will establish requirements for permits to practice for business entities.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The regulation establishes procedures and fees for issuance of a permit to practice pursuant to KRS 322.060.

(d) The benefit expected from this administrative regulation is that it provides information necessary to receive a permit to practice.

(e) This administrative regulation will be implemented as follows: Business entities will be required to comply with this administrative regulation and the board will enforce the administrative regulation.

February 12, 1999

(1) **201 KAR 18:190.** Continuing professional development.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 27, 1999, at 10 a.m., at the Office of the Board, 160 Democrat Drive, 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 April 27, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone No. (502) 573-2680, Fax No. (502) 573-6687.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form by writing to Larry Perkins at the above address, or by calling (502) 573-2680 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to continuing professional development is KRS 322.290.

(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will amend 201 KAR 18:190. It will clarify the type of hours required to fulfill the statutory requirements of continuing professional development, explain how the reporting of hours will take place, and the procedure for audits.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: To implement the continuing professional development program mandated by KRS 322.290 for land surveyors in Kentucky.

(d) The benefit expected from this administrative regulation is that the procedure for continuing professional development for land surveyors will be further clarified, thus leading to less confusion.

(e) This administrative regulation will be implemented as follows: Land surveyors will be required to comply with the administrative regulations, and the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors will enforce the administrative regulation. This proposed amendment will affect all land surveyors licensed by this board and will be applied the same to all. Since the board has already implemented the regulation, this proposed amendment simply clarifies procedures and better defines what is allowed and how reporting will take place.

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KENTUCKY BOARD OF CERTIFICATION FOR PROFESSIONAL COUNSELORS

March 15, 1999

- (1) **201 KAR 36:060.** Qualifying experience under supervision.
- (2) The Kentucky Board of Certification for Professional Counselors intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 21, 1999, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, 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 April 21, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, Telephone No. (502) 564-3296, Telefax No. (502) 564-4818.
- (b) On request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form by writing to Nancy Black at the above address, or by calling (502) 564-3296 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of administrative regulations relating to the subject matter is KRS 335.515 (3) and 335.525(1).
 - (b) The administrative regulation that the Kentucky Board of Certification for Professional Counselors intends to promulgate will create 201 KAR 36:060 to identify the criteria for the supervision of professional counselors and the evaluation of the experience under supervision for obtaining certification.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 335.525 (1)(e) quantifies the number of hours of experience under supervision that is required before a candidate can be certified. The regulation specifies the qualifications needed to be a supervisor and the areas to be covered under the supervision.
 - (d) The benefit expected from these administrative regulations is that the requirements for supervision will be identified.
 - (e) The administrative regulations will be implemented as follows: Persons seeking to be certified as professional counselors will fulfill the requirements for supervision in accordance with the regulation.

KENTUCKY BOARD OF CERTIFICATION OF FEE-BASED PASTORAL COUNSELORS

March 4, 1999

- (1) **201 KAR 38:010.** Definitions. This proposed amended administrative regulation establishes definitions necessary for the credentialing of applicants by the board.
- (2) The Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the notice of intent has been scheduled for April 23, 1999, at 3 p.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 April 23, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should file their written request with the division director at the following address: Nancy L. Black, Director, Division of Occupations and Professions, Board of Certification of Fee-based Pastoral Counselors, Post Office Box 456, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40602-0456, Phone: (502) 564-3296 ext. 224, Fax: (502) 564-4818.
- (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 Nancy L. Black at the address above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to definitions is KRS 335.620 and 335.615(1)-(4) and (6), which mandate that the board establish definitions for the evaluation of applicants for certification.
 - (b) The administrative regulation the Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate will establish definitions for the evaluation of applicants for certification.
 - (c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish definitions for the evaluation of applicants for certification.
 - (d) The benefit expected from this amended administrative regulation is that the board and applicants for certification will be able to understand the definitions for the evaluation of applicants for certification.
 - (e) The regulation will be implemented by the Division Director of Occupations and Professions and board staff who are charged with overseeing the certification process.

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March 4, 1999

(1) **201 KAR 38:020.** Application. This proposed amended administrative regulation establishes the application process necessary for the credentialing of applicants by the board.

(2) The Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the notice of intent has been scheduled for April 23, 1999, at 3 p.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 April 23, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the division director at the following address: Nancy L. Black, Director, Division of Occupations and Professions, Board of Certification of Fee-based Pastoral Counselors, Post Office Box 456, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40602-0456, Phone: (502) 564-3296 ext. 224, Fax: (502) 564-4818.

(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 Nancy L. Black at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the application process is KRS 335.615(1)-(4) and (6) and 335.620, which mandate that the board establish an application process for the evaluation of applicants for certification.

(b) The administrative regulation the Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate will establish the application process necessary for the evaluation of applicants for certification.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish the application process necessary for the evaluation of applicants for certification.

(d) The benefit expected from this amended administrative regulation is that the board and applicants will be able to follow the necessary requirements for the application and evaluation of applicants for certification.

(e) The regulation will be implemented by the Division Director of Occupations and Professions and board staff who are charged with overseeing the certification process.

March 4, 1999

(1) **201 KAR 38:030.** Equivalent course of study. This proposed amended administrative regulation establishes the equivalent course of study necessary for the credentialing of applicants by the board.

(2) The Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the notice of intent has been scheduled for April 23, 1999, at 3 p.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 April 23, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the division director at the following address: Nancy L. Black, Director, Division of Occupations and Professions, Board of Certification of Fee-based Pastoral Counselors, Post Office Box 456, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40602-0456, Phone: (502) 564-3296 ext. 224, Fax: (502) 564-4818.

(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 Nancy L. Black at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the application process is KRS 335.620(4)-(7) and 335.615(1)-(4) and (6), which mandate that the board establish an equivalent course of study for the evaluation of applicants for certification.

(b) The administrative regulation the Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate will establish the equivalent course of study necessary for the evaluation of applicants for certification.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish the equivalent course of study necessary for the evaluation of applicants for certification.

(d) The benefit expected from this amended administrative regulation is that the board and applicants will be able to understand the equivalent course of study for the application and evaluation of applicants for certification.

(e) The regulation will be implemented by the Division Director of Occupations and Professions and board staff who are charged with overseeing the certification process.

March 4, 1999

(1) **201 KAR 38:040.** Fees. This proposed amended administrative regulation establishes the fee schedule necessary for the credentialing of applicants by the board.

(2) The Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the notice of intent has been scheduled for April 23, 1999, at 3 p.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

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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 April 23, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the division director at the following address: Nancy L. Black, Director, Division of Occupations and Professions, Board of Certification of Fee-based Pastoral Counselors, Post Office Box 456, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40602-0456, Phone: (502) 564-3296 ext. 224, Fax: (502) 564-4818.

(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 Nancy L. Black at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the application process is KRS 335.620(1) and 335.615(6), which mandate that the board establish a fee schedule for applicants for certification.

(b) The administrative regulation the Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate will establish the fee schedule for applicants for certification.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish the fee schedule for applicants for certification.

(d) The benefit expected from this amended administrative regulation is that the board will be able to fund the evaluation of applicants for certification and continuing regulatory process for the protection of the public.

(e) The regulation will be implemented by the Division Director of Occupations and Professions and board staff who are charged with overseeing the certification process.

March 4, 1999

(1) **201 KAR 38:050.** Travel expenses of board members. This proposed amended administrative regulation establishes the reimbursement for travel expenses of board members.

(2) The Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the notice of intent has been scheduled for April 23, 1999, at 3 p.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 April 23, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the division director at the following address: Nancy L. Black, Director, Division of Occupations and Professions, Board of Certification of Fee-based Pastoral Counselors, Post Office Box 456, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40602-0456, Phone: (502) 564-3296 ext. 224, Fax: (502) 564-4818.

(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 Nancy L. Black at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the reimbursement for travel expenses of board members is KRS 335.615(2) and 12.070(5).

(b) The administrative regulation the Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate will establish the reimbursement for travel expenses of board members.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish the reimbursement for travel expenses of board members.

(d) The benefit expected from this amended administrative regulation is that the board will be able to reimburse board members who are required by statute to travel in person to meetings of the board necessary for the continuing regulatory process for the protection of the public.

(e) The regulation will be implemented by the Division Director of Occupations and Professions and board staff who are charged with overseeing the certification process.

March 4, 1999

(1) **201 KAR 38:060.** Code of ethics. This proposed amended administrative regulation establishes the code of ethics for applicants for certification and credential holders.

(2) The Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the notice of intent has been scheduled for April 23, 1999, at 3 p.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 April 23, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the division director at the following address: Nancy L. Black, Director, Division of Occupations and Professions, Board of Certification of Fee-based Pastoral Counselors, Post Office Box 456, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40602-0456, Phone: (502) 564-3296 ext. 224, Fax: (502) 564-4818.

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

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

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

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- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from Nancy L. Black at the address above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to the code of ethics is KRS 335.615(5) and (6).
- (b) The administrative regulation the Kentucky Board of Certification of Fee-based Pastoral Counselors intends to promulgate will establish the code of ethics for applicants for certification and credential holders.
- (c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish the code of ethics for applicants for certification and credential holders.
- (d) The benefit expected from this amended administrative regulation is that the board and applicants for certification will be able to understand the requirements for certification and continued certification as a fee-based pastoral counselor.
- (e) The regulation will be implemented by the Division Director of Occupations and Professions and board staff who are charged with overseeing the certification process.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources

February 26, 1999

- (1) Regulation number and title: **301 KAR 1:201**, Fishing limits.
- (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 April 21, 1999 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 April 21, 1999 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. Phone (502) 564-3400 or FAX (502) 564-6508.
- (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 150.470.
- (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 1:201 as follows: It will limit anglers to artificial baits with single hooks and require catch-and-release fishing for brook trout in Dog Fork and Parched Corn Creek (Wolfe County), and portions of Poor Fork (Letcher County), and Shilalah Creek (Bell County); establish a 12-inch size limit on brown trout in eleven (11) streams in Eastern Kentucky; establish a 15-inch size limit on largemouth bass in Beaver Lake; and reduce the daily limit for rainbow trout in Hatchery Creek at the Wolf Creek National Fish Hatchery from eight (8) to five (5).
- (c) The necessity and function of the proposed administrative regulation is to establish size, daily and possession limits for fishing.
- (d) The benefits expected from the administrative regulation are best management of the state's waters for recreational fishing.
- (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.

December 6, 1996

- (1) Regulation number and title: **301 KAR 1:400**, Assessing fish kill damages.
- (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 April 21, 1999 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 April 21, 1999, 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. Phone (502) 564-3400, FAX (502) 564-6508.
- (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 assessing damages for fish kills is KRS 150.460(1) and 150.990(7).
- (b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It will

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specify that the American Fisheries Society's publication "The Monetary Value of Fishes" shall be used to assess the replacement costs of fish killed by pollution, and will incorporate this publication by reference.

(c) The necessity and function of the proposed administrative regulation is to establish the monetary value of fish killed by pollution so that the polluters can be assessed damages as provided by KRS 150.990(7).

(d) The benefits expected from the administrative regulation are compensation for fish killed by pollution and deterrent of future pollution.

(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.

February 26, 1999

(1) Regulation number and title: **301 KAR 2:049**, Seasons for furbearers and small game on specified areas.

(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 April 21, 1999 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 April 21, 1999 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. Phone (502) 564-3400 or FAX (502) 564-6508.

(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).

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:049 as follows: It will close Yatesville Lake Wildlife Management Area to grouse hunting for three years and extend the closing date of grouse hunting to the last day of February for three years on Grayson Lake, Paintsville Lake, Fishtrap Lake, Dewey Lake and Redbird Wildlife Management Areas.

(c) The necessity and function of the proposed administrative regulation is to specify exceptions on wildlife management areas to state-wide small game and furbearer hunting regulations.

(d) The benefits expected from the administrative regulation are optimal public recreation within the bounds of sound wildlife management practices.

(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.

February 26, 1999

(1) Regulation number and title: **301 KAR 2:172**, Deer hunting seasons and requirements.

(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 April 21, 1999 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 April 21, 1999 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. Phone (502) 564-3400 or FAX (502) 564-6508.

(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).

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:172 as follows: It will establish a modern gun hunt in December for antlerless deer in Zone One counties; extend the closing date of the archery season through the third Monday in January; require telephone check-in of all deer taken; and make it illegal to file a false harvest report.

(c) The necessity and function of the proposed administrative regulation is to establish deer hunting seasons, prescribe legal methods of taking and set forth tagging and checking requirements for deer hunting.

(d) The benefits expected from the administrative regulation are optimal recreational utilization of the state's deer herd within sound conservation practices.

(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.

February 26, 1999

(1) Regulation number and title: **301 KAR 2:174**, Deer hunting zones.

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

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(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 21, 1999 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 April 21, 1999 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. Phone (502) 564-3400 or FAX (502) 564-6508.

(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).

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:174 as follows: It will assign each of Kentucky's counties to one of six zones for deer hunting purposes.

(c) The necessity and function of the proposed administrative regulation is to zone the state for the purposes of controlling deer harvest and populations, and providing optimal opportunity for deer hunting.

(d) The benefits expected from the administrative regulation are optimal recreational utilization of the state's deer herd within sound conservation practices.

(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.

February 26, 1999

(1) Regulation number and title: **301 KAR 2:178**, Deer hunting on wildlife management areas.

(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 April 21, 1999 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 April 21, 1999 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. Phone (502) 564-3400 or FAX (502) 564-6508.

(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).

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:178 as follows: It will establish hunting seasons on wildlife management areas across the state; allow parties of five individuals (instead of four) at quota hunts; and disqualify a person who fails to check out at a wildlife management area hunt with mandatory check out from applying for quota hunts the following year.

(c) The necessity and function of the proposed administrative regulation is to establish deer hunting dates, application procedures and other matters pertaining to deer hunting on wildlife management areas.

(d) The benefits expected from the administrative regulation are optimal recreational utilization of the state's deer herd within sound conservation practices.

(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.

February 26, 1999

(1) Regulation number and title: **301 KAR 2:179**, State park deer hunts.

(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 April 21, 1999 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 April 21, 1999 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. Phone (502) 564-3400 or FAX (502) 564-6508.

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

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

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

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

(b) Persons who wish to file this request may obtain a request 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 148.029(5), 150.025(1) and 150.105.

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:179 as follows: It will eliminate the hunt at Barren River State Resort Park, decrease hunting on Dale Hollow State Resort Park to one hunt, and establish a two-day hunt at Lake Barkley State Resort Park.

(c) The necessity and function of the proposed administrative regulation is to allow controlled deer hunting at selected state parks to relieve serious overpopulations of white-tailed deer that are damaging the ecological integrity of the parks.

(d) The benefits expected from the administrative regulation are reducing deer numbers on selected state parks to acceptable numbers.

(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 in cooperation with the Department of Parks.

December 6, 1996

(1) Regulation number and title: **301 KAR 3:029**, Use of wildlife management areas by persons with mobility impairments.

(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 April 21, 1999 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 April 21, 1999, 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. Phone (502) 564-3400, FAX (502) 564-6508.

(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 access to wildlife management areas is KRS 150.025(1) and 150.620.

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It will allow the use of all-terrain vehicles by a person with a disability that impairs mobility on portions of selected wildlife management areas.

(c) The necessity and function of the proposed administrative regulation is stipulate the conditions under which handicapped persons will be allowed to use all-terrain vehicles on wildlife management areas.

(d) The benefit expected from the administrative regulation to allow handicapped accessibility to wildlife management areas.

(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.

February 26, 1999

(1) Regulation number and title: **301 KAR 6:060**, Safe boating certification.

(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 April 21, 1999 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 April 21, 1999, 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. Phone (502) 564-3400, FAX (502) 564-6508.

(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 safe boating certification is KRS 235.285 and 235.280

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. Describe the procedures to qualify for a safe boating certificate.

(c) The necessity and function of the proposed administrative regulation is to establish the procedures for obtaining a safe boating certificate as required by KRS 235.285.

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- (d) The benefit expected from the administrative regulation are increased safety on the waterways of the Commonwealth.
- (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.

**JUSTICE CABINET
Department of Corrections**

March 15, 1999

- (1) Regulation number and title: **501 KAR 6:040**, Kentucky State Penitentiary.
- (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 April 21, 1999, 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 April 21, 1999, 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, Tamela Biggs, Staff Attorney, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601, Telephone Number (502) 564-2024, Facsimile Number (502) 564-6494.
- (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 6:040, as follows:
 - 1. Special Security Unit (KSP 10-02-05) shall be amended to conform to American Correctional Association Standards, KRS Chapter 13A, and to accurately reflect the rules and procedures to be followed by a Special Security Unit inmate.
 - 2. Pharmacy Procedures (KSP 13-01-01) shall be amended to conform to requirements of American Correctional Association Standards and to ensure the proper inventory and storage of controlled substances.
 - 3. Health Services (KSP 13-02-01) shall be amended to conform to requirements of American Correctional Association Standards and to ensure the provision of medical services at the Kentucky State Penitentiary.
 - 4. Organization of Medical Services (KSP 13-02-02) shall be amended to conform to requirements of American Correctional Association standards and to ensure the provision of comprehensive health care services by qualified personnel to protect the health and well being of inmates.
 - 5. Continuity of Care (KSP 13-02-03) shall be amended to conform to requirements of American Correctional Association Standards and to ensure inmates receive continuity of care from admission to discharge from the Kentucky State Penitentiary.
 - 6. Levels of Care and Staff Training (KSP 13-02-04) shall be amended to conform to requirements of American Correctional Association Standards and to ensure inmates' unimpeded access to health care services by qualified staff.
 - 7. Consultations (KSP 13-02-05) shall be amended to conform to requirements of American Correctional Association Standards.
 - 8. Health Records (KSP 13-02-08) shall be amended to conform to requirements of American Correctional Association Standards and to ensure the proper documentation and maintenance of medical records.
 - 9. Psychiatric and Psychological Services (KSP 13-02-09) shall be amended to conform to requirements of American Correctional Association Standards and to ensure the availability of rapid and direct access to psychiatric and psychological services.
 - 10. Informed consent (KSP 13-06-02) shall be established to conform to requirements of American Correctional Association Standards.
 - 11. Visiting Program (KSP 16-01-01) shall be amended to conform to ACA Standards, KRS Chapter 13A, and to implement new visiting schedules.
 - (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 Kentucky State Penitentiary 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.

March 15, 1999

- (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 April 21, 1999, 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.

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(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 April 21, 1999, 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, Tamela Biggs, Staff Attorney, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601, Telephone Number (502) 564-2024, Facsimile Number (502) 564-6494.

(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. Establishment of the Warden as Chief Executive Officer (NTC 01-15-01) shall be amended to add the qualifications, authority and responsibilities of the warden.
2. Institutional Religious Center Fund (NTC 02-07-02) shall be amended to revise the name from Chapel Fund to Institutional Religious Center. It also advises how a donation can be made.
3. Inmate Accounts (NTC 02-12-01) shall be amended to set forth the appropriate procedure for governing an inmate's personal funds while incarcerated.
4. Training and Staff Development (NTC 04-01-01) shall be amended to add the requirement for the training coordinator to schedule all training for each employee.
5. Nonsmoking Dormitory (NTC 15-03-03) is being established to designate the criteria for applying for entry into the nonsmoking dormitory.
6. Mail Regulations (NTC 16-01-01) shall be amended to revise appropriate definitions, as well as the procedures for regular and privileged mail.

(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.

March 15, 1999

(1) Regulation number and title: **501 KAR 6:120, Blackburn 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 April 21, 1999, 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 April 21, 1999, 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, Tamela Biggs, Staff Attorney, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601, Telephone Number (502) 564-2024, Facsimile Number (502) 564-6494.

(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 6:120, as follows:

1. Firearms Training (BCC 04-02-01) shall be deleted based upon the duplication of Department of Corrections Firearms and Chemical Agents Training (CPP 4.3) policy.
2. Special Management Inmates (BCC 10-01-01) shall be deleted based upon the duplication of Department of Corrections Special Management Inmates (CPP 10.2) policy.
3. Menu and Special Diets (BCC 11-01-01) shall be amended to clarify the definition of procedures; duplication of Department of Corrections Restricted Diet Procedures (CPP 11.3) policy; and to amend technical word changes to comply with LRC regulations.
4. Food Service: Inspection, Health Protection and Sanitation (BCC 11-02-01) shall be amended to comply with KRS Chapter 13A and to reflect current operating procedures.
5. Dining Room Guidelines (BCC 11-04-01) shall be amended to comply with actual practice; deletion of wording to comply with LRC regulations.
6. Food Service Operation Manual (BCC 11-07-01) shall be amended to delete a location for a food service manual.

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7. Sick Call and Pill Call (BCC 13-01-01) shall be amended to comply with actual practice; to comply with LRC regulations.
8. Emergency Medical Care Plan (BCC 13-07-01) shall be amended to include a twenty-four (24) hour on call physician; the deletion of directions to a specific hospital; and to comply with actual practice and LRC regulations.
9. Emergency and Specialized Health Services (BCC 13-07-02) shall be amended to delete an attachment; the addition of location for emergency care, major surgical and psychiatric hospitalization services on a twenty-four (24) hour basis; addition of location of first aid kit's and monthly check of supplies, and to comply with actual practices.
10. Immediate Medical Treatment for Person's Injured by Weapon or Chemical Agent (BCC 13-07-03) shall be amended to comply with LRC regulations and actual practice.
11. Use of Pharmaceutical Products (BCC 13-12-01) shall be amended to reflect the deletion of central office health care manager; to add the procedure for inmates taking medication when leaving and returning to the institution; all unused medication requiring refrigeration be disposed of by local pharmacy; and to comply with LRC regulations.
12. Parenteral Administration of Medications and Use of Psychotropic Drugs (BCC 13-12-02) shall be amended to comply with LRC regulations.
13. Physicians Referral and Continuity of Care (BCC 13-19-01) shall be amended to comply with LRC regulations.
14. Psychiatric and Psychological Services, Handling of Mentally Retarded Inmates and Transfers (BCC 13-22-01) shall be amended to comply with actual practice and LRC regulations.
15. Law Library (BCC 14-02-01) shall be deleted based on the duplication of Department of Corrections (CPP 14.4) Legal Services Program policy.
16. Legal and Support Services for Inmates (BCC 14-06-01) shall be deleted based upon duplication of the Department of Corrections (CPP 14.4) Legal Services Program policy.
17. Room Assignment (BCC 15-02-02) shall be amended to comply with actual practice.
18. Rules and Regulations for Dormitories (BCC 15-03-01) shall be amended to comply with actual practice and LRC regulations.
19. Inmate Furloughs (BCC 16-01-01) shall be amended to comply with actual practice and LRC regulations.
20. Inmate Visiting (BCC 16-02-01) shall be amended to comply with actual practice and LRC regulations.
21. Inmate Correspondence (BCC 16-03-03) shall be amended to include how long incoming and outgoing letters or packages shall be held; and to comply with LRC regulations.
22. Classification of the Inmate (BCC 18-01-01) shall be amended to delete CPP 18.6 in the reference section; and to comply with actual practice and LRC regulations.
23. Racial Balance in Living Area (BCC 18-02-01) shall be deleted based upon the fact that it is no longer applicable to our operation and LRC regulations.
24. Inmate work Programs (BCC 19-01-01) shall be amended to comply with actual practice and LRC regulations
25. Educational Program Evaluation (BCC 20-04-01) shall be amended to delete the wording of "Vocational Counselor", the addition of the reviews of all academic and vocational programs by the Council on Occupational Education and the American Correctional Association, and to comply with LRC regulations.
26. Educational Program Planning (BCC 20-05-01) shall be amended to comply with actual practice and LRC regulations.
27. Audio or Video Tape Court Transcripts (BCC 21-01-02) shall be amended to provide inmates with procedures to store and have access to audio or video taped court transcripts; to comply with LRC regulations.
28. Unit Recreation Program (BCC 22-08-01) shall be deleted based upon the fact that it is no longer applicable to our operations, and to comply with LRC regulations.
- (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 Blackburn 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.

Kentucky Law Enforcement Council

March 15, 1999

- (1) Regulation number and title: **503 KAR 1:140**, Kentucky Law Enforcement Council - peace officer professional standards.
- (2) The Kentucky Law Enforcement Council intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 21, 1999, at 9 a.m., in Room 211, Funderburk Building, Richmond, Kentucky 40475-3137.
- (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 April 21, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Stephanie C. Bingham, Funderburk Building, Richmond, Kentucky 40475-3137, telephone - (606) 622-5897; FAX - (606) 622-2740.
- (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 Law Enforcement Council 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

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tion is KRS 15.330(g), 15.440, 15A.160, and 15.380-402.

(b) The administrative regulation that the Kentucky Law Enforcement Council intends to promulgate will create 503 KAR 1:140, as follows:

1. Certification of Exempt Officers: Establish procedures for exempt officers and agencies requesting certification by the council;
2. Suitability: Establish minimum standards and procedures to determine an applicant's suitability for the position of peace officer. Areas to be included are background investigation, medical screening, drug screening, psychological screening, fingerprinting, physical agility, and polygraph examination;
3. Testing Costs: Establish costs of and procedure for agency's repayment of testing services provided by the council;
4. Agency Testing: Establish procedure to be used to approve and accept testing done by agencies without a job task analysis;
5. Job Task Analysis: Establish procedures for approval of job task analyses;
6. Financial Hardship: Establish standards and procedures necessary to determine if a waiver of costs due to undue financial hardship has been demonstrated;
7. Employment Changes: Establish procedures for reporting a peace officer's change of employment status due to retirement, resignation, termination, revocation, or transfer to another law enforcement agency;
8. Records: Establish guidelines and procedures regarding records retention and security;
9. Agency Reporting: Establish minimum standards and procedures for information reported by the agency;
10. Compliance: Establish standards and procedures to audit the compliance of an applicant, trainee and agency, and actions following the discovery of noncompliance;
11. Test Results: Establish standards and procedures regarding the length of test result validity, updating test results, and agency access to prior test results;
12. Add language as necessary to conform to the requirements of KRS 15.380-402.

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

1. KRS 15.310 authorizes the Kentucky Law Enforcement Council to issue certification to officers who meet training requirements pursuant to KRS 15.440 and who meet the requirements established in KRS 15.380-402;
2. This administrative regulation codifies procedures of the Kentucky Law Enforcement Council to comply with KRS Chapter 13A and KRS 15.310, and 15.380-402 as they relate to peace officer professional standards.

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify KRS 15.310 and 15.380-402 to improve the quality of law enforcement services provided to the citizens of the Commonwealth.

(e) This administrative regulation will be implemented as follows: The Kentucky Law Enforcement Council and staff, law enforcement agencies, applicants and officers will comply with operational procedures and standards as established in policy.

**EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Commission on the Deaf and Hard of Hearing**

March 11, 1999

(1) **735 KAR 1:010.** Eligibility requirements, application and certification procedures to receive specialized telecommunications equipment for the deaf, hard of hearing and speech impaired.

(2) The Kentucky Commission on the Deaf and Hard of Hearing (KCDHH) intends to amend the existing administrative regulations governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed amendments to the administrative regulations has been scheduled for April 21, 1999 at the KCDHH Conference Room from 9 a.m. - 10:30 a.m. The KCDHH Offices and Conference Room are located at 632 Versailles Road, Frankfort, Kentucky.

(4)(a) The public hearing will be held if 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 a minimum of the 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 this public hearing, it will be held as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least ten (10) days prior to April 21, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kentucky Commission on the Deaf and Hard of Hearing, ATTN: Dr. Bobbie Beth Scoggins, 632 Versailles Road, Frankfort, Kentucky 40601, (502) 573-2604 (V/TTY) or (502) 573-3594 (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 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 Kentucky Commission on the Deaf and Hard of Hearing at the above address.

(7) Information relating to the proposed amendment to the administrative regulations.

(a) The statutory authority for the promulgation and amendment of the existing administrative regulations in relation to the TDD Distribution Program is KRS 163.525(5).

(b) The administrative regulations the KCDHH intends to promulgate will amend existing administrative regulations. The changes define the responsibilities of both the consumer and the staff in regards to the replacement of specialized telephone equipment after the prescribed four years; and to modify and update the application forms for the TDD Distribution Program.

(c) The necessity and function of the proposed amendments to the existing administrative regulations are as follows: This administrative regulation is necessary to implement the provision of KRS 163.525(5) which mandates that the Kentucky Commission on the Deaf and Hard of hearing (KCDHH) establish a program to distribute specialized telecommunications equipment (STE) to any deaf, hard-of-hearing, or speech-impaired persons qualified to receive the equipment at no additional cost beyond a single-party residence line. The function of this administrative regulation is to establish the criteria for awarding STE and the application and certification procedures.

(d) The benefits expected from the proposed amendments to the existing administrative regulations are: It will establish criteria and procedures for replacement as well as provide for those situations in which the equipment does not need replacing. The consumers will benefit from the changes in the regulations by having clearly defined criteria to follow to determine eligibility for applying for replacement equipment.

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(e) The administrative regulations will be implemented as follows: The KCDHH will continue to administer the TDD Distribution Program as outlined in the existing administrative regulations until the amendments take effect. Once the amendments take effect, the KCDHH shall begin distributing the criteria for reapplication and the reapplication form. All ownership rights and responsibilities, with the exception for maintenance and repair, will continue to belong solely to the recipient.

CABINET FOR WORKFORCE DEVELOPMENT Department for Adult Education and Literacy

March 12, 1999

- (1) Regulation number and title: **785 KAR 1:010**, Testing program.
- (2) The Department for Adult Education and Literacy 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 Thursday, April 22, 1999, at 9 a.m. EST in the offices of the Department for Adult Education and Literacy, 500 Mero Street, Third Floor Conference Room, Capital Plaza Tower, 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 April 22, 1999, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Harlan Stubbs, Kentucky GED Administrator, 500 Mero Street, Capital Plaza Tower, Third Floor, Frankfort, Kentucky 40601, Phone: (502) 564-5114, Fax: (502) 564-5436.
- (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 for Adult Education and Literacy at the address listed above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 151B.023, EO 98-837, and KRS 151B.125.
 - (b) The amendment to the administrative regulation that the Department for Adult Education and Literacy intends to promulgate will add procedures whereby a state agency child or an individual detained in a juvenile detention center or juvenile holding facility may qualify to take the GED tests. This amendment will also include language changes to provide the opportunity for individuals who have been withdrawn from public or private school to be approved to take the GED tests.
 - (c) The necessity, function, and conformity of the amended administrative regulation is as follows: KRS 151B.023 requires the Department for Adult Education and Literacy to be responsible for adult education and programs in Kentucky. EO 98-837 grants the Commissioner of the Department for Adult Education and Literacy authority to promulgate regulations and administer all adult education and literacy programs. KRS 151B.125 recognized the General Educational Development (GED) test for high school equivalency purposes in Kentucky. This administrative regulation establishes the means whereby an adult may be tested by official GED testing centers to determine their eligibility for receiving a high school equivalency diploma.
 - (d) The benefits expected from this administrative regulation are to provide the opportunity to be approved to take the GED test to a state agency child, an individual who is detained in juvenile facility, and to an individual who has withdrawn from a private school.
- (e) The administrative regulation will be implemented as follows: The new requirements will be implemented by the Department for Adult Education and Literacy and official GED testing centers.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

March 12, 1999

- (1) **806 KAR 17:066**, Medicare supplement insurance policies.
- (2) The Department of Insurance intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive written and oral comments on the proposed administrative regulation has been scheduled for April 21, 1999, at 2 p.m. (ET), at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at a 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 April 21, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sharron S. Burton, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602. Phone - (502) 564-6032. Fax - (502) 564-1456.
- (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 Department of Insurance 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 this administrative regulation is KRS 304.2-110(1), 304.14-510, 304.32-250, and 304.38-150.

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(b) The administrative regulation that the department intends to promulgate will amend an existing regulation. The amendment to 806 KAR 17:066 will add a section to the existing administrative regulation regarding guaranteed issuance for eligible persons. In addition, the amendment will incorporate provisions regarding the high deductible Medicare supplement Plans F and J into the existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: The amendment to 806 KAR 17:066 is necessary to address changes made by the federal government to the Social Security Act and the Medicare Program.

(d) The benefits expected from the administrative regulation are as follows: The amendment to 806 KAR 17:066 will require guaranteed issuance of Medicare supplement policies to eligible persons in the state of Kentucky. In addition, this administrative regulation, by adding the high deductible Medicare supplement Plans F and J, will broaden the possibilities for individuals seeking a Medicare supplement policy.

(e) The administrative regulation will be implemented as follows: Insurers who are approved to offer Medicare supplement plans will now be offering the high deductible Medicare supplement Plans F and J. In addition, insurers will be required to issue Medicare supplement policies on a guaranteed basis to eligible persons as defined in the administrative regulation. The department will oversee the enforcement of these provisions.

March 12, 1999

(1) **806 KAR 17:210**, Reporting requirements for the Kentucky Guaranteed Acceptance Program.

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

(3) A public hearing to receive written and oral comments on the proposed administrative regulation has been scheduled for April 21, 1999, at 2 p.m. (ET), at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601.

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

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

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at a 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 April 21, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sharron S. Burton, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602. Phone - (502) 564-6032. Fax - (502) 564-1456.

(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 Department of Insurance 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 this administrative regulation is KRS 304.17A-460(1).

(b) The administrative regulation that the department intends to promulgate will amend an existing regulation. It will amend GAPQT-1 to specify that the premiums to be reported refer to premiums for a health benefit plan.

(c) The necessity and function of the proposed administrative regulation is as follows: As currently promulgated, GAPQT-1 refers to health benefits. In order to clarify what information is to be reported on GAPQT-1, it is necessary for the department to insert the word "plan" after the term "health benefit."

(d) The benefits expected from the administrative regulation are as follows: The amendment to 806 KAR 17:210 will clarify the department's intent for those who are required to report information to the department on form GAPQT-1.

(e) The administrative regulation will be implemented as follows: Insurers will be required to report, on a quarterly basis, the information required by GAPQT-1 regarding health benefit plans.

March 12, 1999

(1) **806 KAR 17:240**, Health insurance data reporting.

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

(3) A public hearing to receive written and oral comments on the proposed administrative regulation has been scheduled for April 21, 1999, at 2 p.m. (ET), at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601.

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

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

2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at a 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 April 21, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Sharron S. Burton, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602. Phone - (502) 564-6032. Fax - (502) 564-1456.

(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 Department of Insurance 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 this administrative regulation is KRS 304.17A-330.

(b) The administrative regulation that the department intends to promulgate will not amend an existing regulation. It will establish the guidelines and format for reporting to the commissioner the information required pursuant to KRS 304.17A-330.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.17A-330 authorizes the commissioner to prescribe the guidelines and format for insurers and self-insured-employer-organized associations to report their insurance experience in Kentucky for the preceding calendar year. This administrative regulation is necessary in order to standardize the reports required pursuant to KRS 304.17A-330.

(d) The benefits expected from the administrative regulation are as follows: By prescribing the reporting format, the reports required pursuant to KRS 304.17A-330 will be uniform and more manageable for the department.

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(e) The administrative regulation will be implemented as follows: All insurers that write health insurance in Kentucky and all employer-organized associations that self-insure will be required to comply with the guidelines and format prescribed by this administrative regulation to report their insurance experience in Kentucky as required by KRS 304.17A-330.

KENTUCKY PUBLIC SERVICE COMMISSION

March 8, 1999

(1) Regulation number and title: **807 KAR 5:007**. Filing and notice requirements for a generation and transmission cooperative or a distribution cooperative to decrease rates or for a distribution cooperative to change rates to reflect a change in the rates of its wholesale supplier.

(2) The Kentucky Public Service Commission intends to promulgate a new administrative regulation governing the subject matter cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 29, 1999, at 9 a.m., Eastern Daylight Time, in Hearing Room 1 of the Public Service Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to April 29, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to Deborah T. Eversole, Assistant General Counsel, Kentucky Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602, telephone (502) 564-3940, facsimile (502) 564-7279.

(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 Public Service Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to this subject is as follows: KRS 278.040(3) provides that the commission may promulgate administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.180 provides that, except upon application of a utility, no change may be made in any rate except upon thirty (30) days' notice to the commission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect. KRS 278.455(1) provides that a generation and transmission cooperative or a distribution cooperative may decrease regulated operating revenues if the decrease is allocated proportionately among customer classes so that no change will result to the rate design currently in effect. KRS 278.455(2) provides that a distribution cooperative may change its rates to reflect a change in the rate of its wholesale supplier if the effects of an increase or decrease are allocated to each class and within each tariff on a proportional basis that will result in no change in the rate design currently in effect. KRS 278.455(4) requires the commission to promulgate administrative regulations establishing filing requirements and notice requirements to the commission, the Attorney General, and the public for rate changes made pursuant to KRS 278.455.

(b) The administrative regulation that the Kentucky Public Service Commission intends to promulgate will specify the following proposed filing requirements for generation and transmission cooperatives and distribution cooperatives wishing to decrease rates pursuant to KRS 278.455: an original and five copies of a tariff including the new rates and specifying an effective date no sooner than thirty (30) days from the date filed; a comparison of the current and adjusted rate structure, accompanied by an analysis that demonstrates that the revenue change to the rate classes results in no change in the rate design currently in effect; a reference to the case number of the proceeding before the commission that established the current rate design for the cooperative; a statement that a complete copy of the materials filed with the commission has been sent to the Attorney General's Office of Rate Intervention; and a statement that notice of the rate decrease has been inserted into customer bills, has been published in a newspaper of general circulation in the affected area, or has been published in a periodical distributed to all members of the cooperative. The commission will propose that a distribution cooperative wishing to change its rates to reflect an increase or decrease in its wholesale supplier's rates shall file the following: an original and five copies of a tariff including the new rates and specifying an effective date corresponding to the effective date of the wholesale supplier's rate change; a comparison of the current and adjusted rate structure, accompanied by an analysis that demonstrates that the revenue change to the rate classes results in no change in the rate design currently in effect; a reference to the case number of the proceeding before the commission that established the current rate design for the cooperative; a statement that a complete copy of the materials filed with the commission has been sent to the Attorney General's Office of Rate Intervention; and a statement that notice of the rate change has been inserted into customer bills, has been published in a newspaper of general circulation in the affected area, or has been published in a periodical distributed to all members of the cooperative.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 278.455 requires the commission to specify filing and notice requirements to be followed by an electricity cooperative wishing to use streamlined proceedings to reduce rates or to pass through rate changes implemented by a wholesale supplier. The proposed administrative regulation will accomplish that goal.

(d) The benefits expected from the proposed administrative regulation are: Electricity cooperatives will be fully informed as to specific filing and notice requirements for decreasing their rates or passing through wholesale rate increases or decreases pursuant to the streamlined method provided by KRS 278.455.

(e) The administrative regulation will be implemented as follows: The requirements of the regulation will be implemented and enforced as soon as they are effective.

PUBLIC PROTECTION AND REGULATION CABINET Department of Financial Institutions

March 12, 1999

(1) **808 KAR 10:400**. Examination fees.

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

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(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999 at 10 a.m. at the Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, 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 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 April 26, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Colleen Keefe, Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Phone (502) 573-3390, Fax (502) 573-8787.

(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 Department of Financial Institutions at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the proposed administrative regulation is KRS 292.330(12)(d).

(b) The proposed administrative regulation will not amend an existing regulation. It will set forth examination fees for the investment advisers and broker dealers required to be licensed by the department.

(c) The necessity and function of the proposed administrative regulation is as follows: The statute authorizing this regulation provides that financial institutions shall pay a fee to the department for examinations. A regulation is necessary to set forth the amount of the fee.

(d) The benefits expected from the proposed administrative regulation are: The fee for an examination will be set forth in a regulation.

(e) The proposed administrative regulation will be implemented as follows: It will be published in financial institution law publications that are available to the regulated entities and the public.

KENTUCKY RACING COMMISSION

March 12, 1999

(1) Regulation number and title: **811 KAR 1:005. Definitions.**

(2) The Kentucky Racing Commission 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 Monday, April 26, 1999, 10 a.m. at the commission offices at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511.

(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 April 26, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone (606) 246-2040. Fax (606) 246-2039.

(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 Racing Commission at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 230.630(3), (4), and (7).

(b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 811 KAR 1:005, Definitions. It will clarify the definition of declarations.

(c) The necessity and function of the proposed administrative regulation is as follows: To update the definition of the term declarations.

(d) The benefits expected from administrative regulation are: To make the language easier and clearer to understand.

(e) The administrative regulation will be implemented as follows: (Changes will be applied as soon as administratively permitted).

March 12, 1999

(1) Regulation number and title: **811 KAR 1:015. Race officials.**

(2) The Kentucky Racing Commission 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 Monday, April 26, 1999, 10 a.m. at the commission offices at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511.

(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 April 26, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone 246-2040. Fax (606) 246-2039.

(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 admin-

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istrative 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 Kentucky Racing Commission at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 230.240(1), 230.260(3), and 230.310.

(b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 811 KAR 1:015, Race officials. It will redefine the language of a bleeder being placed on and removed from the veterinarian's list.

(c) The necessity and function of the proposed administrative regulation is as follows: To clarify when a horse that is a bleeder is to be placed on the veterinarian's list and then removed from the veterinarian's list.

(d) The benefits expected from administrative regulation are: By amending this regulation to read the same as the thoroughbred regulation regarding bleeders will make it easier for the owners and trainers in understanding the procedure for bleeders.

(e) The administrative regulation will be implemented as follows: (Changes will be applied as soon as administratively permitted).

March 12, 1999

(1) Regulation number and title: **811 KAR 1:020**. Registration and identification of horses.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999, 10 a.m. at the commission offices at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511.

(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 or 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 April 26, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone (606) 246-2040. Fax (606) 246-2039.

(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 from the Kentucky Racing Commission at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 230.260.

(b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 811 KAR 1:020, Registration and identification of horses. It will indicate in the racing program trotters that are racing with hobbles.

(c) The necessity and function of the proposed administrative regulation is as follows: To inform the betting public if a trotter will be racing with hobbles.

(d) The benefits expected from administrative regulation are: This will be of benefit to the betting public when they are handicapping a race.

(e) The administrative regulation will be implemented as follows: (Changes will be applied as soon as administratively permitted).

March 12, 1999

(1) Regulation number and title: **811 KAR 1:055**. Declaration to start; drawing horses.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999, 10 a.m. at the commission offices at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511.

(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 or 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 April 26, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone (606) 246-2040. Fax (606) 246-2039.

(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 from the Kentucky Racing Commission at the address listed above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 230.630(3), (4), and (7).

(b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 811 KAR 1:055, Declaration to start; drawing horses. It will update language that is outdated.

(c) The necessity and function of the proposed administrative regulation is as follows: To update the language to conform to the rules of the United States Trotting Association.

(d) The benefits expected from administrative regulation are: Updating this regulation will help us be more uniform with other states that have standardbred racing.

(e) The administrative regulation will be implemented as follows: (Changes will be applied as soon as administratively permitted).

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March 12, 1999

- (1) Regulation number and title: **811 KAR 1:075**. Racing and track rules.
- (2) The Kentucky Racing Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999, 10 a.m. at the commission offices at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511.
- (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 or 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 April 26, 1999, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone (606) 246-2040. Fax (606) 246-2039.
- (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 from the Kentucky Racing Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 230.630(3), (4), and (7).
- (b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 811 KAR 1:075, Racing and track rules. It will deal with making a break or going off stride and a horse in the current program getting loose on the track.
- (c) The necessity and function of the proposed administrative regulation is as follows: Changes will clearly state that, in the opinion of the judges, a horse going off stride at the wire will be placed behind the horse interfered with after all other resulting placing. The section that deals with a loose horse states that any horse in the current program that falls, gets loose on the track, or is in an accident after starting to warm will be permitted to start that race only after examination and approval by the track veterinarian.
- (d) The benefits expected from administrative regulation are: Benefit of the off stride horse regulation is not to penalize the horse or horses that were interfered with during the race. Concerning the horse that is loose, has fallen, or is involved in an accident while warming up before a race: this is to protect the safety of the horse and the integrity of the sport of racing.
- (e) The administrative regulation will be implemented as follows: Changes will be applied as soon as administratively permitted.

March 12, 1999

- (1) Regulation number and title: **811 KAR 1:090**. Stimulants and drugs.
- (2) The Kentucky Racing Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 26, 1999, 10 a.m. at the commission offices at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511.
- (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 or 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 April 26, 1999, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Phone (606) 246-2040. Fax (606) 246-2039.
- (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 from the Kentucky Racing Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 230.630 (3), (4), and (7).
- (b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 811 KAR 1:090, Stimulants and drugs. It will update the section that deals with bleeders and a new section will be added to aid in the detection of milkshaking in horses.
- (c) The necessity and function of the proposed administrative regulation is as follows: It will redefine the language of a bleeder being placed on and removed from the veterinarian's list. Milkshaking a horse is a fairly new procedure that individuals have started doing to illegal enhance the speed of the horse.
- (d) The benefits expected from administrative regulation are: By amending the section that deals with bleeders to read the same as the thoroughbred regulation regarding with bleeders will make it easier for the owners and trainers in understanding the procedure for bleeders and make the standardbred and thoroughbred regulation more uniform. Concerning the milkshaking of horses, there are currently no regulations governing this illegal procedure.
- (e) The administrative regulation will be implemented as follows: Changes will be applied as soon as administratively permitted.

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

March 5, 1999

- (1) Regulation number and title: **815 KAR 7:105**, Kentucky Building Code/1997.
- (2) The Board of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Wednesday,

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April 28, 1999, 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 April 28, 1999, 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, Telephone: (502) 564-8044, Fax: (502) 564-6799.

(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.040(7) and 198B.050.

(b) The department intends to amend 815 KAR 7:105, Kentucky Building Code/1997 in accordance with board approved amendments, such as deleting the reference to frozen food locker plants from state jurisdiction plan review; clarify plan review fees for alteration and repair; change in terminology from "Halon Systems" to "Clean Agent System"; correct reference to CHR Cabinet; add a provision in Chapter 4 that elementary school's after school programs for students would not be treated as day care centers; allow exception that will allow use of steel framed and gypsum board fire wall assembly that meets structural stability and fire-resistance rating requirements; require guestroom separation to be constructed as 1 hour fire partition; include requirement that swimming pool and spa tread surfaces which are below water comply with the code; amend Referenced Standards, Chapter 35, to refer to 815 KAR 10:060; provide alternative smoke detection system for portable classroom buildings; clarify handrail requirements.

(c) The necessity and function of the proposed administrative regulation is as follows: The intended amendments are necessary to keep the Kentucky Building Code current and up-to-date with acceptable practices.

(d) The benefits expected from this administrative regulation are: State and local building code officials and other users of the KBC will have a clear understanding of the minimum requirements and inconsistencies will be eliminated.

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

March 5, 1999

(1) Regulation number and title: **815 KAR 20:020**, Parts or materials list.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for 10 a.m., local time, on Wednesday, April 28, 1999, 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 April 28, 1999, 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, Telephone: (502) 564-8044, Fax: (502) 564/6799.

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

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

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

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

(7) Information relating to the proposed administrative regulation:

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

(b) The department intends to amend Section 5 of this administrative regulation by including a new product approved by the State Plumbing Code Committee, i.e., Conbraco 78-RV Series In-line water heater shut-off thermal expansion control valve preset at 125 psi to relieve thermal expansion.

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

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

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

March 5, 1999

(1) Regulation number and title: **815 KAR 20:120**, Water supply and distribution.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for 10 a.m., local time, on Wednesday, April 28, 1999, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten (10) days prior to April 28, 1999, the public hearing will be canceled.

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(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601, Telephone: (502) 564-8044

Fax: (502) 564-6799

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

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

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

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

(7) Information relating to the proposed administrative regulation:

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

(b) The department intends to amend 815 KAR 20:120, Water supply and distribution by amending Section 2 (6) to include provisions to protect a closed water system from excess pressure due to the thermal expansion of heated water.

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

(d) The benefits expected from this administrative regulation are: This amendment should enhance public safety by protecting water heaters from explosion.

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

**PUBLIC PROTECTION AND REGULATION CABINET
Department of Charitable Gaming**

March 15, 1999

(1) **820 KAR 1:001, Definitions.**

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

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Thursday, April 22, 1999, at 9 a.m., at the Farnham Dudgeon Civic Center (Kentucky Room), Mero Street, Frankfort, Kentucky 40601. 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 to be borne by the requesting party.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Thursday, April 22, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, (502) 564-5528, Fax (502) 564-6625.

(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 Charitable Gaming at the address listed above.

(7) Information relating to this administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(9).

(b) This administrative regulation will amend 820 KAR 1:001, Section 1, by:

1. Repealing the definition of "Festival bingo" in subsection (12) in connection with the intended repeal of 820 KAR 1:080; and
2. Revising the definition of "Year" in subsection (35) by deleting the reference to 500 KAR 11:080, Section 2 which is intended to be repealed, and substituting a reference to KRS 238.545(4) and 238.547(1).

(c) The necessity and function of this administrative regulation is as follows: KRS 238.515(9) authorizes the Department of Charitable Gaming to promulgate administrative regulations to carry out the provisions of the chapter. This administrative regulation establishes definitions of terms used throughout 820 KAR Chapter 1.

(d) The benefits expected from the administrative regulation are: The repeal and revision of these definitions are made in connection with the intended repeal of 820 KAR 1:080, which is being repealed to conform to changes effected by House Bill 263.

(e) The administrative regulation will be implemented as follows: The respective repeal and revision of these definitions will apply to statutes and regulations, currently in effect, and all department staff and licensees will be informed of this regulation.

March 15, 1999

(1) **820 KAR 1:010. Temporary licensure.**

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

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Thursday, April 22, 1999, at 9 a.m., at the Farnham Dudgeon Civic Center (Kentucky Room), Mero Street, Frankfort, Kentucky 40601. 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.

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A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost to be borne by the requesting party.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Thursday, April 22, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, (502) 564-5528, Fax (502) 564-6625.

(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 Charitable Gaming at the address listed above.

(7) Information relating to this administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(9), 238.525(2), 238.530(1), (2), 238.535(11), and 238.555(1).

(b) This administrative regulation will amend 820 KAR 1:010 by:

1. Deleting the references to the term "substantial" found in the NECESSITY, FUNCTION, AND CONFORMITY paragraph and in Section 1 of the regulation, to reflect the statutory change effected by House Bill 263; and

2. Revising license application Form CG-1, "Application for License for Charitable Gaming in the Commonwealth of Kentucky (6/96)", Form CG-2, "Application for License for Distributor of Charitable Gaming Supplies and Equipment (6/96)", Form CG-3, "Application for License for Manufacturer of Charitable Gaming Supplies and Equipment (6/96)", Form CG-4, "Application for License to Operate a Charitable Gaming Facility in the Commonwealth of Kentucky (6/96)", and Form CG-Schedule A, "Application for Special Limited Charitable Gaming License/Special Charity Fundraising Event License (For Use With Form CG-1 (6/96)", which forms are incorporated by reference into Section 5 of this regulation, primarily to reflect changes made by House Bill 263.

(c) The necessity and function of this administrative regulation is as follows: The Department of Charitable Gaming may issue temporary licenses to those qualifying charitable organizations, manufacturers, distributors, and charitable gaming facilities who have complied with the licensure requirements.

(d) The benefits expected from the administrative regulation are: Deleting the references to the term "substantial" is intended to conform to a statutory change made by House Bill 263. The license application forms will be revised to obtain additional information as required by House Bill 263 and to enable department staff to make a more thorough determination as to qualification for licensure under the provisions of KRS Chapter 238 as amended by House Bill 263.

(e) The administrative regulation will be implemented as follows: These revisions will apply to statutes and regulations, currently in effect, and all appropriate department staff and licensees will be advised of these revisions and will be enforced by the Division of Licensing and Compliance.

March 15, 1999

(1) **820 KAR 1:015.** Permanent licensure.

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

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Thursday, April 22, 1999, at 9 a.m., at the Farnham Dudgeon Civic Center (Kentucky Room), Mero Street, Frankfort, Kentucky 40601. 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 to be borne by the requesting party.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Thursday, April 22, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, (502) 564-5528, Fax (502) 564-6625.

(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 Charitable Gaming at the address listed above.

(7) Information relating to this administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(1), (3), (9), 238.525(1), 238.530(1), (2), 238.535(11), and 238.555(1).

(b) This administrative regulation will amend 820 KAR 1:015 as follows:

1. Amend Section 3(2)(a)2 by increasing annual license fees for distributors of charitable gaming supplies and equipment from \$250 to

\$1000;

2. Amend Section 3(2)(a)3 by reducing the license fee for charitable gaming facilities from \$2,500 to \$1,250 for those facilities limited by KRS 238.555(5) to no more than 8 bingo sessions per week;

3. Amend Section 3(b) by requiring a \$25 processing fee for any change to a license application that mandates reissuance of a license; and

4. Amend Section 5 by revising license application Form CG-1, "Application for License for Charitable Gaming in the Commonwealth of Kentucky (6/96)", Form CG-2, "Application for License for Distributor of Charitable Gaming Supplies and Equipment (6/96)", Form CG-3, "Application for License for Manufacturer of Charitable Gaming Supplies and Equipment (6/96)", Form CG-4, "Application for License to Operate a Charitable Gaming Facility in the Commonwealth of Kentucky (6/96)", and Form CG-Schedule A, "Application for Special Limited Charitable Gaming License/Special Charity Fundraising Event License (For Use With Form CG-1 (6/96))", which forms are incorporated by reference into Section 5 of this regulation, primarily to reflect changes made by House Bill 263.

(c) The necessity and function of this administrative regulation is as follows: The Department of Charitable Gaming is authorized to issue permanent licenses, set license fees, including renewal fees, and establish license years for all permanent licenses issued by the department. This administrative regulation establishes the above fees and procedures for permanent licensure.

(d) The benefits expected from the administrative regulation are: The license application forms will be revised to obtain additional information as required by House Bill 263 and to enable department staff to make a more thorough determination as to qualification for licensure provisions of KRS Chapter 238 as amended by House Bill 263. The reduction of the license fee for charitable gaming facilities which can have no more than eight (8) sessions per week is intended to more equitably allocate license fees among facilities. Currently, facilities that can hold up to eighteen (18) sessions per week are charged the same as facilities limited to eight (8) session per week. By reducing the license fees for the facilities limited to eight (8) sessions per week, this disparate treatment is remedied. The increase in the license fees of charitable gaming distributors is intended to increase the share of license fees borne by distributors relative to other licensees. Currently, licensed distributors, which are for-profit, commercial enterprises, bear an inordinately low cost to be licensed both in terms of fees paid by other licensees in Kentucky and in terms of fees imposed on like enterprises in other states. Finally, the \$25 processing fee to update license applications which necessitate the reissuance of a license is needed to more equitably impose the administrative costs of processing such changes to those entities that frequently make such changes.

(e) The administrative regulation will be implemented as follows: These revisions will apply to statutes and regulations, currently in effect, and all appropriate department staff and licensees will be advised of these revisions and will be enforced by the Division of Licensing and Compliance.

March 15, 1999

(1) **820 KAR 1:025.** Quarterly reports.

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

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Thursday, April 22, 1999, at 9 a.m., at the Farnham Dudgeon Civic Center (Kentucky Room), Mero Street, Frankfort, Kentucky 40601. 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 to be borne by the requesting party.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Thursday, April 22, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, (502) 564-5528, Fax (502) 564-6625.

(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 Charitable Gaming at the address listed above.

(7) Information relating to this administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(4), (9), 238.550(1), (2), and 238.570(1).

(b) This administrative regulation will amend 820 KAR 1:025 by:

1. Changing the reference from one-half (1/2) of one (1) percent to four-tenths (4/10) of one (1) percent of gross receipts in the Necessity, Function, and Conformity paragraph of this regulation to comply with KRS 238.570(1), as amended by House Bill 263;

2. Inserting into Section 1 of the regulation a provision that if the due date for quarterly reports falls on a Saturday, Sunday or legal holiday, then the due date shall be the next business day; and

3. Revising the Quarterly Activity Report, Form CG-QR, which is incorporated by reference into Section 6 of this regulation, primarily to comply with KRS 238.550 as amended by House Bill 263.

(c) The necessity and function of this administrative regulation is as follows: KRS 238.550(2) and 238.570(1), respectively, require a licensed charitable organization to submit quarterly reports and remit four-tenths (4/10) of one (1) percent (0.4%) of the gross receipts derived from charitable gaming to the department. This administrative regulation establishes the method and time of filing the quarterly reports and remitting payment of the quarterly fees due.

(d) The benefits expected from the administrative regulation are: The change in the reference to four-tenths (4/10) of one (1) percent is to reflect the reduction of the fee imposed by KRS 238.570(1), which was effected by House Bill 263. The change of the due date for reports to be filed to the next business day if the due date falls on a Saturday, Sunday or legal holiday is intended to conform with practices of other agencies. The revision of form CG-QR, the quarterly activity report form, is primarily to reflect changes effected by House Bill 263.

(e) The administrative regulation will be implemented as follows: These revisions will apply to statutes and regulations, currently in effect,

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and all appropriate department staff and licensees will be advised of these revisions and will be enforced by the Division of Licensing and Compliance.

March 15, 1999

(1) **820 KAR 1:030.** Charity game ticket standards.

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

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Thursday, April 22, 1999, at 9 a.m., at the Farnham Dudgeon Civic Center (Kentucky Room), Mero Street, Frankfort, Kentucky 40601. 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 to be borne by the requesting party.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Thursday, April 22, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, (502) 564-5528, Fax (502) 564-6625.

(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 Charitable Gaming at the address listed above.

(7) Information relating to this administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(2), (9), and 238.545(1).

(b) This administrative regulation will amend 820 KAR 1:030 as follows:

1. Revise Section 1(3) to require that, for charity game ticket deals using a seal card, the seal card bear the same serial number as each charity game ticket;

2. Revise Section 1(4) to make clear that the requirement of this subsection apply only to those charity game tickets which contain windows;

3. Revise Section 1(5) to make clear that the requirement of this subsection apply only to those charity game tickets which contain windows;

4. Revise Section 1(6) to provide that the price of the charity game ticket game can be placed on a seal card in addition to the flare;

5. Revise Section 3(2) to allow the serial number to be placed on the inside of the deal's package, box or other container, provided it is clearly visible from the outside;

6. Revise Section 4 by requiring that either a flare "or a seal card" contain certain information and to make clear that such information be printed or affixed on the flare or seal card by the manufacturer;

7. Revise Section 8(1) by requiring that either the flare "or a seal card" shall be posted for player viewing;

8. Revise Section 8(4) to prohibit placing into play charity game tickets that were not received in tamper-resistant packaging from the manufacturer;

9. Revise Section 8(12) to make clear that the price of the charity game ticket must be the same as that affixed to the flare "or the seal card" which accompanies the charity game ticket;

10. Add a new subsection to Section 8 to provide that holders of winning charity game tickets shall have sixty (60) days to redeem the winning ticket and after such time, the prize shall be considered unclaimed and be retained as the property of the organization; and

11. Add a new subsection to Section 8 to require the charitable organization to verify that the serial number on the charity game tickets within each deal match the serial number of the flare or seal card, prior to placing a deal into play.

(c) The necessity and function of the this administrative regulation is as follows: The Department of Charitable Gaming is authorized to establish reasonable standards for the conduct of charitable gaming and to establish certain standards for charity game ticket construction, distribution, and the rules of play. This administrative regulation establishes for the construction and distribution of charity game tickets and for the conduct of play of charity game tickets.

(d) The benefits expected from this administrative regulation are: Amending Section 1(3) to require the seal card to bear the same number as the charity game tickets will ensure that only the seal card designed by the manufacturer for that game is used thereby promoting greater integrity into the game. Revisions to Section 1(4) and (5) are to make clear that the requirements of those sections apply only to those types of charity game tickets. Other types of charity game tickets, which met the statutory definition of charity game tickets, could not meet the existing requirements. Revisions to Sections 1(6), 4, 8(1) and 8(12) will allow the posting of a seal card instead of a flare, provided the seal card contains the requisite information. It is commonplace to use a seal card as a substitute for a flare. The anticipated revision to Section 3(2) will allow manufacturers to place the deal's serial number inside the package if it is visible from the outside. This will enable manufacturers to shrink-wrap the deals while providing the distributors, organizations, and department personnel the ability to see this information. The revision to Section 8(4) to prohibit playing charity game tickets not received in tamper-resistant packaging is intended to further ensure the integrity of the deal by reducing the likelihood of tampering at various points in the distribution chain. The new subsection to give patrons 60 days to redeem tickets is intended to allow adequate opportunity to redeem the ticket while giving organizations a date certain after which it no longer must set aside money for that purpose. The new subsection to require that the organization verify that the serial number of the seal card match the charity game tickets is to ensure that the validity of the winning number is not compromised by using a seal card not intended for that game.

(e) The administrative regulation will be implemented as follows: Appropriate staff and all licensees will be advised of the revisions of this administrative regulation and these revisions will be enforced by both the Division of Enforcement and the Division of Licensing and Compliance.

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- (1) **820 KAR 1:040.** Bingo standards.
- (2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Thursday, April 22, 1999, at 9 a.m., at the Farnham Dudgeon Civic Center (Kentucky Room), Mero Street, Frankfort, Kentucky 40601. 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 to be borne by the requesting party.
- (4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.
- (c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Thursday, April 22, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639; (502) 564-5528, Fax (502) 564-6625.
- (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 Charitable Gaming at the address listed above.
- (7) Information relating to this administrative regulation.
- (a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(2), (9).
- (b) This administrative regulation will amend 820 KAR 1:040 as follows:
 1. Revise Section 1(6) to allow the label containing the requisite product information to be on the inside of the container if it is clearly visible from the outside;
 2. Add a new subsection to Section 5 to prohibit individuals involved in any capacity in the conduct of a charitable gaming event at which bingo cards are sold from purchasing or playing bingo cards, unless the individual's duties are completed for the evening;
 3. Add a new subsection to Section 5 that requires a charitable organization which has "house rules" to post the rules in at least two (2) conspicuous locations within the gaming facility and announce the rules prior to the commencement of the bingo session; and
 4. Add a new subsection to Section 5 to require that that every ball in the bingo machine or other device used as a designator be placed out for verification at the commencement, at the completion and during intermission, if any, of each session.
- (c) The necessity and function of this administrative regulation is as follows: The Department of Charitable Gaming is authorized to establish reasonable standards for the conduct of charitable gaming and to establish standards for the construction and distribution of bingo materials and equipment and the rules of play. This administrative regulation establishes standards for the construction and distribution of bingo materials and equipment and for the conduct of play of bingo.
- (d) The benefits expected from this administrative regulation are: The revision to Section 1(6) is intended to allow manufacturers greater flexibility in displaying the required product information while ensuring that the information is clearly visible to all interested parties. The restriction on volunteers playing bingo, unless their duties are completed, is expected to promote greater integrity of the game while allowing volunteers who are finished with their duties the opportunity to play. The requirement relating to "house rules" is intended to notify the patrons of any specific rules an organization uses in addition to those set out in the department's regulations. This notification is expected to reduce disputes among patrons and organizations by making sure everyone understands how the games will be conducted. The requirement that the bingo balls be placed out for verification is intended to ensure that all 75 balls are placed into play and that if any are missing or become trapped in the machine, the organization and patrons will be quickly apprised of this.
- (e) The administrative regulation will be implemented as follows: Appropriate staff and all licensees will be advised of the revisions of this administrative regulation and these revisions will be enforced by the Division of Licensing and Compliance.

March 15, 1999

- (1) **820 KAR 1:070.** Notice of exemption.
- (2) The Department of Charitable Gaming intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Thursday, April 22, 1999, at 9 a.m., at the Farnham Dudgeon Civic Center (Kentucky Room), Mero Street, Frankfort, Kentucky 40601. 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 to be borne by the requesting party.
- (4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be held as scheduled.
- (c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Thursday, April 22, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, (502) 564-5528, Fax (502) 564-6625.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or

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

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

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

(7) Information relating to this administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(2), (9), 238.535(1), (2).

(b) This administrative regulation will amend 820 KAR 1:070 by:

1. Amending Section 1 to require that any changes in the Form CG-Exempt will be reported to the department within 30 days; and

2. Revising Form CG-Exempt, "Notice of Exemption From Charitable Gaming Licensure Requirement (6/96)", which is incorporated by reference into Section 2 of this regulation, to reflect changes made by House Bill 263.

(c) The necessity and function of this administrative regulation is as follows: An organization exempt from licensure requirements under KRS 238.535(1) must notify the department in writing of its intent to engage in exempt charitable gaming. This administrative regulation establishes a reporting method and form by which exemption notices are to be filed with and processed by the department.

(d) The benefits expected from the administrative regulation are: The revision to Section 1 is to have exempt organizations update their files within the same time frame as is imposed on licensed organizations. Currently, such organizations must notify the department "promptly" which is not particularly specific. The revision to the Notice of Exemption is being made to reflect the higher exemption limits set forth in House Bill 263.

(e) The administrative regulation will be implemented as follows: These revisions will apply to statutes and regulations, currently in effect, and all appropriate Department staff and licensees will be advised of these revisions and will be enforced by the Division of Licensing and Compliance.

March 15, 1999

(1) **820 KAR 1:081**. Repeal of 820 KAR 1:080, Charity fundraising event.

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

(3) A public hearing to receive oral and written comments on this administrative regulation has been scheduled for Thursday, April 22, 1999, at 9 a.m., at the Farnham Dudgeon Civic Center (Kentucky Room), Mero Street, Frankfort, Kentucky 40601. 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 to be borne by the requesting party.

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

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

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to Thursday, April 22, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request(s) to the following person and address: Scott Jones, General Counsel, Department of Charitable Gaming, Public Protection and Regulation Cabinet, 403 Wapping Street, Bush Building, Suite 100, Frankfort, Kentucky 40601-2639, (502) 564-5528, Fax (502) 564-6625.

(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 Charitable Gaming at the address listed above.

(7) Information relating to this administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 238.515(9).

(b) This administrative regulation will repeal 820 KAR 1:080.

(c) The necessity and function of this administrative regulation is as follows: House Bill 263 amended KRS Chapter 238 as it relates to charity fundraising events and the existing regulation does not comport with those changes.

(d) The benefits expected from the administrative regulation are: This administrative regulation will serve to repeal the existing administrative regulation, which has become both unnecessary and contrary to changes to KRS Chapter 238 made by House Bill 263.

(e) The administrative regulation will be implemented as follows: All department staff and licensees will be advised of the repeal of this administrative regulation.

CABINET FOR HEALTH SERVICES
Office of Inspector General

February 22, 1999

(1) **902 KAR 20:160** - Chemical dependency treatment services and facility specifications.

(2) The Office of Inspector General intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 30, 1999, at 9 a.m. in the Cabinet 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 April 30, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Hiren B. Desai, Cabinet

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Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 4W-C, Frankfort, Kentucky 40621, Telephone: (502) 564-7905, Fax: (502) 564-7573.

(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."

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

(b) Persons who wish to file this request may obtain a request form from: Administrative Regulation Coordinator, Office of Inspector General, 275 East Main Street, 4E-A, 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 administrative regulations relating to health facilities and health services is KRS 216B.042 and 216B.105.

(b) The cabinet intends to amend Section 3(10)(c) to recognize that clinical personnel may prescribe medication within the limits of their statutory scope of practice. Other amendments will comply with drafting requirements of KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: To comply with the mandate of KRS 216B.042 and 216B.105 in the establishment of licensure requirements for the operation of chemical dependency treatment programs.

(d) The benefits expected from these proposed amendments are that they will permit clinical personnel to perform tasks within the limits of their statutory scope of practice.

(e) The administrative regulation will be implemented as follows: By the Division of Licensing and Regulation in the Office of Inspector General, Cabinet for Health Services.

February 22, 1999

(1) **902 KAR 20:240** - Comprehensive physical rehabilitation hospital services.

(2) The Office of Inspector General intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for April 30, 1999, at 9 a.m. in the Cabinet 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 April 30, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Hiren B. Desai, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 4W-C, Frankfort, Kentucky 40621, Telephone: (502) 564-7905, Fax: (502) 564-7573.

(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."

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

(b) Persons who wish to file this request may obtain a request form from: Administrative Regulation Coordinator, Office of Inspector General, 275 East Main Street, 4E-A, 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 administrative regulations relating to health facilities and health services is KRS 216B.042 and 216B.105.

(b) The cabinet intends to amend Sections 3(12)(c)5, 4(1)(a), 4(9)(f)5.b, (h)2c, and (i)5 to recognize that clinical personnel may prescribe medication and diets within the limits of their statutory scope of practice. Section 4(9)(g)2 will be amended to assure that radiologic services comply with 902 KAR 100:115. Other amendments will comply with drafting requirements of KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: To comply with the mandate of KRS 216B.042 and 216B.105 in the establishment of licensure requirements for the operation of comprehensive physical rehabilitation hospitals.

(d) The benefits expected from these proposed amendments are that they will permit clinical personnel to perform tasks within the limits of their statutory scope of practice.

(e) The administrative regulation will be implemented as follows: By the Division of Licensing and Regulation in the Office of Inspector General, Cabinet for Health Services.

Department for Medicaid Services

March 15, 1999

(1) **907 KAR 1:102**, Advanced registered nurse practitioner services.

(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 April 30, 1999, 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

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least 10 days prior to April 30, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Hiren B. Desai, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (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 Financial Management and Analysis, 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 advanced registered nurse practitioners are KRS 205.520 and 194A.030.

(b) The administrative regulations that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:102 to combine 907 KAR 1:200, 1:406, 1:408, and 1:476 into 907 KAR 1:102; establish guidelines to require the attending ARNP verify recipient eligibility; make changes due to advanced registered nurse practitioners having prescriptive authority pursuant to KRS 314.011; incorporate policy related to pharmacy services; make formatting changes as a result of KRS 194A.030 and Chapter 13A; update current procedures; incorporate procedure codes, forms and policy presently used by the Early Periodic Screening and Diagnostic Testing (EPSDT) Program for screening services; clarify policy relating to pain management; incorporate new policy related to new coverage of certain injectable prescriptions and implant procedures; establish determinants for limiting the frequency of standard treadmill stress testing; amend policy for coverage of laboratory procedures in the ARNP office; incorporate new policy to include coverage of an evaluation and management service in conjunction with chemotherapy administration; incorporate policy to allow coverage for newborn hospital discharge evaluation when billed to the mother's medical assistance identification number; and make minor clarifications to current policy.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: 907 KAR 1:102 administrative regulation sets forth the provisions relating to advanced registered nurse practitioner services for which payment shall be made by the Medicaid Program on behalf of both the categorically needy and the medically needy.

(d) The benefits expected from administrative regulation are: Combining the Advanced Registered Nurse Practitioner, Nurse Midwife Services, and Nurse Anesthetist Services Manuals into the Advanced Practice Nurse Services Manual to eliminate duplication of policy and ease of administration. The advanced registered nurse practitioners are able to prescribe medications pursuant to KRS 314.011; therefore, the promulgation of these regulations will permit the reimbursement for these services.

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

March 15, 1999

(1) **907 KAR 1:104**, Payments for advanced registered nurse practitioner services.

(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 April 30, 1999, 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 April 30, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Hiren B. Desai, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (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 Financial Management and Analysis, 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 advanced registered nurse practitioners are KRS 205.520 and 194A.030.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:104 to combine 907 KAR 1:210 into 907 KAR 1:104 for ease of administration; make changes due to advanced registered nurse practitioners having prescriptive authority pursuant to KRS 314.011; make formatting changes as a result of KRS 194A.030 and Chapter 13A; incorporate reimbursement policy related to new coverage of certain injectable prescriptions, family planning and implant procedures; incorporate new reimbursement rates for EPSDT screening procedures; and make minor reimbursement policy clarifications.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: 907 KAR 1:104 administrative regulation sets forth the method for determining amounts payable by the cabinet for advanced registered nurse practitioners (ARNP).

(d) The benefits expected from administrative regulation are: combining the Advanced Registered Nurse Practitioner, Nurse Midwife

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Services, and Nurse Anesthetist Services Manuals into the Advanced Practice Nurse Services Manual to eliminate duplication of policy and ease of administration. The advanced registered nurse practitioners are able to prescribe medications pursuant to KRS 314.011; therefore, the promulgation of this regulation will permit the reimbursement for these services.

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

March 15, 1999

(1) **907 KAR 1:407**, Repeal of 907 KAR 1:200, 907 KAR 1:210, 907 KAR 1:406, 907 KAR 1:408, and 907 KAR 1:476.

(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 April 30, 1999, 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 April 30, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Hiren B. Desai, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (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 Financial Management and Analysis, 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 advanced registered nurse practitioners are KRS 205.520 and 194A.030.

(b) The administrative regulations that the Department for Medicaid Services intends to promulgate will repeal 907 KAR 1:200; 907 KAR 1:210; 907 KAR 1:406; 907 KAR 1:408; and 907 KAR 1:476, which are no longer needed because the information contained in these manuals will be included in the new ARNP Services Manual incorporated in regulation 907 KAR 1:102.

(c) The Necessity, Function and Conformity of the proposed administrative regulation is as follows: 907 KAR 1:407 administrative regulation repeals 907 KAR 1:200; 907 KAR 1:210; 907 KAR 1:406; 907 KAR 1:408; and 907 KAR 1:476.

(d) The benefits expected from administrative regulation are: combining the Advanced Registered Nurse Practitioner, Nurse Midwife Services, and Nurse Anesthetist Services Manuals into the Advanced Practice Nurse Services Manual to eliminate duplication of policy and ease of administration.

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

March 15, 1999

(1) **907 KAR 1:675**. Program integrity.

(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 April 30, 1999 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 April 30, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Hiren B. Desai, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (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 Financial Management and Analysis, 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 program integrity are KRS 194A.030, 194A.050, 205.6318, 205.8453, 42 CFR 455.12, 455.13, and 455.16(c)(4).

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(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:675, Program integrity to:

1. Comply with a federal court ruling pertaining to the imposition of a Medicaid disqualification period;
2. Comply with KRS Chapter 13B hearing requirements and timeframes;
3. Comply with KRS Chapter 13A technical and drafting requirements; and
4. Make minor policy clarifications.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the requirements pertaining to Medicaid agency action when alleged program violations are made by an adult recipient of Medicaid.

(d) The benefits expected from administrative regulation are:

1. Enhanced program integrity; and
2. Compliance with federal court rulings regarding the imposition of a disqualification period.

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

Department for Mental Health/Mental Retardation Services

March 15, 1999

(1) **908 KAR 3:160**, Policy and procedures of Kentucky Correctional Psychiatric Center.

(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 April 30, 1999 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 prior to April 20, 1999, the public hearing will be canceled:

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Hiren Desai, Cabinet Regulation Coordinator, Cabinet for Health Services, 275 East Main Street, 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (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, 100 Fair Oaks Drive (4th Floor), 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 policy and procedures of Kentucky Correctional Psychiatric Center are KRS 194A.030, 194A.050, 202A.196, 202B.060, 210.010, 210.040, 210.055, 210.285, and 42 CFR 440 through 489. These statutes empower the Cabinet for Health Services to promulgate regulations governing cabinet programs.

(b) The amendment administrative regulation that the Department for Mental Health/Mental Retardation Services intends to promulgate establishes admission policies and procedures for the Kentucky Correctional Psychiatric Center.

(c) The necessity and function of the administrative regulation is as follows: To establish and to specify candidates for admission to the Kentucky Correctional Psychiatric Center facility.

(d) The benefits expected from this administrative regulation are: To assure that individuals needing the level of care and security provided at the Kentucky Correctional Psychiatric Center are admitted according to systematic procedures and to minimize the risk to the health and safety of psychiatric hospital residents and the general public.

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

CABINET FOR FAMILIES AND CHILDREN Department for Community-Based Services Division of Policy Development

March 15, 1999

(1) **921 KAR 1:020**, Child Support Program: confidentiality, program administration contracts and agreements.

(2) Cabinet for Families and Children, Department for Community-Based 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 April 30, 1999, at 9 a.m. in the 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 one (1) person representing an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or one (1) person representing 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 calendar days prior to April 30, 1999, the public hearing will be canceled.

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

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dinator, Cabinet for Families and Children, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900, FAX: (502) 564-7573.

(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 Community-Based Services, Division of Policy Development, Third Floor West, CHR Building, 275 East Main, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to child support program confidentiality, administrative contracts and agreements is KRS 194B.050, 205.175, 205.710-205.800, 405.520, 406.035, 42 USC 651 et seq., and EO 98-731.

(b) The administrative regulation that the Department for Community-Based Services intends to promulgate will amend 921 KAR 1:020 to establish requirements regarding agreements between the cabinet and financial institutions for the purpose of operating a data match system, locating delinquent obligor assets and enforcing child support obligations.

(c) The necessity, function and conformity of the proposed administrative regulations is as follows: The amendments to this administrative regulation are necessary to implement the mandated requirements of 42 USC 666(a)(17) and requirements of KRS 205.712(14), 205.772, 205.774, 205.776(4) and (6), 205.778(3) and 205.7965 for the cabinet to enter into agreements with financial institutions. The agreements are to develop and operate data match systems for the purpose of locating delinquent obligors' assets. Implementation will assure compliance with the Child Support Program State Plan and will prevent the loss of federal funds. These amendments will establish the terms for the agency's agreements with financial institutions for matching records, establish a reasonable fee to be paid by the cabinet to the financial institutions for developing and operating the data match system and allow the institution to deduct a fee from an encumbered account.

(d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will bring the cabinet in compliance with federal mandates of 42 USC 651 et seq., and thus, prevent the loss of federal funds. Also, these amendments will comply with state statutory requirements.

(e) The administrative regulation will be implemented as follows: The Cabinet for Families and Children, the Department for Community-Based Services, will be responsible for implementing the administrative regulation.

March 15, 1999

(1) **921 KAR 1:410**, Child support collection and distribution.

(2) Cabinet for Families and Children, Department for Community-Based 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 April 30, 1999, 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 one (1) person representing an 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 calendar days prior to April 30, 1999, the public hearing will be canceled.

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

(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 Community-Based Services, Division of Policy Development, Third Floor West, CHR Building, 275 East Main, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to child support collection and distribution is KRS 194B.050, 205.712(2)(o) and (14), 205.7685(3), 205.795, 405.520, 407.5102, 407.5310(2)(d), 42 USC 654, 654A, 666(a)(1)-(4), (6)-(12), (14)-(16), (19), and 666(b).

(b) The administrative regulation that the Department for Community-Based Services intends to promulgate, 921 KAR 1:410, Child support collection and distribution, will create requirements regarding functioning of a data match system between financial institutions and the cabinet.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation is necessary to comply with the mandated requirements of 42 USC 651 et seq. and the requirements of KRS 205.712(14), 205.776, 205.778 and 205.7965 for the cabinet to operate a data match system with financial institutions in order to locate delinquent obligors' assets. This amended regulation describes the process by which assets will be identified, held and surrendered or released. The regulation will also be amended to make technical corrections and to revise related forms that are incorporated by reference.

(d) The benefits expected from this administrative regulation are: The amendments to this administrative regulation will bring the cabinet in compliance with federal mandates of 42 USC 651 et seq., and thus, prevent the loss of federal funds. Also the amendments will comply with state statutory requirements. Additionally, as delinquent obligor assets are identified and surrendered, it is possible that child support collections could increase.

(e) The administrative regulation will be implemented as follows: The Cabinet for Families and Children, the Department for Community-Based Services will be responsible for implementing the administrative regulation.

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March 15, 1999

(1) **922 KAR 1:130**, Foster Care Alternative Program.

(2) Cabinet for Families and Children, Department for Community-Based 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 April 30, 1999 at 9 a.m., in the 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 one (1) person representing 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 calendar days prior to April 30, 1999 the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judy Trigg, Cabinet for Families and Children, Cabinet Regulation Coordinator, Office of the General 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 Community-Based Services, Division of Policy Development, CHR Building, 3rd Floor East, 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 Families and Children's regulations may call toll free 1-800-372-2973 (V/TTY).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 922 KAR 1:130, Foster Care Alternative Program is KRS 194B.050, 205.200(2) and (3), 605.120(4), 42 USC 601 et seq. and EO 98-731.

(b) The administrative regulation that the Department for Community-Based Services intends to promulgate will be a new regulation which will develop a comprehensive policy for kinship care in Kentucky. The notice of intent delineates the following:

1. The Foster Care Alternative Program (FCAP) will be established to provide financial assistance and case management services to non-parental relatives caring for children in their homes;

2. The target group of children are those in need of protection and permanency services including:

a. Children at risk of commitment due to abuse or neglect;

b. Children who are already in nonrelative foster care placements;

c. Children in child-only TANF cases, with a prior protection case.

3. FCAP will be piloted in selected counties with a target beginning date of October 1, 1999 and to continue until approximately July 2000, at which time it is estimated that the FCAP will begin implementation statewide.

4. The regulation for the FCAP will:

a. Establish a maximum payment scale per child per month;

b. Establish financial and technical eligibility criteria;

c. Establish criteria for the provision of necessary supportive services such as child care and start up allowances;

d. Establish on-going support, through case management services.

5. Primary responsibility for implementation will be placed with the Department for Community-Based Services, Division of Protection and Permanency.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: KRS 194B.050 requires the Secretary of the Cabinet for Families and Children to promulgate administrative regulations necessary to operate programs and fulfill responsibilities vested in the Cabinet for Families and Children. This administrative regulation sets forth the development of the Foster Care Alternative Program which is a comprehensive policy for kinship care in Kentucky.

(d) The benefits expected from administrative regulation are: The development of this new regulation detailing the Foster Care Alternative Program will provide a comprehensive program of financial assistance and supportive services to benefit appropriate relatives and children who must be removed from their parent's home.

(e) The administrative regulation will be implemented as follows: By the Division of Policy Development, Department for Community-Based Services, Cabinet for Families and Children.

March 15, 1999

(1) **922 KAR 7:061**, Repeal of 922 KAR 7:060.

(2) Cabinet for Families and Children, Department for Community-Based 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 April 30, 1999, 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 one (1) person representing 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 calendar days prior to April 30, 1999, the public hearing will be canceled.

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

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

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 922 KAR 7:061 is KRS 194B.050 and 1998 Ky. Acts ch. 150, sec. 1.

(b) The administrative regulation that the Department for Community-Based Services intends to repeal the administrative regulation, 922 KAR 7:060, Children's residential facilities capacities.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 194B.050 authorizes the Cabinet for Families and Children to promulgate administrative regulations 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 acts specifically to repeal 922 KAR 7:060, Children's residential facilities capacities. The responsibility for the regulated entities is transferred to the Justice Cabinet pursuant to 1998 Ky. Acts ch. 150, sec. 1.

(d) The benefits expected from administrative regulation are: The elimination of possible conflict between the Cabinet for Families and Children and the Justice Cabinet.

(e) The administrative regulation will be implemented as follows: The Department for Community-Based Services, Division of Policy and Development will implement the repeal of 922 KAR 7:060.

March 15, 1999

(1) **922 KAR 7:101**, Repeal of 922 KAR 7:100.

(2) Cabinet for Families and Children, Department for Community-Based 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 April 30, 1999, 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 one (1) person representing 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 calendar days prior to April 30, 1999, the public hearing will be canceled.

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

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

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 922 KAR 7:101 is KRS 194B.050 and 1998 Ky. Acts ch. 150, sec. 1.

(b) The administrative regulation that the Department for Community-Based Services intends to repeal the administrative regulation, 922 KAR 7:100, Resident liaison responsibilities.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 194B.050 authorizes the Cabinet for Families and Children to promulgate administrative regulations 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 acts specifically to repeal 922 KAR 7:100, Resident liaison responsibilities. The responsibility for the regulated entities is transferred to the Justice Cabinet pursuant to 1998 Ky. Acts ch. 150, sec. 1.

(d) The benefits expected from administrative regulation are: The elimination of possible conflict between the Cabinet for Families and Children and the Justice Cabinet.

(e) The administrative regulation will be implemented as follows: The Department for Community-Based Services, Division of Policy and Development will implement the repeal of 922 KAR 7:100.

March 15, 1999

(1) **922 KAR 7:251**, Repeal of 922 KAR 7:250.

(2) Cabinet for Families and Children, Department for Community-Based 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 April 30, 1999, 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

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2. A minimum of 5 persons, or one (1) person representing 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 calendar days prior to April 30, 1999, the public hearing will be canceled.

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

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

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 922 KAR 7:251 is KRS 194B.050 and 1998 Ky. Acts ch. 150, sec. 1.

(b) The administrative regulation that the Department for Community-Based Services intends to repeal the administrative regulation, 922 KAR 7:250, Kentucky Education Collaborative for State Agency Children.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 194B.050 authorizes the Cabinet for Families and Children to promulgate administrative regulations 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 acts specifically to repeal 922 KAR 7:250, Kentucky Education Collaborative for State Agency Children. The responsibility for the regulated entities is transferred to the Justice Cabinet pursuant to 1998 Ky. Acts ch. 150, sec. 1.

(d) The benefits expected from administrative regulation are: The elimination of possible conflict between the Cabinet for Families and Children and the Justice Cabinet.

(e) The administrative regulation will be implemented as follows: The Department for Community-Based Services, Division of Policy and Development will implement the repeal of 922 KAR 7:250.

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY
200 KAR 30:010E

This emergency administrative regulation is necessary to implement KRS 164.680-164.689 which provides for the regulation of athlete agents. In order to register athlete agents prior to the end of the current intercollegiate athletic season, and to comply with the requests from athlete agents for registration which have been received by the Division of Occupations and Professions, thereby meeting the threat to the public welfare presented if athlete agents are not regulated during a time in which contact between student athletes and athlete agents is highly likely, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 200 KAR 30:010 will be filed with the Regulations Compiler on February 24, 1999.

PAUL E. PATTON, Governor
NANCY BLACK, Executive Director

FINANCE AND ADMINISTRATION CABINET
Division of Occupations and Professions
Directory of Registered Athlete Agents

200 KAR 30:010E. Definitions.

RELATES TO: KRS 164.680 to 164.689

STATUTORY AUTHORITY: KRS 164.681(4)

EFFECTIVE: February 26, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.681(4) authorizes the division to promulgate administrative regulations necessary to carry out the provisions of KRS 164.680 to 164.689. This administrative regulation provides definitions for terms used in those administrative regulations.

Section 1. Definitions. (1) "Agent contract" is defined by KRS 164.680(1).

(2) "Appropriate college or university or secondary school or athletic regulatory body" means the college, university, secondary school or athletic regulatory body which provides an athletic program in which a student athlete participates or did participate, at the time the misconduct set forth in a complaint occurred.

(3) "Athlete agent" is defined by KRS 164.680(3).

(4) "Charge" means an allegation issued by the college or university or secondary school or athletic regulatory body stating a violation of a specified provision of KRS 164.681 to 164.689, or the administrative regulations promulgated thereunder, has occurred.

(5) "Complaint" means any written allegation alleging misconduct by a registered athlete agent or student athlete which may constitute a violation of KRS 164.680 to 164.689 or the administrative regulations promulgated thereunder.

(6) "Disciplinary action" means a suspension or revocation of an athlete agent's registration, the imposition of community service upon a student athlete, or any combination of the above.

(7) "Division" is defined by KRS 164.680(4).

(8) "Executive director" means the Executive Director of the Division of Occupations and Professions.

(9) "Informal proceedings" means proceedings instituted by a college or university or secondary school or athletic regulatory body during the investigative process to allow those affected comment on the complaint prior to reaching a factually supported decision whether or not the college or university or secondary school or athletic regulatory body will recommend to the division disciplinary action.

(10) "Investigative assistant" means an individual designated by the Division of Occupations and Professions to assist the college,

university, secondary school, athletic regulatory body or division in the investigation of a complaint.

(11) "Student athlete" is defined by KRS 164.680(7).

NANCY L. BLACK, Executive Director
ROBERT S. JONES, Assistant Attorney General
ANGELA C. ROBINSON, Assistant General Counsel
APPROVED BY AGENCY: February 24, 1999
FILED WITH LRC: February 26, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

(1) Type and number of entities affected: All athlete agents, colleges, universities, and student athletes in Kentucky.

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

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

(b) Cost of doing business in the geographical area in which the emergency administrative regulation will be implemented, to the extent available from the public comments received: No public comments received; potential fiscal impact will be minimal.

(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:

1. First year: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(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: Department funds, supplemented by registration and renewal fees.

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

(a) Geographical area in which emergency administrative regulation will be implemented: Implemented statewide, same as below.

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: This was the only alternative possible as required by the wording of the statute and would allow for maximum protection of colleges, universities and student athletes in the Commonwealth.

(8) Assessment of expected benefits: Expected benefits would be to ensure that contacts between athlete agents and student athletes in Kentucky are conducted in a manner which will not harm the rights and interests of colleges, universities and student athletes.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: This regulation is required to implement KRS 164.680-689.

(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 regulation applies to all credential holders.

**STATEMENT OF EMERGENCY
200 KAR 30:020E**

This emergency administrative regulation is necessary to implement KRS 164.680-164.689 which provides for the regulation of athlete agents. In order to register athlete agents prior to the end of the current intercollegiate athletic season, and to comply with the requests from athlete agents for registration which have been received by the Division of Occupations and Professions, thereby meeting the threat to the public welfare presented if athlete agents are not regulated during a time in which contact between student athletes and athlete agents is highly likely, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 200 KAR 30:020 will be filed with the Regulations Compiler on February 24, 1999.

PAUL E. PATTON, Governor
NANCY BLACK, Executive Director

**FINANCE AND ADMINISTRATION CABINET
Division of Occupations and Professions
Directory of Registered Athlete Agents**

200 KAR 30:020E. Complaint review.

RELATES TO: KRS 164.680(3), (4), (6), (7), 164.687

STATUTORY AUTHORITY: KRS 164.681(4)

EFFECTIVE: February 26, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.681(4) authorizes the division to promulgate administrative regulations establishing a procedure to review complaints against athlete agents and student athletes for violation of KRS 164.680 to 164.689, and the administrative regulations promulgated thereunder. This administrative regulation sets forth procedures for review of complaints of misconduct.

Section 1. Form of Complaint: Response.

(1) A complaint shall be submitted to the division.

(2) A complaint shall be in writing and shall be signed by the person offering the complaint.

(3) A complaint may be filed by any person or institution, including the division or appropriate college or university or secondary school or athletic regulatory body based upon information in its possession.

(4) Upon receipt of a complaint, the division shall send a copy to the appropriate college or university or secondary school or athletic regulatory body.

(5) A copy of the complaint shall be sent to the athlete agent, student athlete, or both, named in the complaint along with a request for a response to the complaint. The response shall be filed with the division within twenty (20) days from the date of service of the complaint, and shall be served upon the appropriate college or university or secondary school or athletic regulatory body.

Section 2. Review by Appropriate College, University, Secondary School, or Athletic Regulatory Body. (1) After the receipt of a complaint, and a response, or after the period of time for a response to be filed has expired, the appropriate college or university or secondary school or athletic regulatory body shall enter an initial determination within thirty (30) days stating in writing whether a formal investigation of the complaint is necessary. An extension of time may be granted by the division for good cause, upon request by the institution.

(2) When in the opinion of the college or university or secondary school or athletic regulatory body a complaint does not warrant a formal investigation, because a violation of KRS 164.680 to 164.689,

or the administrative regulations promulgated thereunder, is not implicated, the college or university or athletic regulatory body shall notify the complaining party, the person against whom the complaint was made, and the division of its recommendation not to proceed. The division may either accept the recommendation not to proceed or order a formal investigation under subsection (3) of this section.

(3) When in the opinion of the division, or the appropriate college or university or secondary school or athletic regulatory body a complaint warrants a formal investigation for conduct in violation of the KRS 164.680 to 164.689, or the administrative regulations promulgated thereunder, the college or university or secondary school or athletic regulatory body shall:

(a) Issue a written statement notifying the division, person against whom the complaint was made, and person or institution making the complaint, of the decision to investigate the complaint;

(b) Authorize its president or athletic director or designated representative, and a designated investigative assistant assigned by the division, to investigate the matter and report their findings and recommendations to the division within ninety (90) days of the date of the written statement. An extension of time may be granted by the division for good cause shown.

Section 3. Issuance of Recommendations: Review by the Division. (1) Upon completion of the formal investigation, the college or university or secondary school or athletic regulatory body shall issue a written report to the division stating its factual findings and recommendations as to the proper disposition of the complaint. The recommendations shall be served upon those against whom the complaint was made. If the recommendations are for the division to take disciplinary action, they shall state the charges upon which the recommendations are based.

(2) Within fifteen (15) days of receipt of recommendations, the division shall take action commensurate with the nature and severity of the violation.

(3) When in the opinion of the division the charges do not warrant disciplinary action, the complaint shall be dismissed. The division shall notify the complaining party, the individual being investigated, and the college, university, secondary school or athletic regulatory body, of the outcome of the complaint.

(4) When in the opinion of the division the charges warrant disciplinary action, the division shall issue an order stating the charge or charges, and the nature of the penalty imposed. The order shall be signed by the executive director and served upon the person disciplined as required by Section 5 of this administrative regulation.

(5) An order may be appealed as authorized by KRS 164.687(2).

Section 5. Notice and Service of Process. Service of notice and other process shall be made by hand-delivery or delivery by certified mail, return receipt requested, to the individual's last known address of which the division has record or, if known, by such service on the named individual's attorney of record, unless waived by the recipient. Refusal of service if by certified mail; or avoidance of service if hand-delivered shall not prevent the division from proceeding, as may be appropriate.

NANCY L. BLACK, Executive Director
ROBERT S. JONES, Assistant Attorney General
ANGELA C. ROBINSON, Assistant General Counsel
APPROVED BY AGENCY: February 24, 1999
FILED WITH LRC: February 26, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

(1) Type and number of entities affected: All athlete agents, colleges, universities, secondary schools and student athletes in Kentucky.

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

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

(b) Cost of doing business in the geographical area in which the

emergency administrative regulation will be implemented, to the extent available from the public comments received: No public comments received; potential fiscal impact will be minimal.

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

1. First year following implementation: Implementation costs will be borne by the individual colleges, universities and athlete agents, based upon the number of complaints received relating to contact between athlete agents and student athletes. The primary cost will be due to paperwork requirements for handling complaints and maintaining records. Personnel cost will also be incurred by colleges and universities to investigate complaints. However, enforcement should produce a decrease in cost to colleges and universities by decreasing the potential of a violation of rules proscribed by an athletic regulatory body.

2. Second and subsequent years: See above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The Division of Occupations and Professions will incur start up cost for personnel necessary to staff the Directory of Registered Athlete Agents.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division of Occupations will incur the expense of providing office space and equipment necessary process and maintain necessary paperwork.

(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: Department funds, to be supplemented by registration and renewal fees after startup.

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

(a) Geographical area in which emergency administrative regulation will be implemented: Implemented statewide, same as below.

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: This was the only alternative possible as required by the wording of the statute and would allow for maximum protection of colleges, universities and student athletes in the Commonwealth.

(8) Assessment of expected benefits: Expected benefits are to ensure that contacts between athlete agents and student athletes in Kentucky are conducted in a manner which will not harm the rights and interests of colleges, universities secondary schools and student athletes in Kentucky.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: This regulation is required to implement KRS 164.680-689.

(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 regulation applies to all credential holders.

STATEMENT OF EMERGENCY 200 KAR 30:030E

This emergency administrative regulation is necessary to implement KRS 164.680-164.689 which provides for the regulation of athlete agents. In order to register athlete agents prior to the end of the current intercollegiate athletic season, and to comply with the requests from athlete agents for registration which have been re-

ceived by the Division of Occupations and Professions, thereby meeting the threat to the public welfare presented if athlete agents are not regulated during a time in which contact between student athletes and athlete agents is highly likely, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 200 KAR 30:030 will be filed with the Regulations Compiler on February 24, 1999.

PAUL E. PATTON, Governor
NANCY BLACK, Executive Director

FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Directory of Registered Athlete Agents

200 KAR 30:030E. Requirements for Registration.

RELATES TO: KRS 164.682

STATUTORY AUTHORITY: KRS 164.681(4)

EFFECTIVE: February 26, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.681(4) authorizes the division to promulgate such administrative regulations as are needed to implement the provisions of KRS 164.680 to 164.689. This administrative regulation sets forth the minimum requirements for application and registration of athlete agents.

Section 1. An applicant for registration shall submit to the division:

(1) An "Application for Athlete Agent Registration";

(2) A statement, with supporting documentation, the applicant has a surety bond, or malpractice insurance, with coverage for \$100,000, or assigned savings account deposited with or assigned to the division, in the sum of \$100,000;

(a) A copy of the agent contract the athlete agent will use;

(b) The appropriate fee;

(c) A complete financial statement for the current and the previous four (4) years.

Section 2. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) "Application for Athlete Agent Registration (2/99)";

(b) "Bond for Athlete Agents (2/99)".

(2) These forms may be inspected, copied, or obtained between 8 a.m. and 4:30 p.m. at the Division of Occupations and Professions, Berry Hill Mansion, 700 Louisville Road, Frankfort, Kentucky, Monday through Friday.

NANCY L. BLACK, Executive Director
ROBERT S. JONES, Assistant Attorney General
ANGELA C. ROBINSON, Assistant General Counsel
APPROVED BY AGENCY: February 24, 1999
FILED WITH LRC: February 26, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

(1) Type and number of entities affected: All athlete agents, colleges, universities, and student athletes in Kentucky.

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

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

(b) Cost of doing business in the geographical area in which the emergency administrative regulation will be implemented, to the extent available from the public comments received: No public comments received; potential fiscal impact will be minimal.

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

1. First year following implementation: Minimal cost, associated with the cost to produce the applications, and store the records pro-

vided by registrants.

2. Second and subsequent years: See above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The Division of Occupations and Professions will incur start-up cost for personnel necessary to staff the Directory of Registered Athlete Agents.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division of Occupations will incur the expense of providing office space and equipment necessary process and maintain necessary paperwork.

(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: Department funds, to be supplemented by registration and renewal fees after startup.

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

(a) Geographical area in which emergency administrative regulation will be implemented: Implemented statewide, same as below.

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: This was the only alternative possible as required by the wording of the statute and would allow for maximum protection of colleges, universities and student athletes in the Commonwealth.

(8) Assessment of expected benefits: Expected benefits are to ensure that contacts between athlete agents and student athletes in Kentucky are conducted in a manner which will not harm the rights and interests of colleges, universities and student athletes.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: This regulation is required to implement KRS 164.680-689.

(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 regulation applies to all credential holders.

STATEMENT OF EMERGENCY 200 KAR 30:040E

This emergency administrative regulation is necessary to implement KRS 164.680-164.689 which provides for the regulation of athlete agents. In order to register athlete agents prior to the end of the current intercollegiate athletic season, and to comply with the requests from athlete agents for registration which have been received by the Division of Occupations and Professions, thereby meeting the threat to the public welfare presented if athlete agents are not regulated during a time in which contact between student athletes and athlete agents is highly likely, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 200 KAR 30:040 will be filed with the Regulations Compiler on February 24, 1999.

PAUL E. PATTON, Governor
NANCY BLACK, Executive Director

FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Directory of Registered Athlete Agents

200 KAR 30:040E. Fees.

RELATES TO: KRS 164.682

STATUTORY AUTHORITY: KRS 164.681

EFFECTIVE: February 26, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.682 provides for the assessment of fees for the application and registration of registered athlete agents, and other fees deemed appropriate by the division. This administrative regulation establishes those fees.

Section 1. Original License and Renewal Fees and Penalties.

(1) The fee for initial registration with the Kentucky Division of Occupations and Professions as an athlete agent shall be \$300;

(2) Registration renewal fees shall be paid as of March 31 of each year;

(a) The renewal fee for registration as an athlete agent shall be \$100 if paid by March 31;

(b) The late renewal fee during a sixty (60) day grace period after March 31 shall be \$150;

(c) The late renewal fee during a one (1) year period after March 31 shall be \$200;

(3) The division shall cancel any registration not renewed within one (1) year of March 31, and may reinstate the registration, canceled under this provision, only upon satisfaction of all requirements necessary for an initial applicant under 200 KAR 30:020E, plus payment of a reinstatement fee of \$300.

Section 2. Verification of Registration Fee. The fee for a verification of a registration shall be fifteen (15) dollars.

NANCY L. BLACK, Executive Director

ROBERT S. JONES, Assistant Attorney General

ANGELA C. ROBINSON, Assistant General Counsel

APPROVED BY AGENCY: February 24, 1999

FILED WITH LRC: February 26, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

(1) Type and number of entities affected: All athlete agents, Colleges, universities, and student athletes in Kentucky.

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

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

(b) Cost of doing business in the geographical area in which the emergency administrative regulation will be implemented, to the extent available from the public comments received: No public comments received; potential fiscal impact will be minimal.

(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: See above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The fees will allow the directory to generate income to pay for its operation.

2. Continuing costs or savings: See above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division of Occupations will incur the expense of providing office space and equipment necessary to process and maintain paperwork, and manage the revolving account into which fees are placed and from which expenses are to be paid.

(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: Department funds, to be

supplemented by registration and renewal fees after startup.

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

(a) Geographical area in which emergency administrative regulation will be implemented: Implemented statewide, same as below.

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: This was the only alternative possible as required by the wording of the statute and would allow for maximum protection of colleges, universities and student athletes in the Commonwealth.

(8) Assessment of expected benefits: Expected benefits are to ensure the directory has funds necessary to fulfill its statutory mandate.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: This regulation is required to implement KRS 164.680-689.

(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 regulation applies to all credential holders.

STATEMENT OF EMERGENCY 200 KAR 30:050E

This emergency administrative regulation is necessary to implement KRS 164.680-164.689 which provides for the regulation of athlete agents. In order to register athlete agents prior to the end of the current intercollegiate athletic season, and to comply with the requests from athlete agents for registration which have been received by the Division of Occupations and Professions, thereby meeting the threat to the public welfare presented if athlete agents are not regulated during a time in which contact between student athletes and athlete agents is highly likely, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 200 KAR 30:050 will be filed with the Regulations Compiler on February 24, 1999.

PAUL E. PATTON, Governor
NANCY BLACK, Executive Director

FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Directory of Registered Athlete Agents

200 KAR 30:050E. Reinstatement.

RELATES TO: KRS 164.687

STATUTORY AUTHORITY: KRS 164.681(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.687(3) provides for the reinstatement of registered athlete agents by the division. This administrative regulation establishes those reinstatement procedures.

Section 1. Reinstatement Procedures. (1) A person whose registration has been revoked due to disciplinary action taken by the division for a minimum three (3) years, or suspended and the period of suspension has expired, may petition the division for reinstatement.

(2) A copy of the petition shall be sent to the division and the appropriate college, university, secondary school or athletic regulatory body.

(3) The appropriate college, university, secondary school or athletic regulatory body shall respond to a petition for reinstatement within thirty (30) days from the date of receipt.

(4) The division shall consider the petition and response, and may investigate the petition on its own, or in response to objections, if raised.

(5) The division may reinstate the registration upon a factual finding that the athlete agent has complied with the terms prescribed in the order of suspension or revocation, if any, and displays knowledge and ethical character which in the opinion of the division displays an ability to competently act as an athlete agent in conformity with the KRS 164.680 to 164.689 and the administrative regulations promulgated thereunder.

(6) The athlete agent seeking reinstatement may request a hearing with the division within thirty (30) days after an adverse decision issued by the division.

NANCY L. BLACK, Executive Director
ROBERT S. JONES, Assistant Attorney General
ANGELA C. ROBINSON, Assistant General Counsel
APPROVED BY AGENCY: February 24, 1999
FILED WITH LRC: February 26, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

(1) Type and number of entities affected: All athlete agents, colleges, universities, and student athletes in Kentucky.

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

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

(b) Cost of doing business in the geographical area in which the emergency administrative regulation will be implemented, to the extent available from the public comments received: No public comments received; potential fiscal impact will be minimal.

(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: See above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Minimal cost related to recordkeeping.

2. Continuing costs or savings: See above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division of Occupations will incur the expense of providing office space and equipment necessary to process and maintain paperwork.

(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: Department funds, to be supplemented by registration and renewal fees after startup.

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

(a) Geographical area in which emergency administrative regulation will be implemented: Implemented statewide, same as below.

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: This was the only alternative possible as required by the wording of the statute and would allow for maximum protection of colleges, universities and student athletes in the Commonwealth.

(8) Assessment of expected benefits: Expected benefits are to ensure the directory has funds necessary to fulfill its statutory mandate.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect:

None

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

(a) Necessity of proposed regulation if in conflict: This regulation is required to implement KRS 164.680-689.

(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 regulation applies to all credential holders.

STATEMENT OF EMERGENCY
200 KAR 30:060E

This emergency administrative regulation is necessary to implement KRS 164.680-164.689 which provides for the regulation of athlete agents. In order to register athlete agents prior to the end of the current intercollegiate athletic season, and to comply with the requests from athlete agents for registration which have been received by the Division of Occupations and Professions, thereby meeting the threat to the public welfare presented if athlete agents are not regulated during a time in which contact between student athletes and athlete agents is highly likely, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 200 KAR 30:060 will be filed with the Regulations Compiler on February 24, 1999.

PAUL E. PATTON, Governor
NANCY BLACK, Executive Director

FINANCE AND ADMINISTRATION CABINET
Division of Occupations and Professions
Directory of Registered Athlete Agents

200 KAR 30:060E. Annual contact report.

RELATES TO: KRS 164.682(5)

STATUTORY AUTHORITY: KRS 164.681(4)

EFFECTIVE: February 26, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.682(5) provides for athlete agents to file annual contact reports on activities within the Commonwealth. This administrative regulation sets forth the minimum requirements for those reports.

Section 1. Annual Contact Report. An annual contact report shall be filed by March 31 of each year, and shall include:

(1) A list of each student athlete contacted, either directly or otherwise, during the preceding twelve (12) months;

(2) The date of initial contact with each student athlete;

(3) A list of student athletes with whom the athlete agent enters into an oral or written contract or provides in-kind benefits, with an attached copy of the contract, if written;

(4) The date and time the athlete agent entered into each contract or in-kind transaction; and

(5) The date and time written notification was provided to the athletic director or president of the college or university in which the student athlete was enrolled when the athlete agent entered into each contract or provided monetary or in-kind benefits to a student athlete, with an attached copy of the written contract.

NANCY L. BLACK, Executive Director
ROBERT S. JONES, Assistant Attorney General
ANGELA C. ROBINSON, Assistant General Counsel
APPROVED BY AGENCY: February 24, 1999
FILED WITH LRC: February 26, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

(1) Type and number of entities affected: All athlete agents, colleges, universities, and student athletes in Kentucky.

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

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

(b) Cost of doing business in the geographical area in which the emergency administrative regulation will be implemented, to the extent available from the public comments received: No public comments received; potential fiscal impact will be minimal.

(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: See above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Minimal cost related to recordkeeping.

2. Continuing costs or savings: See above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division of Occupations will incur the expense of providing office space and equipment necessary to process and maintain paperwork.

(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: Department funds, to be supplemented by registration and renewal fees after startup.

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

(a) Geographical area in which emergency administrative regulation will be implemented: Implemented statewide, same as below.

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: This was the only alternative possible as required by the wording of the statute and would allow for maximum protection of colleges, universities and student athletes in the Commonwealth.

(8) Assessment of expected benefits: Expected benefits are to ensure the directory can monitor contacts between athlete agents and student athletes.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: This regulation is required to implement KRS 164.680-164.689.

(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 regulation applies to all credential holders.

STATEMENT OF EMERGENCY
200 KAR 30:070E

This emergency administrative regulation is necessary to implement KRS 164.680-164.689 which provides for the regulation of athlete agents. In order to register athlete agents prior to the end of the current intercollegiate athletic season, and to comply with the requests from athlete agents for registration which have been received by the Division of Occupations and Professions, thereby meeting the threat to the public welfare presented if athlete agents are not regulated during a time in which contact between student athletes and athlete agents is highly likely, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 200 KAR 30:070 will be filed with the Regulations Compiler on February 24, 1999.

PAUL E. PATTON, Governor
NANCY BLACK, Executive Director

**FINANCE AND ADMINISTRATION CABINET
Division of Occupations and Professions
Directory of Registered Athlete Agents**

200 KAR 30:070E. Records retention.

RELATES TO: KRS 164.684(2)
STATUTORY AUTHORITY: KRS 164.681(4)
EFFECTIVE: February 26, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.684(2) provides for athlete agents and student athletes to provide to the college or university in which a student athlete is enrolled written notification of an agent contract or the acceptance of in-kind benefits. This administrative regulation sets forth the records retention requirements for colleges and universities receiving this written notification.

Section 1. Colleges and universities which receive written notification a student athlete has entered an agent contract or accepted in-kind benefits from an athlete agent shall record the time and date of receipt of the notification.

Section 2. Colleges and universities which receive written notification a student athlete has entered an agent contract or accepted in-kind benefits from an athlete agent shall maintain the written notification, and the record of time and date of receipt, for a period of five (5) years, and those records shall be subject to inspection by an authorized agent of the division.

NANCY L. BLACK, Executive Director
ROBERT S. JONES, Assistant Attorney General
ANGELA C. ROBINSON, Assistant General Counsel
APPROVED BY AGENCY: February 24, 1999
FILED WITH LRC: February 26, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

(1) Type and number of entities affected: All athlete agents, colleges, universities, and student athletes in Kentucky.

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

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

(b) Cost of doing business in the geographical area in which the emergency administrative regulation will be implemented, to the extent available from the public comments received: No public comments received; potential fiscal impact will be minimal.

(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: See above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Minimal cost related to recordkeeping.

2. Continuing costs or savings: See above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Division of Occupations will incur the expense of providing office space and equipment necessary to process and maintain paperwork.

(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: Department funds, to be supplemented by registration and renewal fees after start-up.

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

(a) Geographical area in which emergency administrative regu-

lation will be implemented: Implemented statewide, same as below.

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: This was the only alternative possible as required by the wording of the statute and would allow for maximum protection of colleges, universities and student athletes in the Commonwealth.

(8) Assessment of expected benefits: Expected benefits are to ensure the directory has the ability to access records filed by athlete agents.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: This regulation is required to implement KRS 164.680-689.

(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 regulation applies to all credential holders.

**STATEMENT OF EMERGENCY
201 KAR 38:010E**

This emergency administrative regulation establishes definitions to be used by the Kentucky State Board of Certification of Fee-based Pastoral Counselors which was created by the General Assembly and whose members were appointed by the Governor in November, 1998. This emergency administrative regulation must be placed into effect immediately in order to avoid an imminent threat to the public health, safety, and welfare, of the citizens of this Commonwealth from the uncredentialed practice of fee-based pastoral counseling. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed simultaneous with this emergency administrative regulation.

PAUL E. PATTON, Governor
NANCY L. BLACK, Director

**FINANCE AND ADMINISTRATION CABINET
Division of Occupations and Professions
Board of Certification of Fee-based Pastoral Counselors**

201 KAR 38:010E. Definitions.

RELATES TO: KRS 335.620

STATUTORY AUTHORITY: KRS 335.615(1)-(4), (6), 335.620

EFFECTIVE: March 4, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.620 sets forth the requirements for certification as a fee-based pastoral counselor. The board is required to review the applications of applicants for certification. In addition to other requirements, KRS 335.620(5)(b) requires applicants to have experience under supervision. This administrative regulation establishes definitions necessary for the evaluation of experience under supervision.

Section 1. Definitions. The following terms relate to the evaluation of applications for certification:

(1) "Approved supervisor" means an individual who:

(a) Holds a diplomate level of certification from the American Association of Pastoral Counselors;

(b) Holds a fellow level of certification from the American Association of Pastoral Counselors and is also under supervision by a diplomate;

(c) Is certified as a fee-based pastoral counselor in the Commonwealth of Kentucky with a minimum of four (4) years of experience in the practice of pastoral counseling; or

(d) Holds licensure or certification in any of the mental health professions of psychiatry, psychology, social work, or family therapy with at least five (5) years of clinical experience and two (2) years of supervisory experience.

(2) "Clinical supervision" means the process of utilizing a partnership aimed at enhancing the professional development of supervisees in providing pastoral counseling services. Clinical supervision shall be equally distributed throughout the qualifying period.

(3) "Equivalent course of study" means a master's, doctoral degree, or accredited training program in pastoral counseling from a regionally accredited institution in a mental health field closely related to pastoral counseling which either contains, or has been supplemented by the coursework in each of the basic core areas listed in Section 2(1)1 of 201 KAR 38:030E.

(4) "The practice of fee-based pastoral counseling" means the practice of fee-based pastoral counseling as defined by KRS 335.605(3).

NANCY L. BLACK, Director

MARK BRENGELMAN, Assistant Attorney General

APPROVED BY AGENCY: February 23, 1999

FILED WITH LRC: March 4, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

(1) Type and number of entities affected: Approximately 100 anticipated applicants for certification as a fee-based pastoral counselor.

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

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

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

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

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: The agency has no alternative methods when it is required by statute to define the terms that it uses.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A

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

(c) If detrimental effect would result, explain detrimental effect: The board would not be able to protect the public by ensuring that only qualified applicants obtained certification and maintained their certification in accord with statute.

(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. This regulation applies to all applicants and credential holders equally.

STATEMENT OF EMERGENCY 201 KAR 38:020E

This emergency administrative regulation establishes application requirements to be used by the Kentucky State Board of Certification of Fee-based Pastoral Counselors which was created by the General Assembly and whose members were appointed by the Governor in November, 1998. This emergency administrative regulation must be placed into effect immediately in order to avoid an imminent threat to the public health, safety, and welfare, of the citizens of this Commonwealth from the uncredentialed practice of fee-based pastoral counseling. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed simultaneous with this emergency administrative regulation.

PAUL E. PATTON, Governor

NANCY L. BLACK, Director

FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Board of Certification of Fee-based Pastoral Counselors

201 KAR 38:020E. Application.

RELATES TO: KRS 335.600

STATUTORY AUTHORITY: KRS 335.615(1)-(4), (6), 335.620

EFFECTIVE: March 4, 1999

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes the application process for certification under KRS 335.615(1)-(4) as a fee-based pastoral counselor.

Section 1. An applicant for certification shall:

(1) Meet the requirements of KRS Chapter 335.620;

(2) Pay by check or money order an initial certification fee as established by 201 KAR 38:040E, Fees, made payable to the Kentucky State Treasurer;

(3) File a completed, signed, and dated application form with the board containing;

(a) Name;

(b) Address;

(c) Home phone;

(d) Work address;

(e) Work phone;

(f) Social Security number;

(g) Date of birth;

(h) Criminal convictions;

(i) Misconduct in other positions;

(j) Credentials by other states;

(k) Membership in professional organizations;

(l) Education;

(m) Experience;

(n) Clinical supervision and verification;

(o) Religious endorsing body endorsement for ministry; and

(p) Affidavit.

Section 2. Incorporation by Reference. (1) Form "Application-1" (February, 1999 edition) Board of Certification of Fee-based Pastoral Counselors, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Board of Certification of Fee-based Pastoral Counselors, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

NANCY L. BLACK, Director

MARK BRENGELMAN, Assistant Attorney General

APPROVED BY AGENCY: February 23, 1999

FILED WITH LRC: March 4, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

(1) Type and number of entities affected: Approximately 100 anticipated applicants for certification as a fee-based pastoral counselor.

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

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

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

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

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: The agency has no alternative methods when it is required by statute to set forth an application process by which applicants can become credentialed by the board.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A

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

(c) If detrimental effect would result, explain detrimental effect: The board would not be able to protect the public by ensuring that only qualified applicants obtained certification and maintained their certification in accord with statute.

(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. This regulation applies to all applicants and credential holders equally.

STATEMENT OF EMERGENCY

201 KAR 38:030E

This emergency administrative regulation establishes the equivalent course of study to be used by the Kentucky State Board of Certification of Fee-based Pastoral Counselors which was created by the General Assembly and whose members were appointed by the Governor in November, 1998. This emergency administrative regulation must be placed into effect immediately in order to avoid an imminent threat to the public health, safety, and welfare, of the citizens of this Commonwealth from the uncredentialed practice of fee-based pastoral counseling. This emergency administrative

regulation shall be replaced by an ordinary administrative regulation which will be filed simultaneous with this emergency administrative regulation.

PAUL E. PATTON, Governor

NANCY L. BLACK, Director

FINANCE AND ADMINISTRATION CABINET

Division of Occupations and Professions

Board of Certification of Fee-based Pastoral Counselors

201 KAR 38:030E. Equivalent course of study.

RELATES TO: KRS 335.620(4)-(7)

STATUTORY AUTHORITY: KRS 335.615(1)-(4), (6), 335.620(4)-(7)

EFFECTIVE: March 4, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.620(7) provides that the board shall approve a course of study equivalent to a master of divinity degree plus an additional minimum of one (1) year of academic training relative to pastoral counseling and promulgate the equivalency standard by administrative regulations. This administrative regulation defines the criteria for the equivalent course of study.

Section 1. Clinical Membership at the fellow level in the American Association for Pastoral Counselors shall be deemed that the applicant has met both the educational and experiential requirements for certification as set forth in KRS 335.620(4)-(7).

Section 2. The basic core areas which are necessary in order to qualify as an equivalent course of study, shall include the completion of a minimum of fifty-eight (58) semester hours of work which may include or extend beyond the one (1) professional degree in theological/spiritual discipline or mental health discipline. This work may include unlimited hours from American Association of Pastoral Counselors approved Training Programs in Pastoral Counseling (with fifteen (15) contact hours equaling one (1) semester hour) or other educational institutional programs which meet requirements stipulated by the American Association of Pastoral Counselors, Certification Committee, or the Institutional Accreditation Committee. These hours shall be distributed as follows:

(1) Religious foundations. This area shall include up to twenty-seven (27) semester hours, including the following areas:

- (a) Scripture;
- (b) Theology;
- (c) Religious history;
- (d) Theological and social ethics;
- (e) Spirituality; and
- (f) World religions.

(2) Core clinical theory. This area shall include up to twenty-four (24) semester hours, including at least three (3) semester hours in each of the following:

- (a) Counseling and psychotherapy techniques;
- (b) Group dynamics and techniques; and
- (c) Marriage and family systems theories and techniques.

Up to fifteen (15) semester hours must be taken from the following areas:

- (d) Professional identity function and ethics;
 - (e) Theories of counseling and psychotherapy;
 - (f) Theories of human behavior, learning, personality development;
 - (g) Career development;
 - (h) Appraisal, evaluation, and diagnostic procedures (to make a current diagnosis); and
 - (i) Abnormal behavior.
- (3) Pastoral counseling theory. This area shall include up to twelve (12) semester hours distributed among the following:
- (a) Basic pastoral care (crisis intervention, grief counseling, hospital ministry);
 - (b) History of pastoral care and counseling;
 - (c) Psychology of religion;
 - (d) Faith development;

- (e) Pastoral theology;
- (f) Theology of psychotherapy;
- (g) Spiritual formation; and
- (h) Clinical pastoral education.
- (4) Specialized technical studies. This area shall include up to fifteen (15) semester hours including at least two (2), but not more than three (3) of the following areas:
 - (a) Psychodynamic psychotherapies;
 - (b) Marriage and family therapy;
 - (c) Humanistic psychotherapy;
 - (d) Jungian analytic psychotherapy;
 - (e) Cognitive therapy;
 - (f) Behavior therapy;
 - (g) Brief therapy; or
 - (h) Group therapy.
- (5) A practicum, internship, or residency may be included in addition to academic courses not to exceed more than ten (10) hours.

NANCY L. BLACK, Director

MARK BRENGELMAN, Assistant Attorney General

APPROVED BY AGENCY: February 23, 1999

FILED WITH LRC: March 4, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

- (1) Type and number of entities affected: Approximately 100 anticipated applicants for certification as a fee-based pastoral counselor.
- (2) Direct and indirect costs or savings on the:
 - (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
 - 1. First year following implementation: N/A
 - 2. Second and subsequent years: N/A
- (3) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings: None
 - 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: The agency has no alternative methods when it is required by statute to define the equivalent course of study necessary for applicants to obtain certification.
- (8) Assessment of expected benefits:
 - (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A
 - (b) State whether a detrimental effect on environment and public health would result if not implemented: Yes
 - (c) If detrimental effect would result, explain detrimental effect: The board would not be able to protect the public by ensuring that only qualified applicants obtained certification and maintained their certification in accord with statute.
- (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. This regulation applies to all applicants and credential holders equally.

STATEMENT OF EMERGENCY 201 KAR 38:040E

This emergency administrative regulation establishes the travel expenses of board members to be used by the Kentucky State Board of Certification of Fee-based Pastoral Counselors which was created by the General Assembly and whose members were appointed by the Governor in November, 1998. This emergency administrative regulation must be placed into effect immediately in order to avoid an imminent threat to the public health, safety, and welfare, of the citizens of this Commonwealth from the uncredentialed practice of fee-based pastoral counseling. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed simultaneous with this emergency regulation.

PAUL E. PATTON, Governor
NANCY L. BLACK, Director

FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Board of Certification of Fee-based Pastoral Counselors

201 KAR 38:040E. Fees.

RELATES TO: KRS 335.620(1)

STATUTORY AUTHORITY: KRS 335.615(6), 335.620(1)

EFFECTIVE: March 4, 1999

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes the initial fee for certification that KRS 335.620(1) authorizes the board to establish by administrative regulation.

Section 1. Initial Certification Fee. (1) The initial fee for certification as a fee-based pastoral counselor shall be \$400.

(2) If an application for certification is denied, the board shall refund \$250 of the initial certification fee.

NANCY L. BLACK, Director

MARK BRENGELMAN, Assistant Attorney General

APPROVED BY AGENCY: February 23, 1999

FILED WITH LRC: March 4, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

- (1) Type and number of entities affected: Approximately 100 anticipated applicants for certification as a fee-based pastoral counselor.
- (2) Direct and indirect costs or savings on the:
 - (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
 - (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
 - 1. First year following implementation: N/A
 - 2. Second and subsequent years: N/A
- (3) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings: None
 - 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: The agency has no alternative methods when it is required by statute to set fees for the application for certification and initial certification period by the board.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A

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

(c) If detrimental effect would result, explain detrimental effect: The board would not be able to protect the public by ensuring that only qualified applicants obtained certification and maintained their certification in accord with statute.

(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. This regulation applies to all applicants and credential holders equally.

STATEMENT OF EMERGENCY 201 KAR 38:050E

This emergency administrative regulation establishes the travel expenses of board members to be used by the Kentucky State Board of Certification of Fee-based Pastoral Counselors which was created by the General Assembly and whose members were appointed by the Governor in November, 1998. This emergency administrative regulation must be placed into effect immediately in order to avoid an imminent threat to the public health, safety, and welfare, of the citizens of this Commonwealth from the uncredentialed practice of fee-based pastoral counseling. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed simultaneous with this emergency administrative regulation.

PAUL E. PATTON, Governor
NANCY L. BLACK, Director

FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Board of Certification of Fee-based Pastoral Counselors

201 KAR 38:050E. Travel expenses of board members.

RELATES TO: KRS 335.615(6)

STATUTORY AUTHORITY: KRS 12.070(5), 335.615(2)

EFFECTIVE: March 4, 1999

NECESSITY, FUNCTION, AND CONFORMITY: Board members are required to function by a variety of tasks in fulfilling their duties. This administrative regulation outlines the actual and necessary expenses that members will receive when required to represent the board or attend its meetings.

Section 1. Each member of the board shall be entitled to receive reimbursement for travel in accord with 201 KAR 2:006 as deemed

to be a state employee for attending each meeting of the board, proctoring licensure examinations, or otherwise representing the board.

NANCY L. BLACK, Director

MARK BRENGELMAN, Assistant Attorney General

APPROVED BY AGENCY: February 23, 1999

FILED WITH LRC: March 4, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

(1) Type and number of entities affected: Five individuals who serve as members of the Board of Certification of Fee-based Pastoral Counselors.

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

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

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

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The board will be required to pay its members for travel expenses, lodging, and meals in accord with administrative regulation as authorized by statute when conducting business as a board member.

1. First year: Approximately \$1,500

2. Continuing costs or savings: Approximately \$1,500

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Board members will have to complete a travel voucher for submission for payment of travel expenses.

(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: The agency has no alternative methods when the authorizing statute does not define what are actual and necessary expenses.

8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 12.070(5).

(a) Necessity of proposed regulation if in conflict: KRS 12.070(5) is not in conflict because this emergency regulation only defines what are necessary and actual expenses.

(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. This regulation applies to all board members equally.

STATEMENT OF EMERGENCY
201 KAR 38:060E

This emergency administrative regulation establishes the code of ethics to be used by the Kentucky State Board of Certification of Fee-based Pastoral Counselors which was created by the General Assembly and whose members were appointed by the Governor in November, 1998. This emergency administrative regulation must be placed into effect immediately in order to avoid an imminent threat to the public health, safety, and welfare, of the citizens of this Commonwealth from the uncredentialed practice of fee-based pastoral counseling. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed simultaneous with this emergency administrative regulation.

PAUL E. PATTON, Governor
NANCY L. BLACK, Director

FINANCE AND ADMINISTRATION CABINET
Division of Occupations and Professions
Board of Certification of Fee-based Pastoral Counselors

201 KAR 38:060E. Code of ethics.

RELATES TO: KRS 335.615(5)

STATUTORY AUTHORITY: KRS 335.615(5), (6)

EFFECTIVE: March 4, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.615(5) requires the board to promulgate a code of ethics for certified fee-based pastoral counselors. This administrative regulation establishes the required code of ethics.

Section 1. Definitions. "Client" shall be a person who receives a counseling, psychotherapeutic, or other professional service from a fee-based pastoral counselor. A client shall be deemed to continue to be a client for a period of two (2) years following the last date of service rendered to that client.

Section 2. Responsibility to Clients. (1) A fee-based pastoral counselor shall:

- (a) Advance and protect the welfare of his client;
- (b) Respect the rights of persons seeking his assistance; and
- (c) Make reasonable efforts to ensure that his services are used appropriately.

(2) A fee-based pastoral counselor shall not:

- (a) Discriminate against or refuse professional service to anyone on the basis of race, gender, religion, national origin, or sexual orientations

- (b) Exploit the trust and dependency of a client;

- (c) Engage in a dual relationship with a client, including a social, business, or personal relationship, that may:

- 1. Impair professional judgment;
- 2. Incur a risk of exploitation of the client; or
- 3. Otherwise violate a provision of this administrative regulation.

If a dual relationship cannot be avoided, and does not impair professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, a pastoral counselor shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation of the client does not occur.

- (d) Engage in a sexual relationship with a current client or with a former client for two (2) years following the termination of pastoral counseling;

- (e) Use his professional relationship with a client to further his own interests;

- (f) Continue pastoral counseling relationships unless it is reasonably clear that the client is benefiting from the relationship;

- (g) Fail to assist a person in obtaining other pastoral counseling services if the pastoral counselor is unable or unwilling, for appropriate reasons, to provide professional help;

- (h) Abandon or neglect a client in treatment without making reasonable arrangements for the continuation of treatment;

- (i) Videotape, record, or permit third-party observation of pas-

toral counseling sessions without having first obtained written informed consent from the client;

- (j) Engage in sexual or other harassment or exploitation of a client, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in investigations and disciplinary investigations or proceedings by the board; or

- (k) Diagnose, treat, or advise on problems outside the recognized boundaries of his competence.

Section 3. Confidentiality. (1) A fee-based pastoral counselor shall respect and guard the confidences of each individual client.

(2) Fee-based pastoral counselors shall not disclose a client confidence except:

- (a) As mandated, or permitted by law;

- (b) To prevent a clear and immediate danger to a person;

- (c) If the pastoral counselor is a defendant in a civil, criminal, or disciplinary action arising from the pastoral counseling, confidences may be disclosed only in the course of that action; or

- (d) If a waiver has been obtained in writing, confidential information shall be revealed only in accordance with the terms of the waiver. If more than one (1) person in a family receives pastoral counseling, unless a waiver is executed by each family member receiving pastoral counseling, who is legally competent to execute a waiver, a pastoral counselor shall not disclose information received from any family member.

(2) A pastoral counselor may use client or clinical materials in teaching, writing, and public presentations if:

- (a) A written waiver has been obtained in accordance with paragraph (d) of this subsection; or

- (b) Appropriate steps have been taken to protect client identity and confidentiality.

- (3) A pastoral counselor shall store or dispose of client records so as to maintain confidentiality.

Section 4. Responsibility to a Student or Supervisee. (1) A fee-based pastoral counselor shall not exploit the trust and dependency of a student or supervisee.

(2) A fee-based pastoral counselor shall:

- (a) Be aware of his influential position with respect to a student or supervisee; and

- (b) Avoid exploiting the trust and dependency of these persons.

1. A pastoral counselor shall make every effort to avoid a dual relationship, including a social, business, or personal relationship, with a student or supervisee that may impair professional judgment or increase the risk of exploitation.

2. If a dual relationship cannot be avoided, a pastoral counselor shall take appropriate professional precautions to ensure judgment is not impaired and no exploitation occurs.

3. A pastoral counselor shall not provide pastoral counseling to a student, employee or supervisee.

4. A pastoral counselor shall not engage in sexual intimacy or contact with a student or supervisee.

(3) A pastoral counselor shall not permit a student or supervisee to perform or to hold himself out as competent to perform professional services beyond his level of training, experience, and competence.

(4) A pastoral counselor shall not disclose a student's or supervisee's confidence except:

- (a) As mandated, or permitted by law;

- (b) To prevent a clear and immediate danger to a person or persons;

- (c) If the pastoral counselor is a defendant in a civil, criminal, or disciplinary action arising from the supervision, the student's or supervisee's confidence may be disclosed only in the course of that action;

- (d) In educational or training settings if there are multiple supervisors, to other professional colleagues who share responsibility for the training of the supervisee; or

- (e) If there is a waiver previously obtained in writing, information shall be revealed only in accordance with the terms of the waiver.

Section 5. Financial Arrangements. (1) A pastoral counselor shall make financial arrangements with a client, third-party payor, or

supervisee that are reasonably understandable and conform to accepted professional practices.

- (2) A pastoral counselor shall:
 - (a) Not offer or accept payment for referrals;
 - (b) Not charge excessive fees for services;
 - (c) Disclose his fees to clients and supervisees at the beginning of services; or
 - (d) Represent facts truthfully to clients, third-party payors, and supervisees regarding services rendered.

Section 6. Advertising. A fee-based pastoral counselor shall:

- (1) Accurately represent his education, training, and experience relevant to his practice of pastoral counseling;
- (2) Not use professional identification, including a business card, office sign, letterhead, or telephone or association directory listing if it includes a statement or claim that is false, fraudulent, misleading, or deceptive.
- (3) A statement shall be false, fraudulent, misleading, or deceptive if it:
 - (a) Contains a material misrepresentation of fact;
 - (b) Fails to state any material fact necessary to make the statement, in light of all circumstances, not misleading; or
 - (c) is intended to or is likely to create an unjustified expectation.

Section 7. Professional Competence and Integrity. A pastoral counselor shall maintain standards of professional competence and integrity and shall be subject to disciplinary action as provided in KRS 335.635:

- (1)(a) Conviction of a felony, or a misdemeanor involving moral turpitude, or a misdemeanor related to his practice as a pastoral counselor.
- (b) Conviction shall include conviction based on:
 1. A plea of no contest or an "Alford Plea"; or
 2. The suspension or deferral of a sentence or conditional discharge.
- (2) If his license or certificate to practice a health profession issued by another state's regulatory agency has been disciplined, or had a license or certificate to practice denied, by that state's regulatory agency;
- (3) If his license or certificate to practice a health profession issued by another Kentucky regulatory agency has been disciplined or had a license or certificate to practice denied, by that Kentucky regulatory agency;
- (4) Upon a showing of impairment due to mental or physical incapacity or the abuse of alcohol or other substances which may negatively impact the practice of pastoral counseling;
- (5) If he misrepresented or concealed a material fact in obtaining a certificate or seeking reinstatement of a certificate, or seeking renewal of a certificate;
- (6) If he has refused to comply with an order issued by the board; or
- (7) He has failed to cooperate with the board by not:
 - (a) Furnishing in writing a complete explanation to an initiating complaint filed with the board;
 - (b) Appearing before the board or designated representatives of the board at the time and place designated;
 - (c) Properly responding to subpoenas issued by the board; or
 - (8) Violated any statutory or regulatory section of KRS Chapter 335.

NANCY L. BLACK, Director

MARK BRENGELMAN, Assistant Attorney General

APPROVED BY AGENCY: February 23, 1999

FILED WITH LRC: March 4, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact person: Nancy L. Black

- (1) Type and number of entities affected: Approximately 100 anticipated applicants for certification as a fee-based pastoral counselor.
- (2) Direct and indirect costs or savings on the:
 - (a) Cost of living and employment in the geographical area in

which the administrative regulation will be implemented, to the extent available from the public comments received: None

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

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(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: None

(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: The agency has no alternative methods when the authorizing statute requires the board to promulgate a code of ethics.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A

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

(c) If detrimental effect would result, explain detrimental effect: The board would not be able to protect the public by ensuring that only qualified applicants obtained certification and maintained their certification in accord with statute.

(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. This regulation applies to all applicants equally.

STATEMENT OF EMERGENCY 806 KAR 17:066E

This emergency administrative regulation amends 806 KAR 17:066, Medicare supplement insurance policies, to conform to the federal requirements regarding Medicare supplement insurance policies. In particular, this emergency administrative regulation incorporates specific provisions into 806 KAR 17:066 regarding the high deductible Medicare supplement Plans F and J. In addition, this emergency administrative regulation addresses guaranteed issuance of Medicare supplement policies to eligible persons and the new Medicare+Choice Program. This emergency administrative regulation is necessary to address changes made by the federal government to the Social Security Act and the Medicare Program. This emergency administrative regulation will make guarantee issuance of Medicare supplement policies immediately available to eligible persons in the state of Kentucky. In addition, this emergency administrative regulation will permit insurers to immediately offer the new Plans F and J and make those plans available to the consumers of this state. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor

H. REDMON LAIR, Deputy Secretary

**PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance**

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

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

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

EFFECTIVE: March 12, 1999

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

Section 1. Definitions. (1) "Applicant" means:

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

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

(2) "Bankruptcy" means when a Medicare+Choice organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in this state.

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

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

(5) "Commissioner" is defined by KRS 304.1-050(1). ~~[means the Commissioner of the Kentucky Department of Insurance.]~~

(6) "Continuous period of creditable coverage" means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than sixty-three (63) days.

(7)(a) "Creditable coverage" means, with respect to an individual, coverage of the individual provided under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act;

4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;

5. Chapter 55 of Title 10 United States Code;

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefits risk pool;

8. A health plan offered under chapter 89 of Title 5 United States Code;

9. A public health plan as defined in federal regulation; and

10. A health benefit plan under Section 5(e) of the Peace Corps Act (22 United States Code 2504(e)).

(b) Creditable coverage shall not include one (1) or more, or any combination of, the following:

1. Coverage only for accident and disability income insurance, or any combination thereof;

2. Coverage issued as a supplement to liability insurance;

3. Liability insurance, including general liability insurance and automobile liability insurance;

4. Workers' compensation or similar insurance;

5. Automobile medical payment insurance;

6. Credit-only insurance;

7. Coverage for on-site medical clinics; and

8. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

(c) Creditable coverage shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:

1. Limited scope dental or vision benefits;

2. Benefits for long-term care, nursing home health care, home health care, community-based care, or any combination thereof; and

3. Such other similar, limited benefits as are specified in federal regulations.

(d) Creditable coverage shall not include the following benefits if offered as independent, noncoordinated benefits:

1. Coverage only for a specified disease or illness; and

2. Hospital indemnity or other fixed indemnity insurance.

(e) Creditable coverage shall not include the following if it is offered as a separate policy, certificate or contract of insurance:

1. Medicare supplement health insurance benefits as defined under section 1882(g)(1) of the Social Security Act;

2. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

3. Similar supplemental coverage provided to coverage under a group health plan.

(8) "Employee welfare benefit plan" means a plan, fund or program of employee benefits as defined in 29 USC Section 1002, Employee Retirement Income Security Act.

(9) "Insolvency" means when an insurer, licensed to transact the business of insurance in this state, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile.

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

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

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

(13) "Medicare+Choice plan" means a plan of coverage for health benefits under Medicare Part C as defined in Section 1859 found in Title IV, Subtitle A, Chapter 1 of PL 105-33, and includes the following:

(a) A coordinated care plan which provide health care services, including the following:

1. A health maintenance organization plan with or without a point-of-service option;

2. A plan offered by a provider-sponsored organization; and

3. A preferred provider organization plan;

(b) A medical savings account plan coupled with a contribution into a Medicare+Choice medical savings account; and

(c) A Medicare+Choice private fee-for-service plan.

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

(15) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

(16) "Secretary" means the Secretary of the United States Department of Health and Human Services.

Section 2. Purpose, Applicability, and Scope. (1) The purpose of this administrative regulation is to provide for the reasonable stan-

standardization of coverage [coverages] and simplification of terms and benefits of Medicare supplement policies, to facilitate public understanding and comparison of such policies, to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or in connection with the settlement of claims, and to provide for full disclosure in the sale of health insurance coverage [coverages] to persons eligible for Medicare.

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

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

(b) A certificate [All-certificates] issued under a group Medicare supplement policy [policies], which a certificate has [certificates have] been delivered or issued for delivery in this state.

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

Section 3. Policy Definitions and Terms. A policy or certificate shall not be advertised, solicited, or issued for delivery in Kentucky as a Medicare supplement policy or certificate unless the policy or certificate contains terms or definitions which conform to those in this section.

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

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

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

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

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

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

(a) These expenses shall not include:

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

(5) "Hospital" may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but shall not be defined more restrictively than as defined in the Medicare program.

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

(7) "Medicare eligible expenses" shall mean expenses of the kinds

covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

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

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

Section 4. Policy Provisions. (1) Except for permitted preexisting condition clauses as described in Sections 5(1)(a) and 6(1)(a) of this administrative regulation, a policy or certificate shall not be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

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

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

(4) A Medicare supplement insurance policy in force in this state shall not contain benefits that [which] duplicate benefits provided by Medicare.

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

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

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

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

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

(d) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement policy shall not:

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

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

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

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

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

b. An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as de-

fined in Section 6(2) of this administrative regulation.

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

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

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

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

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

(3) Minimum benefit standards.

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

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

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

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

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

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

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

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

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

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

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

(c) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost-sharing amounts under Medicare shall be changed automatically to coincide with any changes in the applica-

ble Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

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

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

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

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

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

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

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

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

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

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

(g) 1. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of such policy or certificate within ninety (90) days after the date the individual becomes entitled to such assistance.

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

3. Reinstitution of coverages:

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

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

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

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

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

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

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

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

(e) Coverage for the coinsurance amount; or in the case of hospital outpatient department services under a prospective system, the copayment amount; of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Mammogram;

c. Dipstick urinalysis for hematuria, bacteriuria and proteinuria;

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

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

f. Thyroid function test; or

g. Diabetes screening.

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

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

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

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

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

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

b. "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

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

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

2. Coverage requirements and limitations:

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

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

c. Coverage is limited to:

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

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

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

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

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

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

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

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

3. Coverage is excluded for:

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

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

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

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

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

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

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

(5) Make-up of benefit plans:

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

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

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

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

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

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

(g) Standardized Medicare supplement benefit high deductible Plan "F" shall include only the following: 100 percent of covered expenses following the payment of the annual high deductible Plan "F" deductible. The covered expenses shall include the core benefit as defined in Section 6(2) of this administrative regulation in addition to the following:

1. Medicare Part A deductible;
2. Skilled nursing facility care;
3. The Medicare Part B deductible;
4. 100 percent of the Medicare Part B excess charges; and
5. Medically necessary emergency care in a foreign country as defined in Section 6(3)(a), (b), (c), (e), and (h) of this administrative regulation, respectively.

The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible Plan "F" deductible shall be \$1500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter

by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year, and rounded to the nearest multiple of ten (10) dollars.

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

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

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

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

(l) Standardized Medicare supplement benefit high deductible Plan "J" shall consist of 100 percent of covered expenses following the payment of the annual high deductible Plan "J" deductible. The covered expenses include the core benefit as defined in Section 6(2) of this administrative regulation in addition to the following:

1. The Medicare Part A deductible;
2. Skilled nursing facility care;
3. Medicare Part B deductible;
4. Medicare Part B excess charges;
5. Extended outpatient prescription drug benefit;
6. Medically necessary emergency care in a foreign country;
7. Preventive medical care benefit; and
8. At-home recovery benefit as defined in Section 6(3)(a), (b), (c), (e), (g), (h), (i) and (j) of this administrative regulation, respectively.

The annual high deductible Plan "J" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by Medicare supplement Plan "J" policy, and shall be \$1500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12) month period ending with August of the preceding year, and rounded to the nearest multiple of ten (10) dollars.

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

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

(2) For the purpose of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. To make appropriate referrals.

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

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

5. In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare select policy or certificate. This paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare select policy or certificate.

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

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

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

1. The formal organizational structure;

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

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

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

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

(g) Any other information requested by the commissioner.

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

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

(7) A Medicare select policy or certificate shall not restrict payment

for covered services provided by nonnetwork providers if:

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

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

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

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

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

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

2. Other Medicare select policies or certificates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) A Medicare select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare select program.

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

(2)(a) If an applicant qualifies under and submits an application during the time period referenced in subsection (1) of this section and, as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the issuer shall not exclude benefits based on a preexisting condition.

(b) If the applicant qualifies under subsection (2)(a) of this section and submits an application during the time period referenced in subsection (1) of this section and, as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The secretary shall specify the manner of the reduction under this subsection.

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

Section 10. Guarantee Issue for Eligible Persons. (1) Guarantee issue.

(a) Eligible persons shall be those individuals described in subsection (2) of this section who apply to enroll under the policy not later than sixty-three (63) days after the date of termination of enrollment described in subsection (2) of this section, and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

(b) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in subsection (3) of this section that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

(2) An eligible person shall include the following:

(a) An individual that is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual;

(b) An individual that is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under part C of Medicare, and any of the following circumstances apply:

1. The organization's or plan's certification has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

2. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856), or the plan is terminated for all individuals within a residence area;

3. The individual demonstrates, in accordance with the guidelines established by the secretary, that:

a. The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards;

b. The organization, or agent or other entity acting on the organizations behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

c. The individual meets such other exceptional conditions as the secretary may provide.

(c)1. An individual that is enrolled with any of the following:

a. An eligible organization under a contract under section 1876 regarding Medicare risk or cost;

b. A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

c. An organization under an agreement under section 1833(a)(1)(A) regarding the health care prepayment plan; or

d. An organization under a Medicare select policy; and

2. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage pursuant to paragraph (b) of this subsection.

(d) An individual that is enrolled under a Medicare supplement policy and the enrollment ceases due to any of the following reasons:

1.a. The insolvency of the issuer or bankruptcy of the nonissuer organization; or

b. The involuntary termination of coverage or enrollment under the policy;

2. The issuer of the policy substantially violated a material provision of the policy; or

3. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in market-

ing the policy to the individual;

(e)1. An individual that was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any of the following:

a. A Medicare+Choice organization under a Medicare+Choice plan under part C of Medicare;

b. An eligible organization under a contract under section 1876 regarding Medicare risk or cost;

c. Any similar organization operating under demonstration project authority;

d. Any organization under agreement under section 1833(a)(1)(A) regarding health care prepayment plan; or

e. A Medicare Select policy; and

2. The subsequent enrollment under paragraph (a) of this subsection is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment during which the enrollee is permitted to terminate such subsequent enrollment under section 1851(e) of the federal Social Security Act; or

(f) The individual, upon first becoming eligible for benefits under Part A of Medicare at age sixty-five (65), enrolls in a Medicare+Choice plan under Part C of Medicare, and disenrolls from the plan by not later than twelve (12) months after the effective date of enrollment.

(3) The Medicare supplement policy to which eligible persons are entitled shall be the following:

(a) Subsection (2)(a), (b), (c), and (d) of this section that is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by an issuer.

(b) Subsection (2)(e) of this section that is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in subsection (2)(a) of this section.

(c) Subsection (2)(f) of this section which shall include any Medicare supplement policy offered by any issuer.

(4) Notification provisions.

(a) At the time of an event as described in subsection (2) of this section because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under subsection (1) of this section. Such notice shall be communicated contemporaneously with the notification of termination.

(b) At the time of an event as described in subsection (2) of this section because of which an individual ceases enrollment under a contract, agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under subsection (1) of this section. Such notice shall be communicated within ten (10) working days of the issuer receiving notification of enrollment.

Section 11. Standards for Claims Payment. (1) An issuer shall comply with section 1882(c)(3) of the Social Security Act (as enacted by section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987, PL No. 100-203) (42 USC 1395ss) by:

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

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

(c) Paying the participating physician or supplier directly;

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

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

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

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

Section 12. [44:] Loss Ratio Standards and Refund or Credit of Premium. (1) Loss ratio standards.

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

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

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

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

(b) A filing [All filings] of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

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

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

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

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

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

(2) Refund or credit calculation.

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

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

(c) For the purposes of this section, policies or certificates issued prior to October 14, 1990, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after this amendment to the administrative regulation is adopted and effective pursuant to KRS Chapter 13A. The first report containing the information found in this paragraph shall be due May 31, 1998.

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

notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

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

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

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

2. An issuer shall make premium adjustments as are necessary to produce an expected loss ratio under the policies and certificates as will conform to the minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for Medicare supplement policies or certificates. A premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described in this subsection shall not be made with respect to a policy at any time other than upon its renewal date or anniversary date.

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

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

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

Section 13. [12:] Filing and Approval of Policies and Certificates and Premium Rates. (1) An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the commissioner in accordance with filing requirements and procedures prescribed by the commissioner.

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

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

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

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

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

(4)(a) Except as provided in subparagraph 1 of this paragraph, an issuer shall continue to make available for purchase any policy form or certificate form issued after January 1, 1992, that has been approved by the commissioner. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months.

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

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

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

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

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

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

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

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

Section 14. [13:] Permitted Compensation Arrangements. (1) An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

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

(3) An issuer or other entity shall not provide compensation to its agents or other producers and an agent or producer shall not receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced.

(4) For purposes of this section, "compensation" includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, bo-

nuses, gifts, prizes, awards, and finders' fees.

Section 15. [14:] Required Disclosure Provisions. (1) General rules.

(a) Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of such provision shall be consistent with the type of insurance policy issued. The provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases on the insured's age.

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

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

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

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

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

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

(2) Notice requirements.

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

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

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

(b) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

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

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

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

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

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

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

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

(COMPANY NAME)

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

Medicare supplement insurance can be sold in only ten standard plans and two (2) high deductible plans. This chart shows the benefits included in each plan. Every company must make available Plan "A". Some plans may not be available in your state.

BASIC BENEFITS: Included in all plans.

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

Medical expenses: Part B coinsurance (20% of Medicare-approved expenses), or, in the case of hospital outpatient department services under a prospective payment system, applicable copayments.

Blood: First three pints of blood each year.

A	B	C	D	E	F*	G	H	I	J*
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits

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		Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance	Skilled Nursing Coinsur- ance
	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble	Part A Deducti- ble
		Part B Deducti- ble			Part B Deducti- ble				Part B Deducti- ble
					Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)
		Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency	Foreign Travel Emer- gency
			At-home Recovery			At-home Recovery		At-home Recovery	At-home Recovery
							Basic Drugs (\$1,250 Limit)	Basic Drugs (\$1,250 Limit)	Extended Drugs (\$3,000 Limit)
				Prevent- ive Care					Prevent- ive Care

Plans F and J also have an option called a high deductible Plan F and a high deductible Plan J. These high deductible plans pay the same or offer the same benefits as Plans F and J after one has paid a calendar year \$1500 deductible. Benefits from high deductible Plans F and J will not begin until out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but does not include, in Plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plan's separate foreign travel emergency deductible.

1. PREMIUM INFORMATION (Boldface Type)

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

2. DISCLOSURES (Boldface Type)

Use this outline to compare benefits and premiums among policies.

3. [2-] READ YOUR POLICY VERY CAREFULLY (Boldface Type)

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

4. [3-] RIGHT TO RETURN POLICY (Boldface Type)

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

5. [4-] POLICY REPLACEMENT (Boldface Type)

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

6. [5-] NOTICE (Boldface Type)

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

a. (for agents)

Neither (insert insurer's name) nor its agents are connected with Medicare.

b. (for direct response insurers:)

(insert insurer's name) is not connected with Medicare.

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

7. [6-] COMPLETE ANSWERS ARE VERY IMPORTANT (Boldface Type)

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

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

(Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments, and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. More than

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four (4) plans shall not be shown on one (1) chart. For purposes of illustration, charts for each plan are included in this administrative regulation. An issuer may use additional benefit plan designations on these charts pursuant to Section 7(4) of this administrative regulation.)
(Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.)

PLAN A			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [746]	\$0	\$764 [746] (Part A deductible)
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95.50 [89.50] a day	\$0	Up to \$95.50 [89.50] a day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance
PLAN A			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	Generally 80%	Generally 20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B			
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN B			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			

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	First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
	61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
	91st day and after:			
	While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
	Once lifetime reserve days are used:			
	- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
	- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*				
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital				
	First 20 days	All approved amount	\$0	\$0
	21st thru 100th day	All but \$95.50 [89.50] a day	\$0	Up to \$95.50 [89.50] a day
	101st day and after	\$0	\$0	All costs
BLOOD				
	First 3 pints	\$0	3 pints	\$0
	Additional amounts	100%	\$0	\$0
HOSPICE CARE				
	Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN B				
MEDICARE (PART A) - MEDICAL SERVICES - PER CALENDAR YEAR				
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES: IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,				
	First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	generally 80%	Generally 20%	\$0
	Part B excess charges (above Medicare-approved amounts)	\$0	\$0	All costs
BLOOD				
	First 3 pints	\$0	All costs	\$0
	Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	80%	20%	\$0
	CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES	\$100	\$0	\$0
PARTS A & B				
HOME HEALTH CARE MEDICARE APPROVED SERVICES				
	Medically necessary skilled care services and medical supplies	100%	\$0	\$0
	Durable medical equipment			
	First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN C				
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD				
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*				
Semiprivate room and board, general nursing and miscellaneous services and supplies				
	First 60 days	All but \$764 [716]	\$765 [716] (Part A deductible)	\$0
	61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
	91st day and after:			
	While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
	Once lifetime reserve days are used:			
	- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
	- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*				
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital				

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	First 20 days	All approved amounts	\$0	\$0
	21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
	101st day and after	\$0	\$0	All costs
BLOOD				
	First 3 pints	\$0	3 pints	\$0
	Additional amounts	100%	\$0	\$0
HOSPICE CARE				
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.		All but very limited coinsurance for out patient drugs and inpatient respite care	\$0	Balance
PLAN C				
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR				
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.				
SERVICES		MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,				
	First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
	Remainder of Medicare-approved amounts	generally 80%	generally 20%	\$0
	Part B excess charges (above Medicare approved amounts)	\$0	\$0	All costs
BLOOD				
	First 3 pints	\$0	All costs	\$0
	Next \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
	Remainder of Medicare-approved amounts	80%	20%	\$0
	CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B				
HOME HEALTH CARE MEDICARE APPROVED SERVICES				
	Medically necessary skilled care services and medical supplies	100%	\$0	\$0
	Durable medical equipment			
	First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
	Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN C				
OTHER BENEFITS - NOT COVERED BY MEDICARE				
SERVICES		MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE				
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA				
	First \$250 each calendar year	\$0	\$0	\$250
	Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PLAN D				
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD				
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.				
SERVICES		MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*				
Semiprivate room and board, general nursing and miscellaneous services and supplies				
	First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
	61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
	91st day and after:			
	While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
	Once lifetime reserve days are used:			
	- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
	- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*				
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital				
	First 20 days	All approved amounts	\$0	\$0
	21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
	101st day and after	\$0	\$0	All costs
BLOOD				

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First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN D			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES: IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	generally 80%	generally 20%	\$0
Part B excess charges (above Medicare-approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B			
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan			
Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
Calendar year maximum	\$0	\$1,600	
OTHER BENEFITS - NOT COVERED BY MEDICARE			
FOREIGN TRAVEL - NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PLAN E			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [746]	\$764 [746] (Part A deductible)	\$0
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0

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21st thru 100th day	All but <u>\$95.50</u> [89.50] a day	Up to <u>\$95.50</u> [89.50] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN E			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	Generally 80%	Generally 20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B			
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN E			
OTHER BENEFITS - NOT COVERED BY MEDICARE			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PREVENTIVE MEDICAL CARE BENEFIT-NOT COVERED BY MEDICARE			
Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All costs
PLAN F			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
**This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year \$1500 deductible. Benefits from the high deductible Plan F will not begin until after out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductible for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.			
SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE** YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			

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	While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
	Once lifetime reserve days are used:			
	- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
	- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*				
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital				
	First 20 days	All approved amounts	\$0	\$0
	21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
	101st day and after	\$0	\$0	All costs
BLOOD				
	First 3 pints	\$0	3 pints	\$0
	Additional amounts	100%	\$0	\$0
HOSPICE CARE				
	Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN F				
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR				
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.				
**This deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year \$1500 deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.				
	SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE** YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,				
	First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
	Remainder of Medicare-approved amounts	Generally 80%	Generally 20%	\$0
	Part B excess charges (above Medicare-approved amounts)	\$0	100%	\$0
BLOOD				
	First 3 pints	\$0	All costs	\$0
	Next \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
	Remainder of Medicare-approved amounts	80%	20%	\$0
	CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B				
HOME HEALTH CARE MEDICARE APPROVED SERVICES				
	Medically necessary skilled care Services and medical supplies	100%	\$0	\$0
	Durable medical equipment			
	First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
	Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN F				
OTHER BENEFITS - NOT COVERED BY MEDICARE				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE				
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA				
	First \$250 each calendar year	\$0	\$0	\$250
	Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PLAN G				
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD				
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*				
Semiprivate room and board, general nursing and miscellaneous services and supplies				
	First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
	61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
	91st day and after:			

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	While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
	Once lifetime reserve days are used:			
	- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
	- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*				
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital				
	First 20 days	All approved amounts	\$0	\$0
	21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
	101st day and after	\$0	\$0	All costs
BLOOD				
	First 3 pints	\$0	3 pints	\$0
	Additional amounts	100%	\$0	\$0
HOSPICE CARE				
	Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN G				
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR				
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,				
	First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	generally 80%	generally 20%	\$0
	Part B excess charges (above Medicare approved amounts)	\$0	80%	20%
BLOOD				
	First 3 pints	\$0	All costs	\$0
	Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	80%	20%	\$0
	CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B				
HOME HEALTH CARE				
MEDICARE APPROVED SERVICES				
	Medically necessary skilled care services and medical supplies	100%	\$0	\$0
	Durable medical equipment			
	- First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE				
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan				
	Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
	Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
	Calendar year maximum	\$0	\$1,600	
OTHER BENEFITS - NOT COVERED BY MEDICARE				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE				
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA				
	First \$250 each calendar year	\$0	\$0	\$250
	Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
PLAN H				
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD				
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY

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HOSPITALIZATION*				
Semiprivate room and board, general nursing and miscellaneous services and supplies				
	First 60 days	All but \$764 [746]	\$764 [746] (Part A deductible)	\$0
	61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
	91st day and after:			
	While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
	Once lifetime reserve days are used:			
	- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
	- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*				
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital				
	First 20 days	All approved amounts	\$0	\$0
	21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
	101st day and after	\$0	\$0	All costs
BLOOD				
	First 3 pints	\$0	3 pints	\$0
	Additional amounts	100%	\$0	\$0
HOSPICE CARE				
	Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN H				
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR				
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,				
	First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	Generally 80%	Generally 20%	\$0
	Part B excess charges (above Medicare approved amounts)	\$0	0%	All costs
BLOOD				
	First 3 pints	\$0	All costs	\$0
	Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	80%	20%	\$0
	CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B				
HOME HEALTH CARE MEDICARE APPROVED SERVICES				
	Medically necessary skilled care services and medical supplies	100%	\$0	\$0
	Durable medical equipment			
	First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
	Remainder of Medicare-approved amounts	80%	20%	\$0
PLAN H				
OTHER BENEFITS - NOT COVERED BY MEDICARE				
	SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE				
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA				
	First \$250 each calendar year	\$0	\$0	\$250
	Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS NOT COVERED BY MEDICARE				
	First \$250 each calendar year	\$0	\$0	\$250
	Next \$2,500 each calendar year	\$0	50% - \$1,250 calendar year maximum benefit	50%
	Over \$2,500 each calendar year	\$0	\$0	All costs
PLAN I				
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD				

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*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN I			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	generally 80%	generally 20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	100%	\$0
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B			
HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare-approved amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan			
Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
Calendar year maximum	\$0	\$1,600	
OTHER BENEFITS - NOT COVERED BY MEDICARE			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250

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Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50% - \$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All costs
PLAN J			
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD			
*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.			
**This deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year \$1500 deductible. Benefits from the high deductible Plan J will not begin until out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.			
SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE** PLAN PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE** YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$764 [716]	\$764 [716] (Part A deductible)	\$0
61st thru 90th day	All but \$191 [179] a day	\$191 [179] a day	\$0
91st day and after:			
While using 60 lifetime reserve days	All but \$382 [358] a day	\$382 [358] a day	\$0
Once lifetime reserve days are used:			
- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95.50 [89.50] a day	Up to \$95.50 [89.50] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services.	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
PLAN J			
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR			
*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.			
**This deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year \$1500 deductible. Benefits from the high deductible Plan J will not begin until out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.			
SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE** YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	generally 80%	generally 20%	\$0
Part B excess charges (above Medicare approved amounts)	\$0	100%	\$0
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0
PARTS A & B			

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HOME HEALTH CARE MEDICARE APPROVED SERVICES			
Medically necessary skilled care services and medical supplies	100%	\$0	\$0
Durable medical equipment			
First \$100 of Medicare-approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare-approved amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan			
Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
Number of visits covered (must be received within 8 weeks of last Medicare-approved visit)	\$0	Up to the # of Medicare-approved visits, not to exceed 7 each week	
Calendar year maximum	\$0	\$1,600	
OTHER BENEFITS - NOT COVERED BY MEDICARE			
SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
EXTENDED OUTPATIENT PRESCRIPTION DRUGS NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250
Next \$6,000 each calendar year	\$0	50% - \$3,000 calendar year maximum benefit	50%
Over \$6,000 each calendar year	\$0	\$0	All costs
PREVENTIVE MEDICAL CARE BENEFIT NOT COVERED BY MEDICARE			
Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All costs

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

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

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

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

Section 16. [15:] Requirements for Application Forms and Replacement Coverage. (1) Comparison statement. When a Medicare supplement policy or certificate is to replace another health insurance policy or certificate, there shall be presented to the applicant, no later than at the time of taking the application, a comparison statement which shall be substantially identical to Appendix C. Direct response issuers shall present the comparison statement to the applicant not later than at the time of delivery of the policy. Agents shall obtain the signature of the applicant on the comparison statement and shall sign the comparison statement and send the comparison statement to the

issuer. A copy of the comparison statement shall be attached to the replacement policy.

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

(a) Statements.

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

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

3. You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

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

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

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

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

a. If so, with which company?

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

2. Do you have any other health insurance coverage that provides

benefits similar to this Medicare supplement policy?

- a. If so, with which company?
- b. What kind of policy?

3. Are you covered for medical assistance through the state Medicaid Program:

- a. As a specified low-income Medicare beneficiary (SLMB)?
- b. As a qualified Medicare beneficiary (QMB)?
- c. For other Medicaid medical benefits?

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

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

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

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

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

(6) The notice required by subsection (5) of this section for an issuer shall be provided in substantially the following form in no less than twelve (12) point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF MEDICARE SUPPLEMENT INSURANCE
(Insurer Name and Address)
SAVE THIS NOTICE! IT MAY BE IMPORTANT
TO YOU IN THE FUTURE.

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

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

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

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

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

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

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

the original policy.

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

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

Signature of Agent or Other Representative:

Typed Name and Address of Agent:

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

Date:

Applicant's Signature:

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

Section 17. [46:] Filing Requirements for Advertising of Medicare Supplement Policies. (1) An issuer shall provide a copy of any Medicare supplement policy advertisement intended for use in Kentucky whether through written, radio, or television, to the commissioner prior to such use. Advertisements need not be approved prior to use, but an advertisement shall not be used if it has been disapproved by the commissioner and notice of the disapproval has been given to the issuer.

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

Section 18. [47:] Policy Delivery. If a Medicare supplement policy is not delivered by mail, the agent or issuer shall obtain a signed and dated delivery receipt from the insured. If the delivery receipt is obtained by an agent, the agent shall forward the delivery receipt to the issuer.

Section 19. [48:] Standards for Marketing. (1) An issuer, directly or through its agents or other representatives, shall:

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

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

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

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

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

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

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

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance

through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

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

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

Section 20. [19:] Appropriateness of Recommended Purchase and Excessive Insurance. (1) In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of recommended purchase or replacement. -

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

Section 21. [20:] Reporting of Multiple Policies. (1) On or before March 1 of each year, an issuer shall report the following information for every individual resident of this state for which the issuer has in force more than one (1) Medicare supplement insurance policy or certificate:

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

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

Section 22. [21:] Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods, and Probationary Periods in Replacement Policies or Certificates. (1) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new Medicare supplement policy or certificate for similar benefits to the extent such time was spent under the original policy.

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

APPENDIX A
MEDICARE SUPPLEMENT REFUND CALCULATION FORM
FOR CALENDAR YEAR _____

TYPE 1 _____ SMSBP 2 _____
For the State of _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Person Completing This Exhibit _____
Title _____ Telephone Number _____

Line ----	(a) Earned Premium 3 -----	(b) Incurred Claims 4 -----
1. Current year's experience		
a. Total (all policy years)		
b. Current year's issues 5		
c. Net (for reporting purposes = 1a - 1b)	-----	-----
2. Past year's experience (all policy years)	-----	-----

3. Total experience (net current year + past years' experience)	-----	-----
---	-------	-------

4. Refunds last year (excluding interest)
5. Previous since inception (excluding interest)
6. Refunds since inception (excluding interest)
7. Benchmark ratio since inception (SEE WORK-SHEET FOR RATIO 1)
8. Experienced ratio since inception

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

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

9. Life years exposed since inception:

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

10. Tolerance permitted (obtained from credibility table):
11. Adjustment to incurred claims for credibility

ratio 3 = ratio 2 + tolerance

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

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

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

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

Adjusted incurred claims (line 12)

benchmark ratio (ratio 1)

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

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

1. Individual, group, individual Medicare select, or group Medicare select only.
2. "SMSBP" = Standardized Medicare Supplement Benefit Plan - use "p" for prestandardized plans.
3. Includes model loadings and fees charged.
4. Excludes active life reserves.
5. This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios".

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

Signature:
Name - Please Type:
Title:
Date:

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

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

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

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

- 1.: Individual, group, individual Medicare select, or group Medicare select only.
- 2.: "SMSBP" = standardized Medicare supplement benefit plan - use "p" for prestandardized plans.
- 3.: Year 1 is the current calendar year - 1; Year 2 is the current calendar year - 2; (etc.). (Example: If the current year is 1991, then: year 1 is 1990; year 2 is 1989; etc.)
- 4.: For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.
- 5.: Those loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

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

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

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

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

- 1.: Individual group, individual Medicare select, or group Medicare select only.
- 2.: "SMSBP" = standardized Medicare supplement benefit plan - use "p" for prestandardized plans.
- 3.: Year 1 is the current calendar year - 1; Year 2 is the current calendar year - 2; (etc.). (Example: If the current year is 1991, then: year 1 is 1990; year 2 is 1989; etc.)
- 4.: For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.
- 5.: Those loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

APPENDIX B FORM FOR REPORTING MEDICARE SUPPLEMENT POLICIES

Company Name:

Address:

Phone Number:

Due March 1, annually

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

Policy and Certificate #:

Date of Issuance:

Signature:

Name and Title (Please Type):

Date:

KENTUCKY MEDICARE SUPPLEMENT COMPARISON STATEMENT

Current Insurance _____ Annual Premium _____
(Insurer Name)

Proposed Insurance _____ Annual Premium _____
(Insurer Name)

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

*These figures are for 19__ and are subject to change each year.

**If the policy being replaced is not a standardized policy, insert "N/A" after "Plan" and complete this column.

***60 reserve days may be used only once; days used are not renewable.

****To the extent the blood deductible is met under one part of Medicare during the calendar year, it does not have to be met under the other part.

*****Please refer to your Medicare Handbook for more information.

(1) A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital or

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skilled nursing facility for 60 days in a row.

(2) Medicare and private Medicare supplement insurance will not pay for most nursing home care. You pay for custodial care and most care in a nursing home.

Form LHM-2 Page 1 of 2
(November, 1991)

APPENDIX C KENTUCKY MEDICARE SUPPLEMENT COMPARISON STATEMENT

MEDICARE (PART B): HOSPITAL INSURANCE - COVERED SERVICES PER CALENDAR PERIOD				PRIVATE INSURANCE CHECKLIST	
Service	Benefit	Medicare Pays	You Pay	Current Insurance Pays (Plan)*	Proposed Insurance Pays (Plan)
MEDICAL EXPENSE Physician's services, inpatient and outpatient medical services and supplies, physical and speech therapy, ambulance etc.	Medicare pays for medical services in or out of the hospital.	80% of approved amount (after \$ deductible)	\$ Deductible** plus 20% of balance of approved amount (plus up to 15% above approved charge)***		
HOME HEALTH CARE	Visits limited to medically necessary skilled care	Full cost of services; 80% of approved amount for durable medical equipment (after \$ Deductible).	Nothing for services; 20% of approved amount for durable medical equipment (after \$ deductible).		
AT-HOME RECOVERY BENEFIT	Short-term at-home assistance with activities of daily living.****	Nothing	All costs		
OUTPATIENT HOSPITAL TREATMENT	Unlimited if medically necessary.	80% of approved amount (after \$ deductible).	Subject to deductible plus 20% of approved amount.		
BLOOD	Blood	80% of approved amount (after \$ deductible and starting with 4th pint).	First 3 pints plus 20% of approved amount (after \$ deductible)*****		
PREVENTIVE CARE-PATIENT EDUCATION	Annual physical exam, preventive testing, influenza vaccines	Screening pap smears once every 3 years; screening mammograms every 24 months.	All costs not covered by Medicare		
OUTPATIENT PRESCRIPTION DRUGS	Outpatient prescription drugs	Nothing	All costs		
FOREIGN TRAVEL	Medically necessary emergency care in foreign country.	Doctor and ambulance service in Canada and Mexico if in connection with covered inpatient	All costs not covered by Medicare		
OTHER*****					

*If the policy being replaced is not a standardized policy, insert "N/A".

**Once you have had \$ of expense for covered services in 19 , the Part B deductible does not apply to any further covered services you receive for the rest of the year.

***YOU PAY FOR charges higher than the amount approved by Medicare unless the doctor or supplier agrees to accept Medicare's approved amount as the total charge for services rendered.

****At home recovery benefits must be received in conjunction with Medicare approved home health care benefits.

*****To the extent the blood deductible is met under one part of Medicare during the calendar year, it does not have to be met under the other part.

*****Use this area to compare prestandardization and/or innovative benefits.

NOTICE TO APPLICANT:

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

Applicant:

Date:

Agent:

Date:

NOTICE TO AGENT/INSURER:

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

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

APPENDIX D
DISCLOSURE STATEMENTS

Instructions for Use of the Disclosure Statements for
Health Insurance Policies Sold to Medicare Beneficiaries
that Duplicate Medicare

1. Federal Law, PL 103-432, prohibits the sale of a health insurance policy (the term policy or policies includes certificates) that duplicate Medicare benefits unless it will pay benefits without regard to other health coverage and it includes the prescribed disclosure statement on or together with the application.

2. All types of health insurance policies that duplicate Medicare shall include one (1) of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).

3. State and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement.

4. Property/casualty and life insurance policies are not considered health insurance.

5. Disability income policies are not considered to provide benefits that duplicate Medicare.

6. The federal law does not preempt state laws that are more stringent than the federal requirements.

7. The federal law does not preempt existing state form filing requirements.

(For policies that provide benefits for expenses incurred for an accidental injury only)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

*hospital or medical expenses up to the maximum stated in the policy.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

*hospitalization.

*physician services.

*other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare Supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(For policies that provide benefits for specified limited services)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

*any of the services covered by the policy are also covered by Medicare.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

*hospitalization.

*physician services.

*other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(For policies that reimburse expenses incurred for specified disease(s) or other specified impairment(s). This includes expense incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when it pays:

*hospital or medical expenses up to the maximum stated in the policy.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

*hospitalization.

*physician services.

*hospice.

*other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(For policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnoses named in the policy.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

*hospitalization.

*physician services.

*hospice.

*other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when:

*any expenses or services covered by the policy are also covered by Medicare.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization.
- *physician services.
- *hospice.

*other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(For policies that provide benefits for both expenses incurred and fixed indemnity basis.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

This insurance duplicates Medicare benefits when:

*any expenses or services covered by the policy are also covered by Medicare; or

*it pays the fixed dollar amount stated in the policy and Medicare covers the same event.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- *hospitalization.
- *physician services.
- *hospice.

*other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(For long-term care policies providing both nursing home and non-institutional coverage.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations:

*This is long-term care insurance that provides benefits for covered nursing home and home care services.

*In some situations Medicare pays for short periods of skilled nursing home care, limited home health services and hospice care.

*This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most long term care expenses.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about long-term care insurance, review the "Shopper's Guide to Long-Term Care Insurance", available from the insurance company.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(For policies providing nursing home benefits only.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations:

*This insurance provides benefits primarily for covered nursing home services.

*In some situations Medicare pays for short periods of skilled nursing home care and hospice care.

*This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Neither Medicare nor Medicare supplement insurance provides benefits for most nursing home expenses.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about long-term care insurance, review the "Shopper's Guide to Long-Term Care Insurance", available from the insurance company.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(For policies providing home benefits only.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME
MEDICARE BENEFITS

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations:

*This insurance provides benefits primarily for covered home services.

*In some situations Medicare will cover some health-related services in your home and hospice care which may also be covered by this insurance.

*This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement insurance.

Neither Medicare nor Medicare supplement insurance provides benefits for most services in your home.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about long-term care insurance, review the "Shopper's Guide to Long-Term Care Insurance", available from the insurance company.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(For other health insurance policies not specifically identified in the previous statements.)

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME

MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare supplement Insurance.

This insurance duplicates Medicare benefits when it pays:

*the benefits stated in the policy and coverage for the same event is provided by Medicare.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

*hospitalization.

*physician services.

*hospice.

*other approved items and services.

Before You Buy This Insurance

*Check the coverage in all health insurance policies you already have.

*For more information about Medicare and Medicare supplement insurance, review the "Guide to Health Insurance for People with Medicare", available from the insurance company.

*For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

GEORGE NICHOLS III, Commissioner

H. REDMON LAIR, Deputy Secretary

GALE PEARCE, General Counsel

APPROVED BY AGENCY: March 4, 1999

FILED WITH LRC: March 12, 1999 at 2 p.m.

CONTACT PERSON: Sharron S. Burton, Counsel, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, PH: (502) 564-6032, FAX: (502) 564-1456.

REGULATORY IMPACT ANALYSIS

Contact Person: Sharron S. Burton

(1) Type and number of entities affected: This emergency administrative regulation affects the 73 insurers that are currently approved to sell Medicare supplement insurance policies in the state of Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (not any effects upon competition) for the:

1. First year following implementation: This emergency administrative regulation implements changes to the Medicare supplement policies currently being sold. Therefore insurers will be required to adjust the current policies being sold to reflect the amendments in this emergency administrative regulation. In addition, insurers authorized to sell Medicare supplement policies will be required to adjust company procedures to incorporate guarantee issue requirements for eligible persons.

2. Second and subsequent years: This emergency administrative regulation does not require additional changes beyond those required during the first year following implementation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The department does not anticipate that this emergency administrative regulation will have any effect on the administrative body's costs or savings.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: This emergency

administrative regulation does not impose any reporting or paperwork requirements upon the department.

(4) Assessment of anticipated effect on state and local revenues: The department does not anticipate that this emergency administrative regulation will have any effect on state or local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the Department of Insurance will be used to implement and enforce this emergency 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: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: An administrative regulation governing Medicare supplement insurance policies currently exists. It is necessary for the department to incorporate changes made by the federal government to Medicare supplement insurance policies into the existing administrative regulation. No other alternatives were considered.

(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 emergency administrative regulation makes the high deductible Medicare Plans F and J available to the public. In addition, this emergency administrative regulation prohibits an insurer from denying or conditioning the issuance or effectiveness of certain Medicare supplement policies to eligible persons.

(b) State whether a detrimental effect on environment and public health would result if not implemented: If this emergency administrative regulation were not implemented, a detrimental effect on public health may result.

(c) If detrimental effect would result, explain detrimental effect: If this emergency administrative regulation were not implemented, eligible persons may be denied Medicare supplement coverage or the insurer may place conditions upon issuance or effectiveness of that coverage in a manner that is not permitted.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The Department is not aware of any statute, administrative regulation, or government policy which may conflict, overlap, or duplicate this emergency administrative regulation.

(a) Necessity of proposed regulation if in conflict:

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

(10) An additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not applied since this emergency administrative regulation applies to all insurers approved to sell Medicare supplement policies in the State of Kentucky.

**STATEMENT OF EMERGENCY
908 KAR 3:160E**

This emergency administrative regulation is being promulgated in accordance with KRS 13A.190(1)(a)1. This administrative regulation is necessary to permit the admission of persons who have been determined to present a danger to themselves or others in accordance with the provisions of KRS Chapter 202A and to expedite the transfer of dangerous individuals from less secure department facilities and to minimize the risk that dangerous individuals may abscond from less secure facilities. If this administrative regulation is not implemented immediately, individuals that have been determined to be dangerous may pose an unnecessary risk to their own well being or to the well being of other residents in less secure facilities, or the general public. This emergency administrative regulation will be replaced by an ordinary administrative regulation in accordance with KRS 13A.190(1)(b)2. A Notice of Intent for the ordinary

administrative regulation is being filed concurrently with this emergency administrative regulation.

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

CABINET FOR HEALTH SERVICES
Department for Mental Health/Mental Retardation Services
Division of Mental Health

908 KAR 3:160E. Policies and procedures of Kentucky Correctional Psychiatric Center.

RELATES TO: KRS Chapters 202A, 202B, 210

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, [194.050;] 202A.196, 202B.060, 210.010, 210.040 210.055, 210.285, 42 CFR 440 through 489

EFFECTIVE: March 9, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 210.010, relating to the hospitalization of mentally ill and mentally retarded persons, directs that the Secretary for the Cabinet for Health Services [Human Resources] shall adopt rules and regulations which insure proper administration and enforcement of this chapter.

Section 1. Policies and procedures of Kentucky Correctional Psychiatric Center are established [as set forth] in the [July 15, 1991; edition of the] Kentucky Correctional Psychiatric Center policy manual consisting of four (4) volumes relating to the operation of Kentucky Correctional Psychiatric Center, [are] incorporated by reference.

Section 2. Incorporation by Reference. (1) Kentucky Correctional Psychiatric Center Policy Manual, February 1, 1999 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at [These policies and procedures are contained in four (4) volumes. They are available for inspection and copy at the office of the Commissioner for] the Department for Mental Health/Mental Retardation Services, 100 Fair Oaks, Leestown Square, 4th Floor, [275 East Main Street,] Frankfort, Kentucky 40621, and in the office of the Director at Kentucky Correctional Psychiatric Center, 1612 Dawkins Road, P. O. Box 67, LaGrange, Kentucky 40031, Monday through Friday, 8 a.m. to 4:30 p.m.

ELIZABETH REHM WACHTEL, Ph.D., Commissioner
JOHN H. MORSE, Secretary
JOHN H. WALKER, Attorney
APPROVED BY AGENCY: February 15, 1999
FILED WITH LRC: March 9, 1999 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Mike Littlefield

(1) Type and number of entities affected: This regulation will affect four psychiatric hospitals operated or contracted by the cabinet.

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

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

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

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No new revenue is needed. Monitoring of compliance with the regulation will be carried out by existing personnel.

(6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on: N/A No public hearing has been held yet.

(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: No alternative methods were considered. The only method the department is authorized to use for establishing policies is the promulgation of administrative regulations in accordance with KRS Chapter 13A. This administrative regulation delineates hospital admission policy.

(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 implementation of this regulation will expedite the admission of individuals that need the level of care provided by KCPC and decrease the risk of danger to residents of department operated or contracted facilities and the general 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: Failure to implement this regulation immediately may result in unnecessary delays in the admission of individuals needing the level of care provided and thereby endanger their health or the health and safety of others.

(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? Tiering is not applied to admission policies because all admissions need to be processed systematically.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee

UNIVERSITY OF KENTUCKY
Agriculture Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 1:115. Sampling, analyzing, testing, and tolerances.

RELATES TO: KRS 250.021, 250.081(1)(c)2, (2)(b), (g)
STATUTORY AUTHORITY: KRS 250.081(1)(c)2, (2)(b), (g)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.081(1)(c)2 requires the director to promulgate administrative regulations to establish requirements for the seed sampling procedures, methods of analysis, testing and examining of seed, and tolerances. This administrative regulation prescribes the methods of sampling, analyzing and testing seed, and establishes the tolerances to be applied. [To prescribe the methods of sampling, analyzing, and testing seed, and to establish the tolerances to be applied in the administration of the Kentucky Seed Law and administrative regulations.]

Section 1. Seed shall be sampled, analyzed, tested, or examined in accordance with the methods established in "Rules for Testing Seeds". [The methods of sampling, analyzing, testing and examining seed to be applied in the administration of the Kentucky Seed Law shall be those established in "Rules for Testing Seeds."]

Section 2. Tolerances shall be applied in accordance with the methods established in "Rules for Testing Seeds". [The tolerances to be applied in the administration of the Kentucky Seed Law shall be those established in "Rules for Testing Seeds."]

Section 3. Incorporation by Reference. (1) "Rules for Testing Seeds", (1997 Edition), [issued by the] Association of Official Seed Analysts, [in 1997.] [Vol. 16, No. 3, 1993 revised 1994, revised 1995, Journal of Seed Technology, Association of Official Seed Analysts,] is incorporated by reference.

(2) The material [This document] may be inspected, copied, or obtained at the Division of Regulatory Services, 103 Regulatory Services Building, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

C. ORAN LITTLE, Dean and Director
PAUL VAN BOOVAN, Legal Counsel
APPROVED BY AGENCY: January 7, 1999
FILED WITH LRC: January 11, 1999 at 11 a.m.

UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 2:031. Directions and [;] precautionary statements for feed containing [with] additives.

RELATES TO: KRS 250.501, 250.531, 250.551(1), (2), 21 CFR 225.80, 225.180 [250.491 to 250.631]

STATUTORY AUTHORITY: KRS 250.521(2)(e), (f), 250.571(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.490 to 250.631 [regarding commercial feeds]. This administrative regulation requires that directions for feeding and precautionary statements [if any] be provided with feed containing additives to ensure [that commercial feeds bear adequate directions and precautionary statements to enable] safe and effective use of the

product.

Section 1. Directions for use and precautionary statements on the labeling of a [all] commercial feed [feeds] and customer-formula feed [feeds] containing an additive, such as a drug, a special purpose additive, or nonnutritive additive [additives (including drugs, special purpose additives, or nonnutritive additives)] shall:

(1) [;

(1)} Be stated in a manner that informs of the safe and effective use [adequate to enable safe and effective use] of the product for its intended purpose; and

(2) Include [by users with ordinary knowledge of the intended purpose and use of the feed, including] [such articles; and

(2) Include, but not be limited to,] all information prescribed by: [all]

(a) Applicable federal regulations under the Federal Food, Drug and Cosmetic Act, which is codified as 21 USC 301 to 397; and

(b) [by] 12 KAR 2:036, for feed containing [Sections 2 and 3, which pertain to] nonprotein nitrogen.

Section 2. [Adequate directions for use and precautionary statements are required for feeds containing nonprotein nitrogen as specified in 12 KAR 2:036.

Section 3. Adequate directions [for use] and precautionary statements necessary for safe and effective use shall be placed [are required] on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with a vitamin, mineral, or other dietary nutrient or compound [with any vitamin, mineral, or other dietary nutrient or compound].

C. ORAN LITTLE, Dean and Director
PAUL C. VANBOOVAN, Office of Legal Counsel
APPROVED BY AGENCY: September 14, 1998
FILED WITH LRC: September 15, 1998 at noon

UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 2:041. Additives.

RELATES TO: KRS 250.501, 250.511, 250.541(1)(a), (b), (c), (d), (e), (f), (i), (2)(c), (d), (e), 21 CFR 570.3(1), 570.30, 582, 21 USC 151 to 158, 360(b) [250.491 to 250.631]

STATUTORY AUTHORITY: KRS 250.571(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631 regarding commercial feeds. KRS 250.541 provides that a commercial feed or a material [defines adulterated commercial feeds and adulterated materials] exempted from the definition of commercial feed shall be considered adulterated if it meets the conditions established in KRS 250.541. [feeds and states how they may be adulterated by additives.] KRS 250.551(1) and (2) prohibit [prohibits] the manufacture or [and] distribution of an adulterated product as animal feed [adulterated products as animal feeds]. This administrative regulation establishes the requirements to ensure the safe and effective use [safety and effectiveness] of commercial feeds containing additives. [To assure that commercial feeds which contain additives are safe and effective when used according to label directions.]

Section 1. Before [Prior to] approval of a registration application or

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[and/or approval of a] label for commercial feed containing [which contains] **an additive, including a drug, another special purpose additive, or nonnutritive additive** [additives (including drugs, other special purpose additives, or nonnutritive additives)], the distributor shall, upon request by the director, [may be required to] submit evidence to prove the **safe and effective use** [safety and efficacy] of the commercial feed when used according to the directions furnished on the label.

Section 2. Satisfactory evidence of **safe and effective use** [safety and efficacy] of a commercial feed **shall be one (1) of the following** [includes] [may be]:

(1) **The use of an additive that:**

(a) **Conforms to the requirements of 21 CFR 570.3(1), 570.30, or Part 582; or**

(b) **Is considered prior sanctioned, informal review sanctioned, or generally recognized as safe (GRAS) by the Food and Drug Administration; [The use of [When the commercial feed contains such] additives that conform [the use of which conforms] to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, [or which] are "prior sanctioned", [or] "informal review sanctioned," or "generally recognized as safe" (GRAS) according to the Food and Drug Administration for the [such] use;] [or]**

(2) **A [When the] commercial feed that is [itself] a drug as defined in KRS 250.501(7) if it:**

(a) **[and] Is generally recognized by the Food and Drug Administration as safe and effective for its labeled use according to 21 CFR 570.30 and Part 582; or**

(b) **[the labeled use or] Is marketed subject to an application approved by the Food and Drug Administration under [Title] 21 USC 360(b);**

(3) **A commercial feed used to impart immunity if the constituents have been approved for that purpose through the Federal Virus, Serum and Toxins Act, which is codified as 21 USC 151 to 158; [of 1913, as amended];**

(4) **A direct-fed microbial product if:**

(a) **The product is defined as a fermentation product in the Official Publication of the Association of American Feed Control Officials; and**

(b) **The microbial content statement:**

1. **Appears on the label; and**

2. **States [it meets the particular fermentation product definition and the microbial content statement is limited to the following:] "Contains a source of live (viable), naturally occurring microorganisms"; or [This statement shall appear on the label.]**

(5) **An enzyme product if the product is:**

(a) **Defined as an enzyme in the Official Publication of the Association of American Feed Control Officials; and**

(b) **Guaranteed according to the provisions of 12 KAR 2:018.**

Section 3. Incorporation by Reference. (1) "Official Publication", 1998 Edition, Association of American Feed Control Officials, is incorporated by reference.

(2) **This material may be inspected, copied, or obtained at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m. [it meets the particular enzyme definition of the Association of American Feed Control Officials and is guaranteed according to 12 KAR 2:018:] [When one (1) of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended:**

(4) **When the commercial feed is a direct-fed microbial product; and**

(a) **The product meets the particular fermentation product definition; and**

(b) **The microbial content statement, as expressed in the labeling, is limited to the following: "Contains a source of live (viable) naturally occurring microorganisms". This statement shall appear on the label.**

(5) **When the commercial feed is an enzyme product; and**

(a) **The product meets the particular enzyme definition defined by**

the Association of American Feed Control Officials; and

(b) **The enzyme is stated with a corresponding guarantee expressed in accordance with 12 KAR 2:018.]**

C. ORAN LITTLE, Dean and Director

PAUL C. VANBOOVAN, Office of Legal Counsel

APPROVED BY AGENCY: October 2, 1998

FILED WITH LRC: October 7, 1998 at 3 p.m.

UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 2:046. Poisonous or deleterious substances.

RELATES TO: KRS 250.501(4), (5), (6), (7), (8), (24), 250.541, 250.551(1), (2), (3) [250.491 to 250.631]

STATUTORY AUTHORITY: KRS 250.571(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. This administrative regulation establishes the requirements for the safe use of substances that might have deleterious effects if not fed according to the following [accepted] standards. [To establish safeguards and limits for the use of substances which may have deleterious effects when used otherwise.]

Section 1. **For the purpose of [Pursuant to] [For the purpose of] KRS 250.541(1)(a), [the terms "poisonous or deleterious substances"] include [but are not limited to] shall [the following]:**

(1) **Fluorine and a [any] mineral or mineral mixture [which is] that is [to be] fed [used] directly to [for the feeding of] a domestic animal [domestic animals] if [and in which] the fluorine exceeds:**

(a) 0.20 percent for breeding or [and] dairy cattle;

(b) 0.30 percent for slaughter cattle;

(c) 0.30 percent for sheep;

(d) 0.35 percent for lambs;

(e) 0.45 percent for swine; and

(f) 0.60 percent for poultry.

(2) **A fluorine-bearing ingredient [ingredients] if [when] used in [such] an amount [amounts] that raises [they raise] the fluorine content of the total ration, excluding roughage, [exclusive of roughage] above:**

(a) **[the following amounts:] 0.004 percent for breeding or [and] dairy cattle;**

(b) 0.009 percent for slaughter cattle;

(c) 0.006 percent for sheep;

(d) 0.01 percent for lambs;

(e) 0.015 percent for swine; and

(f) 0.03 percent for poultry.

(3) **A [Any] fluorine-bearing ingredient mixed in feed that:**

(a) **Is [to be] fed directly to cattle, sheep, or goats that consume [consuming] roughage regardless of the amount [amounts] of grain consumed; and**

(b) **Results [if it would result] in a daily intake of more than fifty (50) milligrams of fluorine per 100 pounds of body weight. [Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of fifty (50) milligrams of fluorine per 100 pounds of body weight.]**

(4) **Soybean meal, flakes or pellets or another [other] vegetable meal, flake, or pellet [meals, flakes or pellets] that [which] have been extracted with trichloroethylene or other chlorinated solvent [solvents].**

(5) **Sulfur dioxide, sulfurous acid, and salts of sulfurous acid that are [if] [when] used in or on feeds or feed ingredients that [which] are considered or labeled [reported] [to be] a significant source of vitamin B₁ (thiamine).**

Section 2. **A screening [All screenings] or by-product [by-**

products] of grains and seeds containing weed seeds[~~-if~~] [when] used in commercial feed or sold as **commercial feed** [such] to the ultimate consumer shall be ground fine enough or otherwise treated to destroy the viability of the [such] weed seeds so [that] the finished product contains:

- (1) No [more than zero] viable prohibited **noxious** weed seeds; [per pound] and
- (2) Not more than 480 viable restricted weed seeds per pound.

C. ORAN LITTLE, Dean and Director
PAUL C. VANBOOVAN, Office of Legal Counsel
APPROVED BY AGENCY: September 14, 1998
FILED WITH LRC: September 15, 1998 at noon

UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 2:051. Manufacturing conditions.

RELATES TO: KRS 250.501, 250.511, 250.541, 250.551, 250.581(1), 21 CFR 225.1 to 225.202, 226.1 to 226.115 [250.491 to 250.631]

STATUTORY AUTHORITY: KRS 250.541(c), 250.571(1), 21 CFR 225.1 to 225.202, 226.1 to 226.115

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. KRS 250.541(2)(c) requires the promulgation of an administrative regulation that establishes the current good manufacturing practices for the manufacturing, processing, and packaging of commercial feed. [defines a commercial feed as adulterated if its manufacturing, processing, or packaging do not conform to current good management practices (CGMP) regulations.] This administrative regulation establishes current good manufacturing practices for feeds containing drugs or antibiotics. [To ensure that feeds containing drugs and antibiotics are manufactured under conditions conducive to the production of a feed which, when fed as directed, is both safe and effective to the consuming animal and safe to the consumer of live-stock products.]

Section 1. The current good manufacturing practices published in the Code of Federal Regulations for Type B and Type C medicated feeds are governed by:

- (1) 21 CFR Part 225.1, Subpart A, 51 Federal Register 7389, March 3, 1986;
- (2) 21 CFR Part 225.10, Subpart A, 42 Federal Register 12426, March 4, 1977;
- (3) 21 CFR Parts 225.20, 225.30, 225.35, Subpart B, 41 Federal Register 52618, November 30, 1976;
- (4) 21 CFR Part 225.42, Subpart C, 41 Federal Register 52618, November 30, 1976;
- (5) 21 CFR Part 225.58, Subpart C, 55 Federal Register 11577, March 29, 1990;
- (6) 21 CFR Part 225.65, Subpart C, 41 Federal Register 52618, November 30, 1976;
- (7) 21 CFR Part 225.80, Subpart D, 41 Federal Register 52618, November 30, 1976;
- (8) 21 CFR Parts 225.102 and 225.110, Subpart E, 41 Federal Register 52618, November 30, 1976;
- (9) 21 CFR Part 225.115, Subpart E, 57 Federal Register 6475, February 25, 1992;
- (10) 21 CFR Parts 225.120, 225.130 and 225.135, Subpart F, 41 Federal Register 52618, November 30, 1976;
- (11) 21 CFR Parts 225.142, 225.158 and 225.165, Subpart G, 41 Federal Register 52618, November 30, 1976;
- (12) 21 CFR Part 225.180, Subpart H, 51 Federal Register 7390, March 3, 1986; and
- (13) 21 CFR Part 225.202, Subpart I, 51 Federal Register 7390, March 3, 1986.

Section 2. The current good manufacturing practices published in the Code of Federal Regulations for Type A medicated articles are governed by:

- (1) 21 CFR Parts 226.1 and 226.10, Subpart A, 40 Federal Register 14031, March 27, 1975;
- (2) 21 CFR Parts 226.20 and 226.30, Subpart B, 40 Federal Register 14031, March 27, 1975;
- (3) 21 CFR Parts 226.40 and 226.42, Subpart C, 40 Federal Register 14031, March 27, 1975;
- (4) 21 CFR Part 226.80, Subpart D, 40 Federal Register 14031, March 27, 1975; and
- (5) 21 CFR Parts 226.102, 226.110 and 226.115, Subpart E, 40 Federal Register 14031, March 27, 1975. [For the purpose of enforcement of KRS 250.541(2)(c) [(4)] the director adopts the following as current good manufacturing practices:
- (1) The regulations prescribing good manufacturing practices for Type B and Type C medicated feeds as published in the Code of Federal Regulations, Title 21, Part 225, Sections 225.1-225.202.
- (2) The regulations prescribing good manufacturing practices for Type A medicated articles as published in the Code of Federal Regulations, Title 21, Part 226, Sections 226.1-226.115.]

C. ORAN LITTLE, Dean and Director
PAUL C. VANBOOVAN, Office of Legal Counsel
APPROVED BY AGENCY: September 14, 1998
FILED WITH LRC: September 15, 1998 at noon

UNIVERSITY OF KENTUCKY
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Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 2:061. Registration.

RELATES TO: KRS 250.501, 250.511(3), 250.521(2), 250.561(3) [250.491 to 250.631]

STATUTORY AUTHORITY: KRS 250.571(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. KRS 250.511(1) and (2) require a manufacturer or distributor [requires all manufacturers and distributors] of commercial feed [feeds] in Kentucky to register with the director each facility that manufactures customer-formula feed and each commercial feed except customer-formula feed. This administrative regulation establishes the procedure [procedures] for [To establish uniformity in] the registration of commercial feed [feeds] and [-Require registration of] manufacturers of customer-formula feed and the requirements for an exemption [conditions that manufacturers shall meet to be granted an exemption from registration by the director]. [of custom-formula feed to assure compliance with provisions of the Kentucky Commercial Feed Law.]

Section 1. [For purpose of enforcement of KRS 250.511(2)] (1) Except as provided in subsection (2) of this section, a [Each] manufacturer shall [will] submit a completed Application for Registration of Commercial Feeds to register each feed other than a customer-formula feed. [register, on forms available from the director, each manufacturing facility and each feed distributed in Kentucky.]

(2) The director shall [may] grant an exemption to the registration requirement [for registering each commercial feed] if [to the firm named on the label provided] the owner or other responsible individual with authority to register feed [execute this act] for the manufacturer:

- (a) [firm] Has a record of satisfactory compliance with the labeling requirements established in KRS 250.521 and 12 KAR 2:011; and
- (b) Submits to the director a notarized affidavit certifying the following: [shall submit to the director a notarized affidavit certifying and subject to the following:]

- 1.a. [(+)] Name and mailing address of the **manufacturer**; [firm] and
- b. A statement acknowledging the **manufacturer's** [firm's] re-

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sponsibility to comply with ~~[provisions of]~~ **KRS 250.491 to 250.631** ~~[the Kentucky Commercial Feed Law,]~~ including payment of the inspection fee **required by KRS 250.561(1);**

2.a. ~~[(2)]~~ That the person requesting the exemption has ~~[certifies to having]~~ ~~[appropriate]~~ knowledge of the labeling requirements of **KRS 250.521 and 12 KAR 2:011;** ~~[the Kentucky Commercial Feed Law]~~ or

b. That a qualified individual is employed to ensure that **commercial feed is** ~~[feeds are]~~ labeled according to ~~[in accordance with provisions of]~~ **KRS 250.521 and 12 KAR 2:011** ~~[the Kentucky Commercial Feed Law]~~. The name~~(s)~~ and address of the person responsible for product labeling shall be provided, if different than the affiant;

3. **A commercial feed** ~~[(3) That all feeds]~~ distributed in Kentucky ~~[The affiant certifies that all feeds distributed in the state]~~ is ~~[are]~~ suitable for its ~~[their]~~ intended purpose in accordance with the requirements established in 12 KAR 2:066, Sections 1, 2, and 6;

4. Within thirty (30) days of notification ~~[(4) That]~~ ~~[The firm has a record of satisfactory compliance with labeling requirements or can demonstrate through submission of product labeling or other appropriate means such as Type A article labeling approved by FDA:~~

~~[(5)]~~ the affiant agrees to provide ~~[within thirty (30) days of notification]~~ a label for each **commercial feed**, ~~[or]~~ a specifically designated feed or feed type~~(s)~~ distributed in Kentucky ~~[the state]~~ for the purpose of determining compliance with the labeling requirements **established in KRS 250.521 and 12 KAR 2:011. The request and** ~~[-Neither the request nor]~~ compliance with the ~~[Such]~~ request shall not ~~[not]~~ be construed as a registration process; **and**

~~[(6)]~~ For commercial feed which is distributed in the state to the final purchaser only in an immediate container package weight of ten (10) pounds or less, the person whose name appears on the label as the guarantor or distributor shall provide the director with the name of each product, on forms provided by the director, prior to distribution within the state and pay an annual inspection fee of fifty (50) dollars per product in accordance with KRS 250.561.;

5. ~~[(5)]~~ That ~~[(7)]~~ the affiant agrees to resume registration of each **commercial** ~~[commercial]~~ feed if ~~[when]~~ notified by the director of unsatisfactory compliance with the labeling requirements **of KRS 250.521 and 12 KAR 2:011** or of the failure to provide a requested label ~~[labels]~~ within thirty (30) days. The manufacturer shall ~~[firm will]~~ have thirty (30) days from receipt of the notice to complete registration of a commercial feed product ~~[feed products]~~ offered for sale in Kentucky. During this period the affiant may request a meeting ~~[hearing]~~ with the director to resolve a labeling violation or ~~[violations and]~~ seek reinstatement or modification of registration exemption.

Section 2. **A registration exemption shall not prevent the enforcement of KRS 250.491 to 250.631. A manufacturer granted a registration exemption shall be considered registered for a commercial feed, other than a customer-formula feed.** ~~[An exemption from registration shall not be construed as preventing the director from enforcing any provision of the Kentucky Commercial Feed Law. The intent of this administrative regulation is that [For the purposes of this act:] a feed, other than a customer-formula feed, of a firm granted an exemption from registration shall be considered "registered."]~~

Section 3. ~~[Under authority of KRS 250.574(1)]~~ A distributor of customer-formula feed shall ~~[will]~~ register as a customer-formula feed distributor by submitting a completed Registration of Customer-Formula Feed Distributor Form ~~[such]~~ ~~[a custom-formula feed distributor]~~. Registration as a customer-formula feed distributor shall ~~[will]~~ be dependent upon ~~[on]~~ agreement by the manufacturer to:

(1) Abide by the labeling requirements of KRS 250.521(2); and

(2) Maintain ~~[maintenance by the manufacturer]~~ at the facility ~~[mill]~~ where customer-formula feed is manufactured, ~~[of]~~ a file of customer-formula mixes.

Section 4. Registration of a customer-formula feed distributor shall be subject to cancellation under the same conditions established ~~[as outlined]~~ for registered feeds under KRS 250.511(3) and 250.561(3) ~~[(2)(b)]~~.

Section 5. For commercial feed that is distributed to the final purchaser exclusively ~~[only]~~ in an immediate container package

weight of ten (10) pounds or less, the person whose name appears on the label as the guarantor or distributor shall provide the director with:

(1) The name of each product by submitting a completed Application for Registration of Commercial Feeds before ~~[-on forms provided by the director, prior to]~~ distribution within Kentucky; **and**

(2) Pay the fee required by KRS 250.561(1)(d) ~~[an annual inspection fee of fifty (50) dollars per product in accordance with KRS 250.561].~~

Section 6. Incorporation by Reference. (1) "Application for Registration of Commercial Feeds", March 1999, Division of Regulatory Services, is incorporated by reference.

(2) This material be inspected, copied, or obtained at the Division of Regulatory Services, University of Kentucky, 103 Regulatory Services Building, Lexington, Kentucky 40545-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

C. ORAN LITTLE, Dean and Director

PAUL C. VANBOOVAN, Office of Legal Counsel

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UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 2:066. Suitability.

RELATES TO: **KRS 250.541(2)(e)** ~~[250.491 to 250.631]~~

STATUTORY AUTHORITY: **KRS 250.541(2)(e)**, 250.571(1)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 250.571(1)** authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. This administrative regulation establishes ~~[To establish suitability]~~ criteria that ~~[for]~~ commercial feed ~~[feeds]~~ shall meet in order to be suitable for its ~~[their]~~ intended purpose ~~[purposes]~~ and establishes ~~[determines]~~ the procedure ~~[procedures]~~ for an affidavit attesting to the nutritional adequacy of a commercial feed.

Section 1. The nutritional content of commercial feed shall be as stated ~~[purported or is represented to possess]~~ by its labeling. The ~~[Such animal]~~ feed, its labeling and stated ~~[intended]~~ use shall ~~[must]~~ be suitable for the intended purpose of the product.

Section 2. (1) **Commercial feed for swine, poultry, or fish or milk replacer for veal or herd replacement calves, if fed according to directions, shall meet the applicable nutrient requirements established by the National Research Council, and incorporated by reference in this administrative regulation.** ~~[Commercial feeds for swine, poultry, fish, and veal and [herd] milk replacer for calves, if [when] fed according to directions, shall [must] meet the nutritional requirements established by:~~

(1) The Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences; or]

(2) A signed affidavit of suitability attesting to the nutritional adequacy of the feed based upon valid scientific evidence~~[-The [Such] affidavit]~~ shall be submitted to the director upon request as established ~~[set forth]~~ in Section 6 of this administrative regulation.

Section 3. An affidavit of suitability certifying that the feed sponsor has valid scientific knowledge assuring ~~[which assures]~~ suitability of the nutritional content of the feed ~~[product]~~ shall be submitted to the director ~~[only]~~ if ~~[when]~~ the suitability of the feed ~~[a product]~~ is challenged.

Section 4. Submission of a completed ~~["]~~Affidavit of Suitability~~["]~~ shall serve as proof of suitability. ~~[-and therefore,]~~ The feed sponsor shall not be required to provide scientific information nor a ~~[any]~~ refer-

ence thereto unless the director has reason to believe that the feed [such product] is not suitable for its intended use. [In that [such] case,] The director shall have the authority to conduct a hearing requiring the feed sponsor to produce sufficient scientific [and other] evidence of the feed's [product's] suitability.

Section 5. Upon receipt by the director of a complete ["]Affidavit of Suitability["], the feed sponsor may continue to market the product. If an [When such] affidavit is not properly [adequately] submitted, the director may pursuant to KRS 250.091(1) or 250.601(2) place or continue a [to] stop-sale order on the feed and order its removal from the marketplace as well as all other feeds manufactured or distributed under the same product name.

Section 6. The Affidavit of Suitability shall contain the following information:

- (1) The feed manufacturer's [company's] name.
- (2) The feed's product name.
- (3) The name and title of the affiant submitting the document.
- (4) The statement that the affiant has knowledge of the nutritional content of the [listed] feed [product] and is familiar with the nutritional requirements of [for] the animal species and animal class(es) for which the product is intended, as established by the National Research Council of the National Academy of Sciences.
- (5) The statement that the affiant has knowledge of valid scientific evidence that supports the suitability [of the product] for the intended animal species and animal class(es) for which the feed is intended. If [Provided,] the manufacturer states on the label a nutrient guarantee below the minimum National Research Council [NRG] nutrient recommendation, the manufacturer shall specify in the Affidavit of Suitability [have valid] scientific evidence demonstrating that [to demonstrate] a feed with that [containing the minimum guaranteed] nutrient content is suitable for its intended purpose [and so specify in the Affidavit of Suitability].
- (6) The date of submission.
- (7) The signature of the affiant notarized by a [certified] notary public.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) Nutrient Requirements of Swine, Tenth Revised Edition, 1998, National Research Council;
- (b) Nutrient Requirements of Dairy Cattle, Sixth Revised Edition, 1988, National Research Council;
- (c) Nutrient Requirements of Fish, 1993, National Research Council; and
- (d) Nutrient Requirements of Poultry, Ninth Revised Edition, 1994, National Research Council.

(2) This material may be inspected, copied, or obtained at the Division of Regulatory Services, University of Kentucky, 103 Regulatory Services Building, Lexington, Kentucky 40545-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

C. ORAN LITTLE, Dean and Director
PAUL C. VANBOOVAN, Office of Legal Counsel
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UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 3:012. Uniform labeling format.

RELATES TO: KRS 250.501, 250.521, 15 USC 1451 to 1461 [250.491 to 250.631]

STATUTORY AUTHORITY: KRS 250.521(2)(e), (f), 250.571

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for the efficient enforcement of KRS 250.491 to 250.631 [regarding commercial feeds]. KRS

250.521 requires that [all commercial feeds, including] pet foods be labeled and establishes [states] the information that shall be stated on the label. This administrative regulation establishes [To establish] a uniform format for [presentation of] labeling information for pet foods and delineates [delineate] criteria for [declaring] product claims.

Section 1. The quantity statement and product name shall [must] appear [be shown] on the principal display panel of a pet food label. All other required information shall be:

- (1) Placed on the label; and
- (2) Easily read by a purchaser. [may be placed elsewhere on the label but shall be sufficiently conspicuous as to render it easily read by the average purchaser under ordinary conditions of purchase [and sale].]

Section 2. The quantity statement shall conform [be made in conformity] with the United States Fair Packaging and Labeling Act of 15 USC 1451 through 1461. [and its [the] regulations [promulgated thereunder].]

Section 3. (1) The information [which is] required [to appear] in the guaranteed analysis shall be listed in the following order:

- (a) Crude protein (minimum percentage);
 - (b) Crude fat (minimum percentage);
 - (c) Crude fiber (maximum percentage); and
 - (d) Moisture (maximum percentage).
- (2) Additional guarantees shall follow moisture.

Section 4. The label of a pet food shall specify the name and address of the manufacturer, packer, or distributor [of the pet food]. The statement shall [of the place of business should] include the street address [if any,] [of such a place] unless the [such] street address is shown in a current city directory or telephone directory of the city named [represented] on the label as the manufacturer's or distributor's address.

Section 5. If a person manufactures, packages, or distributes a pet food in a place other than his principal place of business, the label may state either address [the principal place of business in lieu of the actual place where each package of such pet food was manufactured or packaged or is to be distributed] if it [such statement] is not misleading [in any particular].

Section 6. A vignette, graphic, or pictorial representation of a product on a pet food label shall not misrepresent the contents of the package.

Section 7. The [use of the] word "proven" shall not be used in connection with a label claim [claims] for a pet food [is improper] unless scientific or other empirical evidence substantiating [establishing] the claim [represented as "proven"] is available.

Section 8. A [No] statement shall not appear upon the label of a pet food that [which] makes a false or misleading comparison [comparisons] between that pet food and another pet food [any other] [pet food].

Section 9. A personal or commercial endorsement may be included on a pet food label if the endorsement is:

- (1) Factual; and
- (2) Not misleading. [Personal or commercial endorsements are permitted on pet food labels if they [where said endorsements] are factual and not [otherwise] misleading.]

Section 10. If [When] a pet food intended for retail sale is enclosed in an outer container or wrapper [which is intended for retail sale], all required label information shall [must] appear on the [such] outside wrapper or container.

Section 11. The words "dog food," "cat food" or a similar designation [designations] shall [must] appear conspicuously upon the principal display panel [panels] of the pet food label [labels].

Section 12. The label of a pet food shall not ~~contain an unqualified~~ contain an unqualified representation or claim, ~~directly or indirectly,~~ that the pet food, ~~[therein contained] or [a] recommended feeding of the pet food [it] (thereof), is (or meet the requisites of) a complete, perfect, scientific or balanced ration for dogs or cats unless [an affidavit is provided upon request of the director substantiating that] the [such] product or feeding:~~

(1) ~~(a) Meets the [Contains ingredients in quantities sufficient to meet the] nutrient requirements for all life stages established by the Association of American Feed Control Officials (AAFCO) Dog or Cat Food Nutrient Profiles, as contained in the Official Publication; or~~

~~(b) Has had adequate testing to demonstrate the stated capabilities if:~~

~~1. A product ingredient provides a nutrient in an amount that substantially deviates from the established nutrient requirements; or~~

~~2. The stated capability has not been established by AAFCO; and [the case may be, or some other AAFCO-recognized authority on animal nutrition. (To the extent that the product's ingredients provide nutrients in amounts which substantially deviate from those nutrient requirements estimated by [such] a recognized authority on animal nutrition, or in the event that no estimation has been made by a recognized authority [on animal nutrition of the requirements of animals for one (1) or more stages of said animals' lives], the product's stated [represented] capabilities shall [in this regard must] have been demonstrated by adequate testing.))]~~

~~(2) Contains a combination of ingredients which when fed to a normal animal as the only source of nourishment in accordance with the testing procedures established by AAFCO, meets the criteria of the [such] testing procedures for the appropriate life stage [or stages].~~

Section 13. A label for a product [Labels for products] formulated [which are compounded] for or [which are] suitable for [only] a limited purpose, such as [i.e., a product designed for the] feeding of puppies, [)] shall [may] state [contain representation] that the [said pet food] product, or its recommended feeding, [thereof, is or] meets the requirements [requisites] of a complete, perfect, scientific or balanced ration for dogs or cats [only] if:

(1) Accompanied by [in conjunction with] a statement of the limited purpose for which the product is intended or suitable positioned [as, for example, in the statement "a complete food for puppies"]. Such representations and such required qualification therefore shall be juxtaposed] on the same panel and in the same size, style and color print; and

(2) An affidavit is provided upon request of the director substantiating that the pet food:

(a) [Such qualified representations may appear on pet food labels only if:

(a) The [pet food] Meets [contains ingredients in quantities sufficient to meet] the nutrient requirements established by the AAFCO Dog or Cat Food Nutrient Profiles; or

(b) [, [as the case may be,] or some other AAFCO-recognized authority on animal nutrition, [for such limited or qualified purpose,] or]

(b) The pet food product contains a combination of ingredients which when fed for such limited purpose will satisfy the nutrient requirements for such limited purpose and] Has had its capabilities for the limited or qualified purpose [in this regard] demonstrated by adequate testing.

Section 14. Except as specified by 12 KAR 3:017, Section 1 [(+)], the name of an [any] ingredient on the label, other than in the product name shall:

(1) [Shall] Not be given undue emphasis so as to create the impression that it is present in a larger amount than is the fact;

(2) [Shall] Constitute at least three (3) percent of the total ingredients, excluding [exclusive of] water sufficient for processing, if [)] when preceded by the designation "with" or a similar term;

(3) [Shall] Be in the same size, style and color print; and

(4) Appear in the order of the ingredient's predominance by weight in the product if the names of more than one (1) ingredient are shown; they shall appear in the order of their predominance by weight in the product].

Section 15. The label of a dog or cat food, other than one (1) prominently identified as a snack or treat, shall bear on ~~[either] the principal display panel or the information panel as [(as those terms are) defined in 21 CFR 501.1 and 501.2, respectively]; in type of a size reasonably related to the largest type on the panel, a statement of the nutritional adequacy or purpose of the product. The statement shall:~~

~~(1) Consist of one (1) of the following:~~

~~(a) [(+)] A claim that the pet food meets the nutritional requirements of one (1) or more of the recognized life-stage categories, which shall include [of nutritional adequacy (]gestation, lactation, growth, maintenance, or complete for all life stages[)] as established in Sections 12 and 13 of this administrative regulation]. The claim shall be stated as one (1) of the following:~~

~~1. (Insert [(a)] (name of product) is formulated to meet the nutritional levels established by the AAFCO (dog or cat) Food Nutrient Profiles for (insert life-stage category [Blank is to be completed by using the stage of the pet's life, i.e., gestation, lactation, growth, maintenance or all life stages]); or~~

~~2. [(b)] Animal feeding tests using AAFCO procedures substantiate that (insert name of product) provides complete and balanced nutrition for (insert life-stage category); [Blank is to be completed by using the stage of the pet's life tested, i.e., gestation, lactation, growth, maintenance or all life stages.]]~~

~~(b) [(2)] A nutrition or dietary claim for purposes other than those listed in Sections 12 and 13 of this administrative regulation, if the claim is scientifically substantiated; or~~

~~(c) [(3)] The statement, "this product is intended for intermittent or supplemental feeding only", if the product does not meet either the requirements of Section [Sections] 12 or [and] 13 of this administrative regulation or [any] other special nutritional or dietary need; and~~

~~(2) If the product is intended for use by or under the supervision of direction of a veterinarian, the statement "use only as directed by your veterinarian". [(4) The statement "use only as directed by your veterinarian", if it is intended for use by or under the supervision or direction of a veterinarian. The label shall also make a statement in accordance with subsection (1) or (3) of this section.]~~

Section 16. A claim on a pet food label that states:

(1) "Improved" or "new" shall be:

(a) Substantiated by the manufacturer; and

(b) Limited to six (6) months of production; or

(2) A preference or comparative attribute shall be:

(a) Substantiated by the manufacturer; and

(b) Limited to one (1) year of production, after which the claim shall be removed or resubstantiated. [Claims on pet food labels stating "improved" or "new" shall be substantiated by the manufacturer and are limited to six (6) months of production. Claims stating preference or comparative attribute claims shall be substantiated by the manufacturer. They are limited to one (1) year of production, after which the claim must be removed or resubstantiated.]

Section 17. Dog and cat food [foods] labeled as complete and balanced for a life stage [any or all life stages], except a pet food [those pet foods] labeled in accordance with Section 15(2) [(4)] of this administrative regulation, shall list feeding directions on the label. These directions shall be expressed in common terms and appear prominently on the label. Feeding directions shall, at a minimum, state, "feed (weight or unit of product) per (weight unit) of dog (or cat)".

Section 18. Incorporation by Reference. (1) "Official Publication", (1998 Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material [it] may be inspected, copied, or obtained at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m. [Except as specified by 12 KAR 3:017, Section 1(1), the name of any ingredient which appears on the label other than in the product name shall not be given undue emphasis so as to create the impression that such an ingredient is present in the product in a larger amount than is the fact, shall constitute at least three (3) percent of the total ingredients (exclusive of water sufficient for processing) when preceded by the des-

ignation "with" or like term, shall be in the same size, style and color print and if the names of more than one (1) such ingredient are shown, they shall appear in the order of their respective predominance by weight in the product.

Section 15. The label of a dog or cat food, other than one prominently identified as a snack or treat as part of the designation required upon the principal display panel under Section 11 of this administrative regulation, shall bear, on either the principal display panel or the information panel (as those terms are defined in 21 CFR 501.1 and 501.2, respectively), in type of a size reasonably related to the largest type on the panel, a statement of the nutritional adequacy or purpose of the product. Such statement shall consist of one (1) of the following:

(1) A claim that the pet food meets the requirements of one (1) or more of the recognized categories of nutritional adequacy: gestation, lactation, growth, maintenance, and complete for all life stages, as those categories are set forth in Sections 12 and 13 of this administrative regulation. The claim shall be stated as one (1) of the following:

(a) (Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for _____. (Blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance or the words "All Life Stages.")

(b) Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for _____. (Blank is to be completed by using the stage or stages of the pet's life tested, such as gestation, lactation, growth, maintenance or the words "All Life Stages.")

(2) A nutrition or dietary claim for purposes other than those listed in Sections 12 and 13 of this administrative regulation if the claim is scientifically substantiated:

(3) The statement: "This product is intended for intermittent or supplemental feeding only", if a product does not meet either the requirements or Sections 12 and 13 of this administrative regulation or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

(4) The statement: "Use only as directed by your veterinarian", if it is a pet food product intended for use by, or under the supervision or direction of a veterinarian and shall make a statement in accordance with subsection (1) or (3) of this section.

Section 16. The use of claims on pet food labels stating improvement or newness shall be sufficiently substantiated by the manufacturer and limited to six (6) months production. The use of claims stating preference or comparative attribute claims shall be sufficiently substantiated by the manufacturer and limited to one (1) year production after which the claim must be removed or resubstantiated.

Section 17. Dog and cat foods labeled as complete and balanced for any or all life's stages as provided in Section 15(1) of this administrative regulation, except those pet foods labeled in accordance with Section 15(4) of this administrative regulation, shall list feeding directions on the product label. These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state "Feed (weight/unit of product) per (weight unit) of dog (or cat)".

C. ORAN LITTLE, Dean and Director
PAUL C. VANBOOVAN, Office of Legal Counsel
APPROVED BY AGENCY: October 2, 1998
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UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 3:017. Brand and product names.

RELATES TO: KRS 250.501, 250.521, 250.531 [250.491 to 250.631]
STATUTORY AUTHORITY: KRS 250.571(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631 [regarding commercial feeds]. This administrative regulation establishes the conditions for use of a brand or product name [under which] [To provide for informative use of] brand and product names may be used [without being misleading].

Section 1. [(1)] (1) A [No] flavor designation shall:
(a) Not be used on a pet food label unless the [designated] flavor is:

1. Detectable by a recognized test method; or
2. [Is] [one (1) the presence of which provides a characteristic] Distinguishable by the pet; and

(b) [- Any flavor designation on a pet food label shall] [must either] Conform to the name of its source as shown in the ingredient statement [or the ingredient statement shall show the source of the flavor]. The word "flavor" shall be printed in the same size type and equally conspicuous [with an equal degree of conspicuousness] as the ingredient term(s) from which the flavor [designation] is derived.

(2) A distributor [Distributors] shall supply verification of the designated or claimed flavor upon request of the director.

[(2) Distributors of pet food employing such flavor designation or claims on the labels of the product distributed by them shall, upon request, supply verification of the designated or claimed flavor to the director.]

Section 2. The designation "100 percent" or "all" or words of similar connotation shall not be used in the brand or product name of a pet food if it contains more than one (1) ingredient. [However,] [for the purpose of this provision,] Water sufficient for processing, a required decharacterizing agent or [agents and] trace amount of a preservative or a condiment [amounts of preservatives and condiments] shall not be considered an ingredient [ingredients].

Section 3. The terms [term] "meat" or [and] "meat by-products" shall be qualified to designate the animal or animals from which the meat or [and] meat by-products are derived, unless the meat is [they [the meat and meat by-products] are] from cattle, swine, sheep, or [and] goats. [For example, "horsemeat" and "horsemeat by-products".]

Section 4. The name of the pet food shall not be derived from one (1) or more ingredients of a mixture to the exclusion of the other ingredients, [and shall not be one (1) representing any components of a mixture of a pet food product unless all components or ingredients are included in the name] except as specified by Sections 1, 5, and 6 of this administrative regulation. If [- provided, that] an [any] ingredient or combination of ingredients is intended to impart a distinctive characteristic that [to the product which] is important [significant] to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the name of the pet food if:

(1) The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in an amount which has [amounts which have] a significant [material] bearing upon the price of the product or upon acceptance of the product by the purchaser; or

(2) The name [It] does not imply [constitute a representation] that the ingredient or combination of ingredients is present to the exclusion of other ingredients; and

(3) The name [It] is not [otherwise] false or misleading.

Section 5. If [When] an ingredient or a combination of ingredients derived from animals, poultry, or fish constitutes ninety-five (95) percent or more of the total weight of [all ingredients of] a pet food [mixture], the name or names of the [such] ingredient(s) or ingredients may be [form] a part of the product name. If [of the pet food; provided, that where] more than one (1) ingredient is part of the [such] product name, [then] all of the [such] ingredient names shall be in the same size, style and color print. [For the purposes of this provision,] Water sufficient for processing shall be excluded when calculating the percentage of the ingredients, [- named ingredient(s); however,] The [such] named ingredients shall constitute at least seventy (70) percent of the total product.

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Section 6. (1) If [When] an ingredient or a combination of ingredients constitutes at least twenty-five (25) percent but less than ninety-five (95) percent of the total weight of [all ingredients of] a pet [dog or cat] food [mixture], the name or names of the [such] ingredient or ingredients may form a part of the [product] name of the pet food if:

(a) Each of the ingredients constitutes at least three (3) percent of the product weight excluding sufficient water [used] for processing; and

(b) [but-and-only-if] The product name:

1. [also] Includes a primary descriptive term such as "dinner", "platter", or similar designation; and

2. [so that the product name] Describes the contents of the product without being [in accordance with an established law, custom or usage or so that the product name is not] misleading.

(2) If the names of more than one (1) [such] ingredient are shown, they shall appear in the order of their [respective] predominance by weight [in the product].

(3) An [All] [such] ingredient name [names] and the primary descriptive term [terms] [term] shall be in the same size, style and color print. [For the purpose of this provision,]

(4) Water sufficient for processing shall be excluded when calculating the percentage of the ingredients. [named ingredient(s)] however, The [such] named ingredients [ingredient(s)] shall constitute at least ten (10) percent of the total product.

Section 7. A contraction or coined name [Contractions or coined names] referring to an ingredient [ingredients] shall not be used in the brand name of a pet food unless it is in compliance with Sections 1, 4, 5, or 6 of this administrative regulation.

C. ORAN LITTLE, Dean and Director

PAUL C. VANBOOVAN, Office of Legal Counsel

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12 KAR 3:022. Guarantees.

RELATES TO: KRS 250.501, 250.521 [250.491 to 250.631]

STATUTORY AUTHORITY: KRS 250.521(1)(b), 250.571(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1)

authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 259.491 to 250.631 [regarding commercial feeds]. KRS 250.521(1)(b) requires that a commercial feed label contain a guaranteed analysis that advises [stated in terms the director, by administrative regulation, determines are required to advise] the purchaser of the composition of the feed or to support claims made in the labeling. This administrative regulation establishes [To establish] a uniform format for expressing [the expression of] guarantees for pet foods.

Section 1. [The sliding scale method of] A guaranteed analysis shall not be expressed as a range, such as "protein 15-18 percent". [Expressing a guaranteed analysis as a range, e.g., [(for example, "protein 15-18 percent, (%) is prohibited.]

Section 2. (1) The label of a pet food that is a mineral supplement shall include in the guaranteed analysis the minimum:

(a) And maximum percentages of calcium;

(b) Percentage of phosphorous;

(c) And maximum percentages of added salt; and

(d) Content of all other essential nutrient elements recognized by the Association of American Feed Control Officials (AAFCO) Dog or Cat Food Nutrient Profile.

(2) Each element shall be stated using the unit of measurement identified in the Nutrient Profile, except that:

(a) A product labeled with a quantity statement in units of tablets, capsules, granules, or liquid measures may express the

mineral guarantees in milligrams (mg) per unit. The unit shall be consistent with the unit used in the quantity statement or directions for use; and

(b) A liquid expressed as a volume shall list a weight equivalent, with one (1) fluid ounce equal to twenty-eight (28) grams.

Section 3. The guaranteed analysis on a pet food label shall state the vitamin content as follows:

(1) For Vitamin A, D, or E, in international units per kilogram (IU/kg);

(2) For Vitamin B₁₂, in milligrams per kilogram (mg/kg) or in micrograms per kilogram (ug/kg); or

(3) For all other vitamins, in milligrams per kilogram (mg/kg).

Section 4. A vitamin supplement shall guarantee the minimum content of each vitamin declared in the ingredient statement. A vitamin guarantee shall be stated using the unit of measurement required by Section 3 of this administrative regulation; or per quantity unit (tablet, capsule, granule, or liquid measure) consistent with the quantity statement or directions for use. A liquid expressed as a volume shall list a weight equivalent, with one (1) fluid ounce equal to twenty-eight (28) grams.

Section 5. (1) A comparison may be stated using the units of measurement used by AAFCO if the label:

(a) Does not claim that the pet food is a vitamin or mineral supplement; and

(b) Includes a table comparing a typical analysis of the vitamin, mineral, or nutrient content with the levels recommended in the AAFCO Dog or Cat Food Nutrient Profile.

(2) The statement in a table of comparison of the vitamin, mineral, or nutrient content shall:

(a) Constitute a guarantee; and

(b) Appear on the label separate from the guaranteed analysis.

Section 6. (1) Except as provided in subsection (2) of this section, a percentage or other reference to a nutrient level established by the AAFCO Dog or Cat Food Nutrient Profile shall not be used on a pet food label.

(2) A direct comparison between the individual nutrient contents and the recommended nutrient profile may be made if the comparison is:

(a) Expressed in the same quantitative units; and

(b) Preceded by a statement that the product meets the nutrient profile recommended by AAFCO.

Section 7. A guarantee for crude protein, crude fat, or crude fiber shall not be required if:

(1) The pet food is intended for a purpose other than to furnish that substance; and

(2) The substance is of minor significance to the primary purpose of the product, such as a mineral or vitamin supplement. [Pursuant to KRS 250.521(1)(c) of the Kentucky Commercial Feed Law of 1972,] [The label of a pet food that [which] is formulated as and claimed [represented] to be a mineral supplement shall include in the guaranteed analysis the minimum and maximum percentages of calcium, the minimum percentage of phosphorus, and the minimum and maximum percentages of salt. The minimum content of all other essential nutrient elements recognized by the Association of American Feed Control Officials (AAFCO) Dog or Cat Food Nutrient Profile, or another recognized nutrient profile from sources named [declared] in the ingredient statement, shall be expressed as the elements in units specified in the recognized nutrient profile. Products labeled according to [as per] 12 KAR 3:012, Section 2, may express the mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules or liquid measures) consistent with those used [employed] in the quantity statement and directions for use. Liquids expressed as volume shall [must] also list a weight equivalent (e.g., 1 fl. oz. = 28 grams). [All other minerals, when quantitatively guaranteed, shall be expressed as

the element in units of measurement established by a recognized authority on animal nutrition such as the National Research Council.]

Section 3. Vitamins guaranteed on pet food labels shall be stated in international units per kilogram (IU/kg) for vitamins A, D, and E. All other vitamins shall be stated in milligrams per kilogram (mg/kg), except vitamin B-12, which may alternatively be guaranteed in micrograms per kilogram (ug/kg).

Section 4. The label of a pet food that [which] is formulated as and represented to be a vitamin supplement shall include a guarantee of the minimum content of each vitamin named [declared] in the ingredient statement. Vitamin guarantees shall [may] be stated in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquid measures) consistent with those used [employed] in the quantity statement and directions for use. Liquids expressed as volume shall [must] also list a weight equivalent (e.g., 1 fl. oz. = 28 grams).

Section 5. The vitamin potency of pet food products distributed in containers smaller than one (1) pound may be guaranteed in approved units per ounce or per unit used [consistent with those employed] for the quantity statement.

Section 6. If the label of a pet food does not claim that [represent] the pet food is [to be] either a vitamin or a mineral supplement, but does include a table comparing [of comparison of] a typical analysis of the vitamin, mineral or nutrient content [of the pet food] with levels recommended in the AAFCO Dog and Cat Nutrient Profile, then the [Profiles, then such] comparison may be stated in the units of measurement used by AAFCO. The statement in a table of comparison of the vitamin, mineral, or nutrient content shall constitute a guarantee, and [but] need not be repeated in the guaranteed analysis. The [Such] table of comparison may appear on the label separate [and apart] from the guaranteed analysis.

Section 7. [The use of] Percentages or other references [words of similar import when referring] to nutrient levels established by the AAFCO Dog or Cat Food Nutrient Profile, or other recognized nutrient profile, shall not be used [permitted] on pet food labels, except that [such] direct comparisons [in whole or part] of the individual nutrient contents [of a pet food with those recommended by the recognized nutrient profile] may be made with those recommended by the recognized nutrient profile if [where] the comparisons are expressed in the same quantitative units and the product meets the nutrient profile recommended by the authority and is preceded by a statement to that effect, [as those used by the cited nutrient profile; and

- (1) The product in question meets the nutrient profile recommended by the authority; and
- (2) The comparison is preceded by a statement to that effect.]

Section 8. Guarantees for crude protein, crude fat, and crude fiber are not required if the pet food is intended for purposes other than to furnish these substances or if they are of minor significance to the primary purpose of the product, such as mineral or vitamin supplements.]

Section 8. [9:] Incorporation by Reference. (1) "Official Publication," (1998 Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material [it] may be inspected, copied, or obtained at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

C. ORAN LITTLE, Dean and Director
PAUL C. VANBOOVAN, Office of Legal Counsel
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UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 3:027. Ingredients.

RELATES TO: KRS 250.501, 250.521 [250.491 to 250.631]

STATUTORY AUTHORITY: KRS 250.521(1)(c), 250.571(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631, [regarding commercial feeds]. KRS 250.521(1)(c) requires that a commercial feed label list the common or usual name of each ingredient used in the manufacture of a commercial feed, unless the director promulgates an administrative regulation permitting the use of a collective term for a group of ingredients. This administrative regulation establishes the maximum moisture content allowed and the required format for [To establish uniformity in the] listing [of] ingredients on the label of pet foods.

Section 1. (1) Except as provided in subsection (2) of this section, the maximum moisture in [all] pet food [foods] shall be guaranteed and shall not exceed seventy-eight (78) percent by weight or the natural moisture content of the constituent ingredients of the product, whichever is greater.

(2) Pet food that consists [foods such as those consisting] principally of stew, gravy, sauce, broth, juice or a milk replacer, which is [are] so labeled, may contain moisture in excess of seventy-eight (78) percent.

Section 2. Each ingredient of the pet food shall be:

- (1) Listed in the ingredient statement;
- (2) Shown in letters or type of the same size;
- (3) Listed in descending order by the ingredient's predominance by weight; and
- (4) Identified by the:
 - (a) Name of the ingredient as established by the Association of American Feed Control Officials, if a name and definition has been established; or
 - (b) Common or usual name of the ingredient, if a name and definition has not been established. A brand or trade name shall not be used in the ingredient statement. [Each ingredient of the pet food shall be listed in the ingredient statement, and [names of] all ingredients [in the ingredient statement] must be shown in letters or type of the same size. The ingredients [of a pet food] shall be listed in descending order by their predominance by weight. Any ingredient for which the Association of American Feed Control Officials has established a name and definition shall be identified by that [the] name [so established]. Any ingredient for which no name and definition has been [so] established shall be identified by the common or usual name of the ingredient. Brand or trade names shall not be used in the ingredient statement.]

Section 3. The term "dehydrated" may precede the name of an [any] ingredient if it [in the ingredient list that] has been artificially dried.

Section 4. A [No] reference to the quality or grade of an ingredient shall not appear in the ingredient statement [of a pet food] unless the:

- (1) Designation of quality, nature, form, or other attribute of an ingredient is accurate; and
- (2) [unless] [the] Ingredient imparts a distinctive characteristic to the pet food [because it possesses that attribute].

Section 5. Incorporation by Reference. (1) "Official Publication", (1998 Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

C. ORAN LITTLE, Dean and Director

VOLUME 25, NUMBER 10 – APRIL 1, 1999

PAUL C. VANBOOVAN, Office of Legal Counsel
APPROVED BY AGENCY: September 14, 1998
FILED WITH LRC: September 15, 1998 at noon

UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 3:037. Additives.

RELATES TO: KRS 250.501, 250.511, 250.541(1)(a), (b), (c), (d), (e), (f), (i), (2)(c), (d), (e), 21 CFR Parts 70, 71, 73, 74, 80, 81, 82, 501.22, 570.3(1), 570.30, 582, 21 USC 360(b) [250.491 to 250.631]

STATUTORY AUTHORITY: KRS 250.571(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. KRS 250.541 defines adulterated commercial feeds and states how they may be adulterated by additives. KRS 250.551(1) and (2) prohibits the manufacturing and distribution of adulterated products as animal feeds. This administrative regulation establishes requirements to ensure that a drug or additive used in pet food is safe and effective for its [ensures [To ensure] that drugs and additives used [employed] in pet foods are safe and effective for their] intended purpose.

Section 1. An artificial color may be used in a pet food [only] if it has been shown to be harmless to pets. The permanent or provisional listing of an artificial color in 21 CFR Part 70, 71, 73, 74, 80, 81, or 82, or 501.22 [the United States Food and Drug regulations] as safe for use, together with the conditions, limitations, and tolerances, if any, [incorporated therein,] shall be [deemed to be] satisfactory evidence that the color is [when used pursuant to such regulations,] harmless to pets.

Section 2. Before [Prior to] approval of a label and a registration application, the distributor of a [and/or approval of a label for] pet food, containing [which contains] an additive including a drug, another special purpose additive, or a nonnutritive additive [additives (including drugs, other special purpose additives, or nonnutritive additives)] shall, upon request of the director, [the distributor may be required to] submit evidence to prove the safety and efficacy of the pet food if [when] used according to label directions [furnished on the label]. Satisfactory evidence of the safety and efficacy of a pet food shall [may] be:

(1) If [When] the pet food contains [such] an additive [additives] that conforms to 21 CFR 570.3(1), 570.30, or Part 582 [conform to the use of which conforms] to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or that [which] are [prior sanctioned] or [generally recognized as safe (GRAS)] for such use according to Food and Drug Administration; or

(2) If [When] the pet food [itself] is a drug as defined in KRS 250.501(7) and is generally recognized by the Food and Drug Administration as safe and effective for its labeled [label] use or is marketed subject to an application approved by the Food and Drug Administration under 21 USC 360(b).

Section 3. The medicated labeling format recommended by the Association of American Feed Control Officials in its Official Publication shall be used to insure that adequate labeling is provided.

Section 4. Incorporation by Reference. (1) "Official Publication", (1998 Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

C. ORAN LITTLE, Dean and Director
PAUL C. VANBOOVAN, Office of Legal Counsel

APPROVED BY AGENCY: September 14, 1998
FILED WITH LRC: September 15, 1998 at noon

UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(As Amended at ARRS, March 9, 1999)

12 KAR 3:042. Statement of caloric content.

RELATES TO: KRS 250.501, 250.521 [250.491 to 250.631]

STATUTORY AUTHORITY: KRS 250.571(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.571(1) authorizes the Director of the Agricultural Experiment Station to promulgate administrative regulations necessary for efficient enforcement of KRS 250.491 to 250.631, regarding commercial feeds. This administrative regulation establishes [provides] [To provide] a uniform procedure for determining the caloric content of dog and cat foods and expressing it [expression of the caloric content] on product labels.

Section 1. If the label of a dog or cat food bears [may bear] a statement of caloric content, all of the following requirements shall be met: [provided:]

(1) The caloric statement shall be separate [and distinct] from the guaranteed analysis and shall appear under the heading "Calorie Content". [and]

(2) The statement shall be:

(a) [measured] In terms of metabolizable energy (ME);

(b) On an as-fed basis; and

(c) Expressed [must be express] as:

1. "Kilocalories per kilogram" (kcal/kg) of product; or

2. [and may also be expressed] [as] Kilocalories (kcal) per familiar household measure, which shall be a can, cup, pound, or similar designation [e.g., cans, cups, pounds]. [and]

(3) An affidavit shall be provided upon request of the director [accompany the request for label review or registration], substantiating that the caloric content was determined by the method established in paragraph (a) or (b) of this subsection:

(a) [By] Calculation using the [following:] Modified Atwater^[a] formula:

$$ME \text{ (kcal/kg)} = 10 ((3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE))$$

where CP = % crude protein as fed, CF = % crude fat as fed, NFE = % nitrogen-free extract (carbohydrate) as fed, and the percentages of CP and CF are the arithmetic averages from proximate analyses of at [a] least four (4) production batches of the product; and the NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF). The results of all the analyses used in the calculation shall [must] accompany the affidavit, and the claim on the label shall [or other labeling must] be followed parenthetically by the word 'calculated'; or

(b) [In accordance with a] Testing using the [a] procedure established by the Association of American Feed Control Officials in the Official Publication. The summary data used in the determination of caloric content shall [must] accompany the affidavit. The value stated on the label shall not exceed or understate the value determined by the Modified Atwater formula by more than fifteen (15) percent.

(4) A comparative claim [claims] shall:

(a) Not be false, misleading or given [give] undue emphasis; and

(b) [shall] [must] Be based on the same methodology for all [both] products compared.

Section 2. Incorporation by Reference. (1) "Official Publication", (1998 Edition), Association of American Feed Control Officials, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Division of Regulatory Services, 103 Regulatory Services Building, College of Agriculture, University of Kentucky, Lexington, Kentucky 40546-0275, Monday through Friday, 8 a.m. to 4:30 p.m.

C. ORAN LITTLE, Dean and Director

PAUL C. VANBOOVAN, Office of Legal Counsel
APPROVED BY AGENCY: October 2, 1998
FILED WITH LRC: October 7, 1998 at 3 p.m.

KENTUCKY REAL ESTATE COMMISSION
(As Amended at ARRS, March 9, 1999)

201 KAR 11:400. Agency disclosure requirements.

RELATES TO: KRS 324.160(1)(e)

STATUTORY AUTHORITY: KRS 324.160(1)(e), (j), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.160(1)(e) authorizes the commission to take disciplinary action if a licensee acts for more than one (1) party in a transaction without the knowledge of all parties. KRS 324.282 authorizes the commission to promulgate administrative regulations necessary to implement KRS Chapter 324. This administrative regulation establishes a specific format for disclosing the relationship between a broker or sales associate, seller, and buyer in a residential transaction to: (1) ensure that each party knows what relationship exists between the parties; and (2) have documented evidence that the disclosure occurred.

Section 1. Definitions. (1) "Commercial transaction" means a transaction other than the sale of a single-family residential property, multifamily property containing four (4) units or less, single-family residential lot, or agricultural property.

(2) "Delivery" means delivery of an item to a prospective party or his broker or sales associate by:

- (a) Mail;
- (b) FAX transmission;
- (c) Messenger; or
- (d) Hand.

(3) "First contact" means the period:

(a) Before a contract containing a duty of representation and compensation is entered into by a:

1. Prospective party who does not have a broker or sales associate; and
2. A broker or sales associate who has offered to represent him; or

(b) Before the beginning of discussions relating to a real estate transaction between a:

1. Prospective party who does not have a broker or sales associate; and
2. A broker or sales associate who has proposed to discuss the real estate transaction with him.

(4) "First substantial contact" means the period between the first contact and the period immediately preceding the presentation of a written offer to purchase.

(5) "Prospective party" means a person who:

- (a) Enters a listing contract as a seller;
- (b) Enters a buyer broker agreement as a buyer; or
- (c) Seeks or uses the services of a broker or sales associate.

(6) "Prospective party who is represented by a broker or sales associate" means a person who has entered into a current listing contract, or buyer broker agreement with a broker or sales associate.

Section 2. The provisions of this administrative regulation shall not apply to a:

- (1) Sale of real estate at auction;
- (2) Property management of real estate; or
- (3) Commercial transaction.

Section 3. Prospective Party Information. (1) A broker or sales associate shall deliver to a prospective party an Agency Information Bulletin on the first contact. The Agency Information Bulletin shall:

- (a) Be prepared by the broker or sales associate; and
- (b) Generally summarize the possible relationships that may exist between the broker or sales associate, and the buyer and seller.

(2) A broker or sales associate shall deliver to a prospective party an "Agency Disclosure Form" on the first substantial contact. The "Agency Disclosure Form" shall:

- (a) Be signed by each:

1. Prospective party to the transaction; and
 2. Broker or sales associate involved in the transaction; and
- (b) Identify:
1. Each prospective party known to the broker or sales associate making the disclosure;
 2. If a prospective party is represented by a broker or sales associate, the name of the broker or sales associate, his real estate company, and whom he represents; and
 3. The real estate that is the subject of the negotiation;
- (c) Describe the personal, family, or business relationships between:
1. The broker or sales associate making the disclosure; and
 2. Each prospective party known to the broker or sales associate when the disclosure is made;
- (d) State whether the broker or sales associate making the disclosure is acting as a principal as a prospective:

1. Seller;
 2. Buyer;
 3. Lender; or
 4. Investor; **[and]**
- (e) Contain a statement that:
1. An agent owes a fiduciary duty to his client, including:
 - a. A duty of loyalty;
 - b. Giving the client all the information the agent knows about the property;
 - c. Honesty and fair dealing; and
 - d. Negotiating in the best interests of his client;
 2. An agent owes a duty of honesty and fair dealing to his customer; and
 3. The payment of a fee to an agent shall not create a fiduciary duty to the person paying the fee; **and**

(f) Indicate whether the listing or **[and]** selling licensee is **[licensees are]** acting as a designated agent **[agents]**.

(3) The "Agency Disclosure Form" and the "Agency Information For Consumers Bulletin" required by subsection (1) of this section shall be:

(a) The "Agency Disclosure Form Approved By Kentucky Real Estate Commission", and the "Agency Information For Consumers Bulletin Approved by Kentucky Real Estate Commission"; or

(b) An Agency Disclosure Form, and Agency Information For Consumers Bulletin, that have been developed by the broker or sales associate and approved by the commission.

(4)(a) An "Agency Disclosure Form" that has been developed by the broker or sales associate shall be submitted to the commission for approval.

(b) The general counsel of the commission shall:

1. Review the form;
2. Make a recommendation to the commission that the form be approved or disapproved; and
3. Inform the broker or sales associate of the commission's decision.

Section 4. Commission Review of Licensee Documents. The commission shall:

- (1) Review a licensee listing agreement, buyer broker agreement, **or [and]** purchase agreement;
- (2) Approve an agreement that it determines contains the information required by this administrative regulation; and
- (3) Inform the broker or sales associate of the commission's action.

Section 5. Incorporation By Reference. (1) **The following material is incorporated by reference:**

(a) "Agency Disclosure Form Approved By Kentucky Real Estate Commission (November 19, 1998 [Sep-07-1995])"; **and**

(b) **"Agency Information for Consumers Bulletin Approved by Kentucky Real Estate Commission (1999)"** [~~is incorporated by reference~~].

(2) **This material [it]** may be inspected, copied, or obtained at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville Kentucky 40223, **Monday through Friday**, 8 a.m. to 4:30 p.m. [~~Monday through Friday~~].

BETTY J. KAISER, Chairperson
JEFFREY C. BLAIR, General Counsel
APPROVED BY AGENCY: November 19, 1998
FILED WITH LRC: December 15, 1998 at 11 a.m.

KENTUCKY REAL ESTATE COMMISSION
(As Amended at ARRS, March 9, 1999)

201 KAR 11:410. Broker duties pursuant to designated agency.

RELATES TO: KRS 324.121, 324.160(3)

STATUTORY AUTHORITY: KRS 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.121 authorizes a principal broker to designate an agent by appointing himself or a licensee with which he is associated to act as an agent for a seller, buyer or prospective buyer to the exclusion of all other licensees associated with the principal broker. This administrative regulation establishes the requirements that apply to a designated agency. [To inform and set certain standards for real estate licensees and to protect the consumer public.]

Section 1. **Definitions.** (1) "Confidential information" means information that:

- (a) Is provided to a designated agent by a seller or prospective buyer of real estate;
- (b) Describes or affects the provider's negotiation, bargaining position or motivation;
- (c) Is not required by law; and
- (d) Will not constitute fraud or a dishonest dealing, if not disclosed.

(2) "Designated agent" means a person designated pursuant to KRS 324.121(1). [(1) "Designated agency" means the creation of a fiduciary relationship by a principal broker appointing himself or herself or appointing an affiliated licensee(s) to act as an agent for a seller or buyer or prospective buyer to the exclusion of all other licensees associated with the principal broker. A consumer must consent in writing to the designation of agency and be notified at the time of appointment in order for designated agency to be created.]

(2) "Confidential information" means information provided by seller(s) or prospective purchaser(s) of real estate to his or her agent describing or affecting the sellers' or buyers' negotiation or bargaining position or motivation, but does not include information that is required by law to be disclosed or information that if not disclosed or information that if not disclosed would constitute fraud or dishonest dealings.]

Section 2. A principal broker who appoints a designated agent [himself or herself or a licensee with whom he or she is associated to act as an agent for a seller or buyer or prospective buyer to the exclusion of all other licensees associated with the principal broker] shall:

(1) Require that all documents that contain confidential information relating to a client:

(a) Be kept in an individual file maintained by the designated agent and the principal broker. If the principal broker is the designated agent for a party, the other party's designated agent shall maintain the client files without access by the principal broker; and

(b) Not be accessible to another licensee except as required by KRS 324.160(3); [Require that all documents containing confidential information relating to any client be kept in individual files and maintained by the designated agent and by the principal broker unless the principal broker is acting as a designated agent in the transaction, in which case the non-principal broker designated agent shall maintain the file without access by the principal broker, and such files shall not be accessible to other licensees except as necessitated by KRS 324.160(3) and subsection (8) of this section.]

(2) Implement a system to maintain confidential information. The system shall:

(a) Prohibit an employee from assisting more than one (1) designated agent in the same transaction, if the designated agents represent different clients in that transaction;

(b) [Establish adequate systems and take reasonable care to maintain confidentiality of client information distributed or received;

(3) Prohibit assistants of licensees that have been designated to represent different clients in the same transaction from assisting more than one (1) designated licensee in that transaction;

(4) Prohibit discussions between a designated agent and client [agents and clients] concerning confidential information of the client within the office unless the conversation occurs in an environment which allows appropriate privacy;

(c) Prohibit the disclosure of confidential information by office personnel and clerical staff; and

(d) Require notification to each client involved in a transaction, if the principal broker becomes aware of an unauthorized or inadvertent disclosure of confidential information relating to that transaction;

(3) [(5) Notify clients of designated agents immediately if the principal broker becomes aware of any unauthorized or inadvertent disclosure of the clients' confidential information to another;

(6) Require a licensee to disqualify himself from being appointed as a designated agent for a party if the agent has received confidential information concerning the other party to the transaction; and

(4) [(7) Not designate himself [themselves] as designated agent [in an in-house transaction] unless the principal broker has sufficient personnel and other resources to exercise adequate supervision over the other designated agent and to maintain confidential information [office files in conformance with the law].

[(8) Create reasonably necessary office systems to prevent office personnel and clerical staff's disclosure of client confidential information;

(9) Take other reasonably necessary steps to require designated agents act in the proper fiduciary capacity towards clients;

(10) Take other reasonably necessary steps to require non-licensee office personnel act in the proper manner toward principals of the firm's licensees.]

BETTY J. KAISER, Chairperson
JEFFREY C. BLAIR, General Counsel
APPROVED BY AGENCY: November 19, 1998
FILED WITH LRC: December 15, 1998 at 11 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, March 9, 1999)

301 KAR 2:132. Elk depredation permits.

RELATES TO: KRS 150.010, 150.180, 150.390, 150.395, 150.990(11) [1998 Ky. Acts ch. 24, sec. 3]

STATUTORY AUTHORITY: KRS 150.390(3) [1998 Ky. Acts ch. 24, sec. 3]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.390(3) [1998 Ky. Acts ch. 24, sec. 3] authorizes the department to promulgate administrative regulations stipulating the conditions under which depredation permits for elk may be issued. This administrative regulation details procedures to be used to obtain a depredation permit to control elk causing property damage.

Section 1. **Definitions.** (1) "Restoration area" means the Kentucky counties east of and including Bell, Knox, Clay, Perry, Breathitt, Magoffin, Johnson and Martin.

(2) "Wild elk" means:

- (a) An elk translocated and released by the department; or
- (b) The progeny of an elk translocated and released by the department.

Section 2. A person shall:

- (1) Not kill or molest a wild elk that is causing property damage, except as specified in Section 3(3) of this administrative regulation.

(2) Contact the department if he wants depredating wild elk removed from his property.

Section 3. Upon receipt of a damage complaint, the department shall:

(1) Verify that wild elk are causing the damage; and

(2)(a) If inside the restoration area, remove the elk; or

(b) If outside the restoration area:

1. Remove the elk; or

2. Authorize the property owner or his designee to destroy the elk. [In the restoration area, remove the elk; or

(3) Outside the restoration area, as circumstances dictate:

(a) Remove the elk; or

(b) Authorize the property owner or his designee to destroy the elk.]

Section 4. A person authorized to destroy an elk under the provisions of Section 3 of this administrative regulation shall not:

(1) Move the elk until he has attached a tag provided by the department to the carcass; and

(2) Remove the tag until the carcass is processed.

C. THOMAS BENNETT, Commissioner

MIKE BOATWRIGHT, Chairman

ANN R. LATTA, Secretary

DOUGLAS SCOTT PORTER, Assistant Attorney General

APPROVED BY AGENCY: December 4, 1998

FILED WITH LRC: January 14, 1999 at 10 a.m.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, March 9, 1999)**

401 KAR 63:105. Requirements for control technology determinations for major sources in accordance with Clean Air Act sections 112(g) and 112(j).

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 63.40 to 63.56, 42 USC 7401, 7412, 7414

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 63.40 to 63.56, 42 USC 7401, 7412, 7414

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes methods and procedures for determining emissions limitations for constructed or reconstructed major sources of hazardous air pollutants for which a maximum achievable control technology (MACT) determination has not been made.

Section 1. [Definitions:] (1) **For purposes of** ["Administrator", as used in] 40 CFR 63.51, **the administrator shall be** [means] the Secretary of the Natural Resources and Environmental Protection Cabinet.

(2) **For purposes of 40 CFR 63.51, the permitting authority shall be** ["Permitting authority" means] the Natural Resources and Environmental Protection Cabinet.

Section 2. Incorporation by Reference. (1) 40 CFR 63.40 to 63.56 (40 CFR Part 63, Subpart B), "Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112 (g) and 112 (j)", as published in the Code of Federal Regulations, 40 CFR Part 63, July 1, 1997, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort,

Kentucky, 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky, 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky, 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky, 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky, 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, London, Kentucky, 40741, (606)-878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky, 42303, (502) 687-7304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky, 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: November 10, 1998

FILED WITH LRC: November 12, 1998 at 10 a.m.

**TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
(As Amended at ARRS, March 9, 1999)**

601 KAR 1:115. Taxicabs, limousines, and disabled persons vehicles.

RELATES TO: KRS 186.276, 186.281, 186.286, Chapter 281

STATUTORY AUTHORITY: KRS 281.600, **281.630**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 authorizes the department to promulgate administrative regulations regulating motor carriers. This administrative regulation establishes the procedures for operation of a city or county taxicab, city or county limousine, or a disabled person's carrier business and designates the information that must be filed with the cabinet or provided to the public. [This administrative regulation provides general procedures for operation of a city or county taxicab, a city or county limousine, or a disabled persons carrier business. It further establishes (as it pertains to) information that must be filed with the cabinet or provided to the public.]

Section 1. Definitions. (1) "City limousine certificate" is [means as] defined in KRS 281.014.

(2) "City taxicab certificate" is [means as] defined in KRS 281.014.

(3) "County limousine certificate" is [means as] defined in KRS 281.014.

(4) "County taxicab certificate" is [means as] defined in KRS 281.014.

(5) "Disabled persons certificate" is [means as] defined in KRS 281.014.

(6) "Origin of operation" means the place at which the passenger is picked up by the taxicab, limousine, or disabled persons vehicle.

(7) "Suburban area" is [means as] defined in KRS 281.012.

Section 2. Procedure; Sale, [or] Transfer, or Lease of Taxicab, Limousine, or Disabled Persons (Taxi) Certificate. (1) Upon the filing of an application for approval of a sale, [or] transfer or lease of a city or county taxicab, city or county limousine, or disabled persons certificate or portion of one (1) of these certificates [thereof], the cabinet shall issue notice in accordance with 601 KAR 1:030 [1:070].

(2) If a [in the event no] protest is not filed in accordance with 601 KAR 1:030, the commissioner shall [may] approve the sale, [and] transfer, or lease without a hearing. This shall be construed to include the sale, [or] transfer, or lease of the right to operate one (1) or more taxicabs, limousines, or disabled persons vehicles. [Should the applicant receive no notification from the cabinet prior to the date set for

hearing, an appearance shall be made at the time and place set forth in the notice thereof prepared to proceed with the case.]

Section 3. City [2:] Taxicab and City Limousine Operations. (1) A city taxicab or city limousine certificate shall [All taxicab certificates will] be issued to allow origin of operations in [operate at] a designated town or city and its suburban area. [~~and all operations must be at or from such~~]

(2)(a) Each trip of the certificate holder shall originate in the designated town or city and its suburban area.

(b) The destination selected by the passenger shall not be required [~~does not have~~] to be in the designated town or city and its suburban area.

(c) If a passenger selects [~~selected~~] a destination which is [~~was~~] not located in the certificate holder's designated town or city and its suburban area, at the passenger's request the certificate holder may return the passenger to a point within the certificate holder's designated town or city and its suburban area.

(3)(a) An operator who has secured a certificate to operate in [at] a designated town or city and its suburban area shall [will] not be permitted to change the place of origin of operations without applying for and receiving additional authority pursuant to KRS 281.620.

(b) Origination of an operation in [~~Operations from~~] any city or town or its suburban area other than designated in the certificate shall constitute a cause for suspension or cancellation of the certificate.

Section 4. County Taxicab, County Limousine, or Disabled Persons Carrier Operations. (1) A county taxicab, county limousine, or disabled persons certificate shall be issued to allow origin of operations any place within a designated county.

(2)(a) Each trip of the certificate holder shall originate in the designated county.

(b) The destination selected by the passenger shall not be required [~~does not have~~] to be in the designated county.

(c) If a passenger selected a destination which was not located in the certificate holder's designated county, at the passenger's request the certificate holder may return the passenger to a point within the certificate holder's designated county.

(3)(a) An operator who has secured a certificate to operate in a designated county shall not be permitted to change the county of origin of operations without applying for and receiving additional authority pursuant to KRS 281.620.

(b) Origination of an operation from any county not designated in the certificate shall constitute a cause for suspension or cancellation of the certificate.

Section 5. [3:] List of Drivers. (1) Each taxicab, limousine, or disabled persons certificate holder [All taxicab operators] shall maintain a complete list of the [taxi] drivers employed by the certificate holder [such operator].

(2) This list shall be on file at the office or cab stand of the [such] operator, and will be available for inspection by the Transportation Cabinet, other state government agency, or law enforcement agency. [~~anyone at any time.~~]

(3) This list shall contain the name, address, age, and the operator's license [~~and driver or chauffeur's badge~~] number of each driver. Any change in [~~and all changes of~~] drivers shall be promptly noted on the [said] list.

(4) Each certificate holder, prior to hiring a new driver, shall:

(a) Ensure that the driver has a valid operator's license; and

(b) Obtain and review the driving history record of the driver.

(5) Annually, the certificate holder shall obtain and evaluate an updated copy of the driving history record of each of his drivers.

Section 6. [4:] Decrease in Number of Taxicabs, Limousines, or Disabled Persons Vehicles [Cabs] Operated. (1) If a taxicab, limousine, or disabled persons vehicle operator decides to decrease the number of taxicabs, limousines, or disabled persons vehicles which he has in operation, he may do so by notifying the cabinet and surrendering the identification tag issued to the taxicab, limousine, or disabled persons vehicle by the Division of Motor Carriers. If at any time during the same year the taxicab, limousine, or disabled persons vehicle operator desires to

replace in operation any taxicab, limousine, or disabled persons vehicle so dropped, he shall do so by notifying the Division of Motor Carriers and procuring the proper tag.

(2) If the taxicab, limousine, or disabled persons vehicle which is dropped is not properly replaced in operation within three (3) years of the next renewal date of the taxicab certificate, the taxicab, limousine, or disabled persons vehicle dropped and not replaced shall constitute a forfeiture of the taxicab, limousine, or disabled persons vehicle and an application shall be necessary before the replacement of the taxicab, limousine, or disabled persons vehicle may be authorized.

(3) The number of vehicles a carrier maintains in escrow shall not be considered as evidence in a proceeding in which a determination as to the adequacy of the carrier's service is an issue. Only the vehicles the carrier has in operation at the time of the filing of the application shall be considered. [(1) If a taxicab, limousine, or disabled person's vehicle certificate holder decreases the number of vehicles from that authorized by his certificate of operation, he may replace in operation the vehicle dropped, if he notifies the cabinet and surrenders the identification tag of the dropped vehicle. [If a [Whenever any] taxicab, limousine, or disabled persons certificate holder has decreased [operator desires to decrease] the number of taxicabs, limousines, or disabled persons vehicles [cabs] which he has authorized by his certificate of operation [in operation, he may do so] by notifying the cabinet and surrendering the identification tag [or tags] issued to the taxicab, limousine, or disabled persons vehicle [such cab or cabs] by the Division of Motor Carriers, the certificate holder may [cabinet. The certificate holder may [Should any taxicab operator,] at any time during the same year] [, desire to] replace in operation the taxicab, limousine, or disabled persons vehicle [any cab so] dropped.]

(2) He shall do so [, he must do so] by notifying the cabinet and procuring the proper tag [or tags].

(3) If a taxicab, limousine, or disabled person's vehicle which is [~~was~~] dropped from service, pursuant to subsection (1) of this section, is not [~~properly~~] replaced in operation by June 30, 1999, the dropping of the [taxicab, limousine, or disabled persons] vehicle shall constitute a permanent forfeiture of the authority to operate it [the taxicab, limousine, or disabled persons vehicle] and the certificate of authority shall be reissued to reflect the reduction in the number of authorized vehicles.

(4) To request restoration of the use of the forfeited taxicab, limousine, or disabled persons vehicle, the certificate holder shall file a new application pursuant to KRS 281.620.

(5)(a) Effective July 1, 1999, if a taxicab, limousine, or disabled persons vehicle authorized by the certificate needs to be repaired or replaced, the certificate holder may request an escrow of the vehicle for a period not to exceed ninety (90) days:

(b) The written request to the Transportation Cabinet to escrow the vehicle shall be accompanied by the vehicle identification tag issued to the certificate holder by the Division of Motor Carriers and a detailing of the reason for the need for the escrow.

(c) If, after ninety (90) days, the certificate holder has not placed the vehicle back in service by retrieving the tag from the Transportation Cabinet, he shall permanently forfeit [~~have permanently forfeited~~] the authority to operate that taxicab, limousine, or disabled persons vehicle and the certificate of authority shall be reissued to reflect the reduction in the number of authorized vehicles.

(d) If, before the end of the ninety (90) days, the certificate holder discovers that additional time is needed to repair or replace the escrowed vehicle, he may request from the Commissioner of the Department of Vehicle Regulation, one (1) additional ninety (90) day escrow period.

(e) The commissioner shall [~~may~~] allow the one (1) additional ninety (90) day escrow period, if the certificate holder provides sufficient proof that the delay is unavoidable and if the certificate holder has not exhibited a pattern of abuse of the escrow period. [If the cabs which are dropped are not properly replaced in operation within three (3) years of the next renewal date of the taxicab certificate, such cabs so dropped and not replaced will constitute a forfeiture of such cabs, and an application will be necessary before the replacement of such cabs will be authorized.]

Section 7. [5-] Trip Records. (1) A taxicab, limousine, or disabled persons certificate holder [All taxicab operators certificated to operate one (1) or more taxicabs from a city of the first or second class within the Commonwealth or operating into such a city in intrastate commerce with a point of origin or destination outside this state;] shall maintain an accurate record of the origin, destination, driver, and date of each trip made by each licensed vehicle. [vehicle, and date of each trip [all trips] made by each of its licensed taxicabs, limousines, or disabled persons vehicles.]

(2) The daily log report of a driver shall be sufficient proof of the record required to be kept by subsection (1) of this section. [These records may be the daily log reports kept by the drivers:]

(3) An origin and destination report shall be:

(a) Kept by the certificate holder at least one (1) year; and

(b) Readily available for inspection by the:

1. Transportation Cabinet;

2. Another state agency; or

3. A law enforcement agency. [These origin and destination reports shall be kept by the certificate holder [operator] for at least one (1) year and shall be available for inspection by the Transportation Cabinet, other state government agency, or a law enforcement agency.]

Section 8. Taxicab, Limousine, and Disabled Persons Vehicle Identification Cards.

(1) An application or renewal application for a Kentucky taxicab, limousine, or disabled persons vehicle identification card and plate shall be made on form TC 95-39, "Application for Kentucky Passenger Fee Receipt Card for Year _____" for each vehicle to be operated as a taxicab, limousine, or disabled persons vehicle.

(2) If the vehicle is leased, the Kentucky license plate number and name of the lessor shall [also] be provided.

(3) Each taxicab, limousine, or disabled persons vehicle identification card and plate shall be renewed annually pursuant to KRS 186.281.

(4) A certificate holder who needs to transfer an identification plate from the motor vehicle for which it was issued to another shall complete and file with the Division of Motor Carriers, form TC 95-37, "Affidavit". The following information shall be sent with the completed form TC 95-37:

(a) A copy of the vehicle registration or title on the new motor vehicle needed to be placed in operation;

(b) Proof that the new vehicle has been added to the liability insurance policy of the certificate holder;

(c) The original fee receipt card issued with the identification plate. If the original is not available, a sworn statement shall be attached explaining why the fee receipt card is not available; and

(d) If the new vehicle is not registered to the certificate holder, a completed form TC 95-15, "Equipment Lease Agreement."

Section 9. Material Incorporated by Reference. (1) The following material is incorporated by reference [as a part of this administrative regulation]:

(a) Form TC 95-39, "Application for Kentucky Passenger Fee Receipt Card for Year _____" as revised by the Transportation Cabinet in January 1995;

(b) Form TC 95-37, "Affidavit" as revised by the Transportation Cabinet in September 1996; and

(c) Form TC 95-15, "Equipment Lease Agreement" as revised by the Transportation Cabinet in 1988.

(2) This material [The material incorporated by reference in this administrative regulation] may be viewed, copied, or obtained from the Division of Motor Carriers, P.O. Box 2007, 3rd Floor State Office Building, 501 High Street, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. through 4:30 p.m. [The telephone number of the division is (502) 564-4540. The hours of operation of the division are 8 a.m. through 4:30 p.m., weekdays, local prevailing time.]

ED LOGSDON, Commissioner

JAMES C. CODELL, III, Secretary

E. JEFFREY MOSLEY, Office of General Counsel

APPROVED BY AGENCY: September 4, 1998

FILED WITH LRC: September 8, 1998

**FINANCE AND ADMINISTRATION CABINET
School Facilities Construction Commission
(As Amended at ARRS, March 9, 1999)**

750 KAR 1:010. Commission procedures.

RELATES TO: KRS Chapter 157

STATUTORY AUTHORITY: KRS 157.617, 157.622

NECESSITY, FUNCTION, AND CONFORMITY: The School Facilities Construction Commission was established for the purpose of assisting local school districts to meet the school construction needs of the state. The General Assembly has appropriated funds for administrative support and debt service to allow the commission to implement its program. This administrative regulation describes the procedures the School Facilities Construction Commission will utilize in determining eligibility, determining the level of participation of each local school district, making the offer of assistance to the local school districts, determining allowable expenditure of funds, [and] cumulating credit for those districts that maintain their eligibility, but do not have sufficient funds to complete their first priority project, and allocating savings from refinancings. [This amendment redistributes the maximum amount of fees authorized by the commission to be paid to financial advisors for services performed for commission and local school board bond issues, and corrects the name of the commission referenced in the administrative regulation to comply with statutory language contained in KRS 157.617.]

Section 1. Definitions. (1) "Level repayment schedule" **means a repayment schedule** [is one (1)] in which the combined annual amount of principal and interest payments for each issue of bonds remains relatively constant over the life of the issue.

(2) "Maximum annual repayment amount" **means** [is] the maximum aggregate total of SFCC annual payments for all bonds issued for a particular school district in which the SFCC has participated. If a bond series has been refunded, the original issue and debt schedule shall be the one used in making this computation.

(3) "Offer of assistance" **means** [is] the amount available for a school district from a current biennium along with any allocation available from a prior period which has not expired according to KRS 157.622(5), and (7).

(4) "Total interest" **means** [is] the first gross interest payment of the debt service for the SFCC portion of the schedule.

(5) "Daily interest" **means** [is] the total interest divided by the number of days in the first coupon.

Section 2. Eligibility. (1) The School Facilities Construction Commission shall use the statement of need and available local revenue as certified by the State Board of [for Elementary and Secondary] Education in determining the rate of participation of each school district in any given biennium. Eligibility for participation as established in KRS 157.620(1) shall be certified by the State Board of [for Elementary and Secondary] Education.

(2) A school district retaining capital outlay funds in its current expense general fund under the provisions of KRS 157.420 in the year preceding the biennium in which funds are available or during the biennium shall be ineligible to participate in the SFCC Program during such funding period.

Section 3. Rate of Participation. The rate of participation of each "eligible district", as defined by KRS 157.615, shall be determined by dividing the unmet needs of such respective district by the total unmet needs of all eligible districts and multiplying that fraction times the total new debt service budgeted for the biennium. In the event there are insufficient funds budgeted in the first year of the biennium to fund all the requests, bond sales will be scheduled in the order in which the School Facilities Construction Commission receives requests for approval of bond sales. All bond sales may proceed after January 1 of the first year of the biennium.

Section 4. Offer of Assistance. Upon certification of the rate of participation by the School Facilities Construction Commission, the Executive Director of the School Facilities Construction Commission shall notify each eligible district of its entitled rate of participation and

the requirements to be met if it wishes to accept the offer of assistance. These requirements shall include the amount of local revenue to be expended as certified by the State Board of ~~of [for-Elementary and Secondary]~~ Education, the priority order of facilities to be built as certified by the State Board of ~~of [for-Elementary and Secondary]~~ Education, and the sequence of events and deadlines to be met if the local school district accepts the offer of assistance.

Section 5. Acceptance of Offer of Assistance. ~~[(4)]~~ Within thirty (30) days of receipt of the offer of assistance, the local board of education shall notify the School Facilities Construction Commission of acceptance or rejection of the offer of assistance. The local district response shall indicate the amount of the offer it plans to commit to construction or renovation immediately and/or the amount it wishes to count as cumulative credit ~~(hold in its escrow account)~~. A district not responding within thirty (30) days shall be declared ineligible and the offer of assistance withdrawn and redistributed to the eligible recipients. In extenuating circumstances and upon written request within the original thirty (30) day period, a single thirty (30) day extension may be granted by the Executive Director of the School Facilities Construction Commission.

~~[(2) Within ninety (90) days of the offer of assistance the local district shall provide the School Facilities Construction Commission with a copy of the project BG-1 form approved by the Department of Education.~~

~~[(3) Within 120 days of the offer of assistance the local district shall provide the School Facilities Construction Commission with an executed deed, Title Opinion, and Certificate of Title Insurance for the project site. If the site acquisition process is in litigation, an extension may be granted by the School Facilities Construction Commission upon written request of the local board of education. Under no circumstances will the extension go beyond the biennium in which the offer was made.]~~

Section 6. Review of Building Plans. The review and approval of building plans shall be the responsibility of the Kentucky Department of Education.

Section 7. Allowable Expenditures of Funds. All funds available from "available local revenue", as defined by KRS 157.615, shall be expended before funds generated by bond sales authorized by the SFCC are expended. All funds available for a project shall be expended for the purpose of major renovation and/or construction of the identified project except that the balance of funds remaining after the completion of the project may be expended on the next project on the approved facilities plan of the respective districts. Such cost may include site acquisition, providing architectural and engineering services, financial and legal services, and equipment. The site acquisition cost shall be limited to the lesser of the actual cost of acquiring a site or the fair market value of the site as determined by qualified appraisal obtained by the School Facilities Construction Commission and charged to the project account. In no case shall School Facilities Construction Commission funds or funds from the restricted account be used to purchase a site greater than that required by state board administrative regulations for construction of the approved project. In no case shall School Facilities Construction Commission funds or funds from the restricted account be used to reimburse the local board of education for a site acquired before enactment of KRS 157.611. Construction costs may include the cost of fixed equipment and movable equipment, but may not include the cost of supplies as defined by "Kentucky School Financial Accounting System" Instruction Manual.

Section 8. Bond Issuance Procedures. (1) Upon acceptance of an offer of assistance by a local school district, the School Facilities Construction Commission shall determine whether the local school district will issue the bonds or the SFCC will issue the bonds. Local school districts may request authority from the SFCC to issue the bonds through a city, county, or other agency and instrumentality of the Board of Education. ~~[(the local fiscal court or municipal government. Such a request shall be submitted to the commission at the time the local school district accepts the offer of assistance.)]~~

(2) If the commission grants permission to issue bonds at the local level, the procedures for issuing the bonds shall be as follows:

(a) The local board of education shall obtain the services of a financial advisor;

(b) The contract with the financial advisor shall be submitted to the School Facilities Construction Commission for final approval after signature by the local school district and the financial advisor;

(c) The local board of education shall obtain the services of a trustee, paying agent, and registrar. Such institution shall meet eligibility criteria provided by the School Facilities Construction Commission.

(3) In situations where the size of the bond issues is small (less than \$500,000) or there is no local participation in the repayment, the School Facilities Construction Commission may determine that it is in the best interests of the School Facilities Construction Commission and the local school board for the School Facilities Construction Commission to manage the bond sale procedures. In cases where this determination is made, the following shall apply:

(a) The bonds will be sold in the name of the School Facilities Construction Commission;

(b) The School Facilities Construction Commission shall obtain the services of a financial advisor;

(c) At the discretion of the School Facilities Construction Commission, multiple projects may be combined into single bond issues. These will generally be limited to small projects and projects where the respective construction bid dates are contemporaneous;

(d) The School Facilities Construction Commission shall obtain the services of a trustee, paying agent, and registrar. Such institution shall meet the eligibility criteria provided by the School Facilities Construction Commission.

(4) The following procedures shall be followed by all participating districts in construction of SFCC debt service schedules:

(a) The School Facilities Construction Commission's portion of the bond sale shall be limited to a twenty (20) year issue, with level repayment schedule. The maximum annual repayment amount shall not exceed the offer of assistance from the School Facilities Construction Commission;

1. The debt service schedule shall always have twenty (20) years of payments based on six (6) month intervals or forty (40) payments. If the payments begin so that only one (1) payment is made in the first fiscal year of the schedule, payments may extend over twenty-one (21) fiscal years; however, in such cases the amounts of the first and last payments combined shall not exceed the amount of one (1) annual payment.

2. Annual payments shall be based on a fiscal year. The fiscal year of the SFCC shall be the same as used by state government, beginning on July 1 and ending the following June 30. All schedules shall be prepared in such a way that annual amounts based on a fiscal year are presented in a clear, easy-to-read format while each interest and principal payment is both segregated and totaled by payment period.

(b) The local school district's portion of the bond sale shall be structured to meet the unique financial needs of the district. Debt service on the bonds issued shall include the minimum amount required for eligibility to participate in the program as certified by the State Board of ~~of [for-Elementary and Secondary]~~ Education. The minimum term of the local bond issue to meet eligibility criteria shall be twenty (20) years. At the discretion of the local board of education, the bond issue may include a local contribution to debt service in excess of the minimum required, and the length of the local portion of the repayment schedule may exceed twenty (20) years;

(c) Interest collected and accrued on funds derived from the bond sale shall be allocated to the debt service schedules of the school district and the School Facilities Construction Commission in the same proportions as its respective participation in the bond issue;

1. For allocation purposes, each month is calculated as thirty (30) days.

2. The accrued interest allocated to the SFCC is calculated by multiplying the number of days times the "daily interest" as defined in Section 1 of this administrative regulation.

3. The number of days is calculated from the issue date of the bonds to the day the bonds are delivered, excluding the day of settlement.

4. For a typical six (6) month coupon, the number of days would be 180. For a longer coupon (i.e., seven (7) months) the divisor would be 210 days.

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5. If local payments are involved in the bond issue, this same method shall be used to allocate the accrued interest available to the local district.

(d) The proceeds of the bond sale shall be continually invested until expended on the project or until the project is completed. Any remaining proceeds or investment income received after completion of the project shall be applied to the debt service. Credit against the district's and the commission's debt service schedule shall be applied in the same percentage as the participation in the bond issue or, if permitted by the bond resolution or indenture, excess funds may be applied to an approved project next in order priority;

(e) A certificate of project completion shall be filed with the School Facilities Construction Commission by the local school district. The certification shall summarize the application of the bond proceeds, investment earnings, and any remaining funds from either source. The certificate shall also verify the use of cash contribution as may be required for eligibility by the local school district;

(f) Fees paid to a financial advisor shall be in accordance with the following fee schedule. Fees exceeding this schedule shall be paid by the local board of education.

Maximum Fee Schedule

Services and Expenses of Fiscal Agent

\$7,500 shall be permitted as a minimum fee on any amount of bonds issued; otherwise,

\$11 per \$1,000 on the first \$1 million,
\$10 per \$1,000 on the second million, and
\$4 per \$1,000 all over \$2 million.

Fee is based upon the amount of bonds actually issued.

Fee to include attorney fees, printing of bonds and official statements, advertising the bond issue, travel of the fiscal agent, and other normal expenses related to the bond closing.

Fee not to include title search or rating service.

Section 9. Cumulative Credit. Any eligible district which fails in any budget period to receive an allocation of state funds sufficient to fund the first priority project on the approved facilities plan of the district may request the approval of the School Facilities Construction Commission to accumulate credit subject to the availability of funds, for its unused state allocation for a period not to exceed four (4) years. Districts which receive funds in excess of those required to complete the first project may apply those funds to the next priority project on their approved facilities plan. In the event there are insufficient funds to complete the next project, those funds may accumulate as previously outlined. All fund credit accumulated in this manner shall be forfeited at any time that the local district fails to meet the eligibility criteria.

Section 10. Refinancing Savings. Savings that occur as the result of a refinancing in which the School Facilities Construction Commission was a participant shall be divided as follows and in the following order or priority:

(1) Where the commission's amount of participation in the bond issue being refinanced is of such a level that the same amount of annual debt service can be maintained on behalf of the commission, it shall be maintained at the same annual amount; therefore, lowering the local district's account for annual debt service payments by the amount of the total savings on the refinancing. Consequently, the bonding capacity of the local district shall be increased allowing the district to pursue its next facility priority. Any accrued interest shall be deemed a part of the total savings.

(2) On refinancings which already have incurred debt service payment(s), the amount of annual savings that accrued to the commission shall be rolled forward and added to the commission's last payment(s) of the commission's share of the debt service, thereby insuring that the total savings over the life of the bond issue accrues to the account of the local district.

(3) Where the commission's amount of participation in the bond issue being refinanced is of such a level that the same amount of annual debt service paid on behalf of the commission is greater than the annual debt service of the refinanced bond issue debt, annual

savings generated shall be added to that school district's cumulative credit with the SFCC. These credits shall have no expiration time period for their use.

DR. ROBERT TARVIN, Executive Director

ANGELA C. ROBINSON, Attorney

APPROVED BY AGENCY: January 11, 1999

FILED WITH LRC: January 12, 1999 at 2 p.m.

LABOR CABINET

Department of Workers' Claims

(As Amended at ARRS, March 9, 1999)

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

RELATES TO: KRS 342.0011(22), 342.340(2)

STATUTORY AUTHORITY: KRS 342.260(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.340 requires an insurance carrier to file proof of insurance coverage for an employer and notice of policy change or termination on a form prescribed by the commissioner. KRS 342.260(1) requires the commissioner to promulgate administrative regulations necessary to carry on the work of the department. This administrative regulation establishes the requirements for filing proof of coverage and policy change or termination of coverage.

Section 1. Definitions. (1) "Insurance carrier" is defined in KRS 342.0011(22).

(2) "NCCI" means the National Council on Compensation Insurance.

Section 2. Reporting Requirements. Each insurance carrier shall file the information required on the Form POC-1 for each new policy or a change or termination of a policy. The completed Form POC-1 shall be filed:

(1) With NCCI in the manner prescribed by Sections 3 and 4 of this administrative regulation; or

(2) Electronically with the Department of Workers' Claims. An electronic transmission of data shall have:

(a) Demonstrated its reliability in tests rendered by the department; and

(b) Received the approval of the commissioner.

Section 3. Reporting to NCCI. (1) Except as provided in Section 2(2) of this administrative regulation, an [Beginning on January 1, 1998, each] insurance carrier shall file the [information required on the] Form POC-1 with NCCI pursuant to the time requirements established in KRS 342.340(2).

(2) NCCI shall electronically file the information filed pursuant to subsection (1) with the Department of Workers' Claims.

(3) The time requirements established in KRS 342.340(2) shall be satisfied once the insurance carrier makes the appropriate filing with NCCI.

[(4) Until December 31, 1998, an insurance carrier shall file the information required on the POC-1 for each new policy, renewal policy, and a change or termination of a policy.]

[(5) Beginning January 1, 1999, an insurance carrier shall file the information required on the POC-1 for each new policy and a change or termination of a policy.]

Section 4. [3:] (1) If an insurance carrier wants acknowledgment of a filing, the insurance carrier shall file a copy of the POC-1 form with a request for acknowledgment to NCCI with the original filing.

(2) A report that is incomplete or provides incorrect information shall:

(a) Be returned by NCCI; and

(b) Not be considered as compliance with KRS 342.340(2) until the information is completed or corrected and refiled with NCCI.

[Section 4. (1) Beginning November 1, 1998, each insurance carrier shall file a Form POC-1:]

- ~~(a) With NCCI in the manner prescribed by Sections 2 and 3 of this administrative regulation; or~~
~~(b) Electronically with the Department of Workers' Claims.~~
~~(2) Any electronic transmission of data shall have:~~
~~(a) Demonstrated its reliability in tests rendered by the department; and~~
~~(b) Received the approval of the commissioner.~~

Section 5. Incorporation by Reference. (1) "POC-1 Form", December 1996 Edition, Department of Workers' Claims is incorporated by reference.

(2) The material may be inspected, copied, or obtained at the Department of Workers' Claims, Perimeter Park West, Building C, 1270 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 9 a.m. to 4 p.m.

WALTER W. TURNER, Commissioner

STEPHEN B. COX, General Counsel

APPROVED BY AGENCY: January 12, 1999

FILED WITH LRC: January 13, 1999 at 11 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(As Amended at ARRS, March 9, 1999)

806 KAR 15:040. Licensing, reporting, and general requirements for viatical settlement providers and brokers.

RELATES TO: KRS 304.15-020, 304.15-700 through 304.15-725

STATUTORY AUTHORITY: KRS 304.15-700(2), 304.15-720 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.15-700(2) and 304.15-720 provide that the commissioner shall promulgate administrative regulations to provide for the licensing of viatical settlement providers and brokers, the termination or revocation of the license, and the implementation of KRS 304.15-700 through 304.15-720.

Section 1. Definitions. (1) "Insured" means the person covered under the policy being considered for viatication.

(2) "Insurer" means the entity or insurance company issuing the life insurance policy of the insured, or its assign.

(3) "License" **means a license issued to a viatical settlement provider or viatical settlement broker.** ~~[as used in the Act and this administrative regulation, means a license issued to a viatical settlement provider or viatical settlement broker, and shall be a limited license that allows solicitation or provision of viatical settlements only.]~~

(4) "Patient-identifying information" means an insured's address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, Social Security number, or other information that is likely to lead to the identification of the insured.

(5) "Viatical settlement broker" is defined in KRS 304.15-020(4).

(6) "Viatical settlement contract" is defined in KRS 304.15-020(5).

(7) "Viatical settlement provider" is defined in KRS 304.15-020(6).

(8) "Viator" is defined in KRS 304.15-020(7).

Section 2. Viatical Settlement Contract and Form Approval. (1) Any person using a viatical settlement contract in this state shall submit the contract to the commissioner for approval or disapproval.

(2) Each contract submitted to the commissioner for approval shall:

(a) Be written in nontechnical, readily understandable language, utilizing words of common usage;

(b) Specifically state the identity of the parties;

(c) Clearly provide space for including the amount of the proceeds payable to the viator; **and**

(d) Provide that the contract is to be governed under the laws of the Commonwealth of Kentucky, and that the courts of the Com-

monwealth of Kentucky shall be the exclusive forum for any judicial remedies sought by either party. ~~[-and]~~

(3) The commissioner may review any previously approved viatical settlement contract for compliance with the Act and this administrative regulation.

(4) If the commissioner disapproves any proposed viatical settlement contract, or withdraws approval of any viatical settlement contract, the person submitting the contract for approval may request a hearing pursuant to KRS 304.2-310(2)(b). If the hearing is requested and held, the burden of proof shall be upon the proponent of the proposed contract.

Section 3. Viatical Settlement Broker License. (1) ~~An [On or after July 15, 1998, any]~~ individual, partnership, corporation, or other entity acting as a viatical settlement broker shall obtain a viatical settlement broker license from the commissioner.

(2) Each viatical settlement broker license shall be in effect for a period of two (2) years and renewable upon submission to the commissioner of a new application and the nonrefundable fee established by this administrative regulation.

(3) A viatical settlement broker licensed in accordance with this section shall not perform a service other than solicitation of a viatical settlement.

(4) Each viatical settlement broker license issued on or before December 31, 2000, shall be renewed on or before March 31, 2001, and each odd year thereafter.

(5) ~~[(4)]~~ Each individual applicant for licensure as a viatical settlement broker shall:

(a) Be at least twenty-one (21) years of age;

(b) Have successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state; and

(c) Provide a statement as to whether or not any disciplinary action has resulted in the suspension or revocation of a federal or state professional license.

(6) ~~[(5)]~~ A firm or corporation applying for licensure as a viatical settlement broker shall meet the following requirements:

(a) If a firm or other unincorporated entity, each general partner or other individual to act as a viatical settlement broker for the firm under the firm's license shall:

1. Meet the requirements for individual licensure as specified in subsection (4) of this section; and

2. Be licensed as an individual viatical settlement broker.

(b) If a corporation, each individual authorized by the corporation to act as a viatical settlement broker for the corporation under the corporation's license shall:

1. Be listed by the corporation in its application;

2. Meet the requirements for individual licensure as specified in subsection (4) of this section; and

3. Be licensed as an individual viatical settlement broker.

(7) ~~[(6)]~~ A firm, partnership, or corporation applying for licensure as a viatical settlement broker shall attach to the application for licensure the following documentation, if applicable:

(a) Articles of Incorporation;

(b) Partnership agreement; and

(c) Certificate of authority from the Kentucky Secretary of State.

(8) ~~[(7)]~~ Each application for initial licensure or renewal shall be made on Form VSB which is incorporated by reference into this administrative regulation.

(9) ~~[(8)]~~ Each application for licensure and renewal of license shall be accompanied by a nonrefundable fee in the appropriate amount as follows:

(a) \$250 if the applicant is an individual; or

(b) \$750 if the applicant is a corporation or firm.

Section 4. Viatical Settlement Provider License. (1) ~~An [On or after July 15, 1998, any]~~ individual, partnership, corporation, or other entity acting as a viatical settlement provider shall obtain a license from the commissioner.

(2) Each viatical settlement provider license shall be in effect for a period of two (2) years and renewable upon submission to the commissioner of a new application and the nonrefundable fee established by this administrative regulation.

(3) A viatical settlement provider licensed in accordance with this section shall not perform a service other than provision of a viatical settlement.

(4) Each viatical settlement provider license issued on or before December 31, 2000, shall be renewed on or before March 31, 2001, and each odd year thereafter.

(5) ~~(4)~~ Each individual applicant for licensure as a viatical settlement provider shall:

- (a) Be at least twenty-one (21) years of age;
- (b) Have successfully attained a general education level equivalent to that required for graduation from an accredited high school in this state;
- (c) Provide a statement as to whether or not any disciplinary action has resulted in the suspension or revocation of a federal or state professional license.

(6) ~~(5)~~ A firm or corporation, applying for licensure as a viatical settlement provider shall meet the following requirements:

(a) If a firm or other unincorporated entity, each general partner or other individual to act for the firm under the license shall meet the requirements for individual licensure as specified in subsection (4) of this section; and

(b) If a corporation, each individual authorized by the corporation to act for it under the license shall:

- 1. Be listed by the corporation in its application;
- 2. Meet the requirements for individual licensure as specified in subsection (4) of this section.

(7) ~~(6)~~ A firm, partnership, or corporation applying for licensure as a viatical settlement provider shall attach to the application for licensure the following documentation, if applicable:

- (a) Articles of incorporation;
- (b) Partnership agreement; and
- (c) Certificate of authority from the Kentucky Secretary of State.

(8) ~~(7)~~ A viatical settlement provider shall acquire and maintain an errors and omissions policy in an amount commensurate with the provider's exposure.

(9) ~~(8)~~ Each application for initial licensure or renewal shall be made on Form VSP which is incorporated by reference into this administrative regulation.

(10) ~~(9)~~ Each application for licensure and renewal of license shall be accompanied by a nonrefundable fee in the appropriate amount as follows:

- (a) \$500 if the applicant is an individual; or
- (b) \$1500 if the applicant is a corporation or firm.

Section 5. Denial, Suspension, or Revocation of License. The commissioner may deny any application for a ~~[license or may suspend or revoke a license, or may refuse to renew a]~~ viatical settlement provider or broker license, or suspend or revoke a viatical settlement provider or broker license if, after notice to the licensee and a hearing pursuant to KRS Chapter 13B, [if] the commissioner finds that the applicant or licensee:

- (1) Has made any material misrepresentation on the application;
- (2) Has been adjudicated guilty, either by verdict or plea agreement, to a felony or misdemeanor offense involving breach of trust, fraud, or theft;
- (3) Has been guilty of fraudulent, deceptive, or dishonest practices, as defined in KRS Chapter 304, Subtitle 12;
- (4) Has had a similar license suspended or revoked in any other jurisdiction;
- (5) Has shown to be untrustworthy or incompetent to act as a viatical settlement broker or provider; or
- (6) Has violated any provision of the Kentucky Insurance Code, KRS Chapter 304, or this administrative regulation.

Section 6. Other Licenses and Disciplinary Actions. (1) A licensee, whether an individual, corporation, or firm, shall notify the Department of Insurance, in writing, of any disciplinary action taken by any governmental agency, either in this state or in another jurisdiction, against any other license held by the individual, corporation, or firm, within thirty (30) days of the initiation of the [such] disciplinary action.

(2) Failure to report the [such] disciplinary action shall be grounds for suspension, revocation, or other disciplinary action

within the discretion of the commissioner.

Section 7. Prohibited Practices. (1) A viatical settlement provider or broker shall not provide patient-identifying information to any person or entity except as required to effect a viatical settlement.

(2) If a viatical settlement provider or broker is served with a subpoena compelling the provider or broker to produce records containing patient-identifying information, the viatical settlement provider or broker shall notify the viator and the insured within five (5) business days after receiving notice of the subpoena. Notice shall be sufficient if delivered to the last known address of the viator and the insured.

(3) A viatical settlement provider shall not act also as a broker, whether entitled to collect a fee directly or indirectly, in the same viatical settlement contract.

(4) A viatical settlement provider or broker shall not pay any compensation or provide anything of value to an insured's physician, attorney, accountant, or any other person who provides medical, legal, or financial advice to the insured as a finder's or referral fee.

Section 8. Designation of Process Agent. A viatical settlement provider or broker that is licensed pursuant to KRS Chapter 304, Subtitle 15 and this administrative regulation and whose domicile and place of business is outside Kentucky shall designate the Secretary of State of the Commonwealth of Kentucky as the agent for the service of process.

Section 9. Disclosure. (1) Each viatical settlement provider shall provide a written disclosure form to the viator on or before the date that the viatical settlement contract is signed by each party to the contract.

(2) The disclosure form required by subsection (1) of this section shall:

- (a) Contain the name of the viatical settlement provider;
- (b) Clearly state that the document is a disclosure form;
- (c) Contain all disclosure information required by KRS 304.15-710;
- (d) Be signed and dated by the applicant; and
- (e) Be signed by an authorized representative of the viatical settlement provider.

Section 10. Reporting Requirement. (1) On or before March 1 of each calendar year, each viatical settlement provider licensed in the state of Kentucky shall submit a report to the commissioner regarding the provider's viatical business in Kentucky for the previous calendar year. The report shall contain the following information:

- (a) Aggregate number of viatical applications received;
 - (b) Aggregate number of viatical applications accepted;
 - (c) Aggregate number of viatical applications rejected;
 - (d) Aggregate number of policies viaticated; and
 - (e) Aggregate face amount of viaticated policies.
- (2) On or before March 1 of each calendar year, a viatical settlement provider licensed in the state of Kentucky shall submit a report to the commissioner containing the total aggregate face amount of all policies viaticated during the previous calendar year in each state that the provider is authorized to engage in the viatical business.

Section 11. Notice to Investors. A viatical settlement provider shall provide each investor with written notification that shall state the following: "The Commonwealth of Kentucky does not guaranty any rate of return on investment for any investor to a viatical settlement provider."

Section 12. General Rules. (1) Any additional payment on an insurance policy with a double or additional indemnity for accidental death shall be payable to the following:

- (a) The beneficiary last named by the viator prior to entering into the viatical settlement contract;
 - (b) To any other beneficiary, other than the viatical settlement provider, as the viator may designate; or
 - (c) To the estate of the viator in the absence of a beneficiary.
- (2) A viatical settlement provider shall not discriminate in making

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viatical settlements on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status~~[, or sexual orientation]~~.

(3) A viatical settlement provider shall not discriminate between a viator with a dependent and a viator with no dependent.

(4) A viatical settlement provider shall not solicit investors who may influence the treatment of the illness of the insured whose coverage would be the subject of the investment.

Section 13. ~~[14:]~~ Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) Form VSB, "Application for License as a Viatical Settlement Broker (11/1998 Edition)"; and

(b) Form VSP, "Application for License as a Viatical Settlement Provider (11/1998 Edition)."

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Insurance, Division of Licensing, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.

GEORGE NICHOLS III, Commissioner

LAURA M. DOUGLAS, Secretary

GALE PEARCE, General Counsel

APPROVED BY AGENCY: December 11, 1998

FILED WITH LRC: December 14, 1998 at 2 p.m.

PUBLIC PROTECTION AND REGULATION CABINET Commission on Fire Protection Personnel Standards and Education Office of State Fire Marshal

**(As Amended at ARRS, December 8, 1998 and
As Amended at Interim Joint Committee on
Local Government, February 24, 1999)**

815 KAR 45:090. Certification and qualifications of fire protection instructors.

RELATES TO: KRS 95A.040(2)(b)

STATUTORY AUTHORITY: KRS 95A.050(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95.040(b) authorizes the Commission on Fire Protection Personnel Standards and Education to certify fire protection instructors. This administrative regulation sets forth the prerequisite for and justification of those instructors. ~~[This administrative regulation contains the substance of 815 KAR 45:030, which is being repealed.]~~

Section 1. Definitions. (1) A "certified professional firefighter" means a firefighter who meets the requirement of KRS 95A.210 and 95A.230.

(2) "Certified volunteer firefighter" means an individual who has received at least 150 hours of certified training as recognized by the Commission on Fire Protection Personnel Standards and Education and who receives at least twenty (20) hours of certified training annually to maintain certification.

(3) ~~[(2)]~~ "Commission" means commission [means] as defined by KRS 95A.210(1).

~~[(3)] "Commissioner" means the Commissioner of the Department of Housing, Buildings and Construction.~~

~~(4) "Department" means the Department of Housing, Buildings and Construction.~~

~~(5) "Division" means the Division of Fire Prevention, State Fire Marshal's Office.]~~

(4) ~~[(6)]~~ "Educational methodology course" means a course meeting the objectives of NFIPA 1041 and conducted by:

(a) KCTCS [Kentucky Tech];

(b) A Kentucky college or university;

(c) The National Fire Academy;

(d) A governmental entity authorized by the National Fire Academy to train within its jurisdiction and approved by the Fire Commission; or

(e) An agency approved by the Fire Commission to train within its jurisdiction.

(5) ~~[(7)]~~ "Fire department" means a fire department recognized by the commission as defined in KRS 75.400 and Chapter 95. [:

~~(a) A fire department organized under KRS Chapter 75;~~

~~(b) A fire protection district;~~

~~(c) A volunteer fire department; or~~

~~(d) A municipal, county or urban-county government fire department.]~~

(6) ~~[(8)]~~ "Fire protection personnel" means an employee or members of a fire department recognized by the commission. [as defined herein:

~~(a) Whether paid or unpaid; and~~

~~(b) Who is engaged in:~~

~~1. Fire prevention;~~

~~2. Inspecting buildings for compliance with building, fire, energy and life-safety codes and the Architectural Barriers Act;~~

~~3. Fire suppression;~~

~~4. Fire and arson investigation;~~

~~5. Fire-related emergency medical and rescue work; or~~

~~6. Other allied fields.]~~

(7) ~~[(9)]~~ "Fire protection instructor" or "fire service training officer" means a person certified pursuant to KRS 95A.040(2)(b) and this administrative regulation as qualified to instruct [or oversee] fire protection personnel or oversee the training of fire protection personnel.

(8) "KCTCS" means the Kentucky Community and Technical College System.

Section 2. Level I Fire Protection Instructors. Persons certified as Level I fire protection instructors shall be authorized to deliver training to the fire department of which they are a member.

(1) Requirements for certification. An individual shall be certified by the commission as a Level I instructor if satisfactory written evidence is submitted to the commission that the individual meets the following criteria:

(a) Has submitted a completed application that has been approved by his fire chief;

(b) Is a high school graduate or the equivalent;

(c) Has two (2) years experience as a firefighter;

(d) Is a Kentucky certified firefighter; and

(e) Submits proof that he has completed a sixteen (16) hour National Fire Academy Instructional Techniques class or a class that has been approved by the commission.

(2) Certification terms. Certification shall expire after a period of three (3) years, unless renewed.

(3) Certification renewal.

(a) Certification shall be renewed if an applicant has:

1. Taught at least thirty-two (32) hours, prior to the expiration of his certification; or

2. Attended a sixteen (16) hour National Fire Academy Instructor class, or an equivalent approved by the commission.

(b) It shall be the responsibility of the individual instructor and his agency to submit an application for renewal on Form KFI-1, July 14, 1998. [renewal forms as outlined in Section 8 of this administrative regulation.]

Section 3. Level II Fire Protection Instructors. Persons certified as Level II instructors shall be authorized to deliver training to a [any] fire department within the Commonwealth upon invitation by that agency.

(1) Requirements for certification. An individual shall be certified by the commission as a Level II fire protection instructor if satisfactory written evidence is submitted to the commission that the individual:

(a) Is qualified by the following:

1. Has certified firefighter status;

2. Has submitted a completed application that has been approved by his fire chief;

3. Is a high school graduate or the equivalent; and

4. Has had four (4) years experience as a firefighter; and

(b) Is further qualified by having completed one (1) of the following:

1. Has completed a minimum of thirty-two (32) hours of an educational methodology course; or

2. Holds a valid teaching certificate issued by the Kentucky Department of Education and is a certified firefighter; or

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3. Is a full-time instructor or faculty member of an institution of higher education in Kentucky, teaching in a fire science or fire technology curriculum; or

4. Holds a valid instructor's certificate issued by an out-of-state fire training agency approved by this commission.

(2) Certification term. Certification shall expire after a period of three (3) years, unless renewed.

(3) Certification renewal.

(a) It shall be the responsibility of the individual instructor and his agency to submit an application for renewal on Form KFI-2, July 14, 1998, [renewal forms as outlined in Section 8 of this administrative regulation.]

(b) The following shall be required of an applicant seeking renewal of his certification:

1. He shall have taught a minimum of sixty (60) hours during his three (3) year certification period; or

2. He shall have taught a minimum of thirty (30) hours and shall reattend the thirty-two (32) hour educational methodology course.

Section 4. Level III Fire Protection Instructors. Persons certified as Level III fire protection instructors shall be authorized to deliver training to fire departments or to train persons for Level I and II certification and to train Level II instructors to become Level III fire protection instructors.

(1) An applicant shall be certified as a Level III instructor if the following has occurred:

(a) The fire department of which the applicant is a member applies for his recognition by the commission as a Level III instructor;

(b) The applicant interviewed with the commission, if requested; and

(c) The following written information has been submitted:

1. A completed application and resume;

2. Proof of the applicant's current certification as a Level II fire protection instructor; and

3. Sufficient evidence of having assisted with the delivery of at least one (1), thirty-two (32) [forty-(40)] hour educational methodology course or instructional technique class prior to requesting approval as a Level III instructor.

(2) Certification term. Certification shall be made for a period of three (3) years unless the commission determines that the certification shall be revoked, for cause.

(3) Certification renewal.

(a) It shall be the responsibility of the individual instructor to submit an application for renewal prior to expiration of certification. Renewal [forms] shall be on Form KFI-3, July 14, 1998, [as outlined in Section 8 of this administrative regulation.]

(b) A renewal applicant shall have delivered at least one (1) educational methodology course or instructional technique class during his three (3) year certification period.

(c) A renewal applicant shall have taught a minimum of sixty (60) hours during his certification period.

(d) A renewal applicant shall attend at least one (1) instructor trainer workshop approved by the commission.

Section 5. Fire Protection Instructor Current Status. (1) A fire protection instructor who is certified by the commission pursuant to this administrative regulation shall be reclassified as a Level II fire protection instructor and shall conform to this administrative regulation.

(2) To retain current certified status as an instructor, an individual shall meet the renewal criteria for the level for which he is certified.

(3) If an instructor does not meet Level II requirements, he shall revert to Level I status.

(4) If an instructor does not meet the criteria for Level I status, his fire protection instructor certification shall be revoked.

Section 6. Revocation of Certification. The commission may revoke certification if, after reasonable notice and a hearing, it is determined that there was:

(1) A material misstatement or misrepresentation in any document furnished the commission to obtain the issuance or renewal of a certification;

(2) Falsification of training records; or

(3) An act of misconduct, negligence, malfeasance.

Section 7. Appeal. (1) A fire protection instructor notified of an intent to revoke his instructor certification, may request a hearing before the commission by submitting a request to be heard, in writing, within fifteen (15) days from the date of receipt of the letter of notification.

(2) A hearing shall be conducted at the next regularly scheduled meeting of the commission or within thirty (30) days, whichever is first.

(3) The decision of the commission shall be rendered in writing within ten (10) days of the termination of the hearing.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Level I Certification Application and Renewal, Form KFI-1, July 14, 1998.

(b) Level II Certification Application and Renewal, Form KFI-2, July 14, 1998.

(c) Level III Certification Application and Renewal, Form KFI-3, July 14, 1998.

(2) This material may be inspected, copied, or obtained at the Commission on Fire Protection Personnel Standards and Education, 1049 U.S. 127 South, Suite #5, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [Application and Renewal Forms for Fire Protection Instructor. (1) Level I certification application and renewal form:

COMMISSION ON FIRE PROTECTION PERSONNEL STANDARDS AND EDUCATION

CERTIFICATION AS LEVEL I FIRE PROTECTION INSTRUCTOR

(PLEASE PRINT)

New Applicant ☐

Renewal ☐

FOR CENTRAL OFFICE USE ONLY

Date certified / /

Code Level Certified to Teach:

Status Active/Inactive

Status Date: / /

Certification Type (V/P)

Social Security No.:

Name (last, first, middle initial):

Date of birth (month, day, year):

Fire department #:

Name:

County #:

Name:

I do hereby verify that the above named applicant is a member of the Fire Department/Agency listed above:

Signature of Chief or Agency Head:

Certification of a Level I Fire Protection Instructor shall be for the purpose of delivering training to the fire department of which they are a member.

Requirements for Certification: An individual may be certified by the commission as a Level I Fire Protection Instructor if satisfactory written evidence is provided to the commission that he is qualified by the following:

- High school graduate or equivalent. (attach copy of diploma or GED certificate):
- Two (2) years experience as a firefighter. Entry date:
- Kentucky certified firefighter. Certification date:
- Applicant has successfully completed a sixteen (16) hour National Fire Academy Instructional Techniques class or its equivalent conducted by:

Agency:

Instructor (signature, #):

Certification Terms:

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Certification shall be made for a period of three (3) years, unless the commission determines that the certification should be revoked.

Certification Renewal:

- (a) It shall be the responsibility of the fire department to see renewal process is completed if recertification for that instructor is desired.
- (b) Renewal applicant must have taught a minimum of thirty-two (32) hours during his three (3) year certification period or reattended a sixteen (16) hour National Fire Academy Instructor Class or equivalent approved by the Fire Commission.

I have completed this application with the knowledge and understanding that any and all items contained herein may be subject to investigation prescribed by law in KRS Chapter 95A, 815 KAR 45:090 or commission directive, and I consent to the release of information concerning my capacity and fitness by employers, educational institutions and other individuals and agencies to duly accredited investigators and other authorized employees of the commission or the Commonwealth of Kentucky.

I certify that all of the statements made by me in this application and any and all documentation attached is true, complete and correct to the best of my knowledge and belief, and are made in good faith.

I do hereby understand that any violation under 815 KAR 45:090 is subject to suspension of instructor certification.

Date:

Signature of applicant:

XXXXXXXXXXXXXXXXXXXX

(2) Level II Certification Application and Renewal Form:

COMMISSION ON FIRE PROTECTION PERSONNEL
STANDARDS AND EDUCATION

CERTIFICATION AS
LEVEL II FIRE PROTECTION INSTRUCTOR

(PLEASE PRINT)

New Applicant ☐

Renewal ☐

FOR CENTRAL OFFICE USE ONLY

Date certified / /

Code Level Certified to Teach:

Status Active/Inactive

Status Date: / /

Certification Type (V/P)

Social Security No.:

Name (last, first, middle initial):

Date of birth (month, day, year):

Fire department #:

Name:

County #:

Name:

I do hereby verify that the above named applicant is a member of the Fire Department/Agency listed above.

Signature of Chief or Agency Head:

Certification of a Level II Fire Protection Instructor shall be for the purpose of delivering training to the fire department within the commonwealth upon invitation by that agency.

Requirements for Certification: An individual may be certified by the commission as a Level II Fire Protection Instructor if satisfactory written evidence is provided to the commission that he or she is qualified by the following:

- High school graduate or equivalent. (attach copy of diploma or GED certificate)
- Four (4) years experience as a firefighter. Entry date:

- Kentucky certified firefighter. Certification date:
- Applicant has successfully completed a minimum of thirty-two (32) hours educational methodology course, meeting the objectives of NFPA 1041 conducted by:

Agency:

Instructor (signature, #):

or

Holds a valid teaching certificate issued by the Kentucky Department of Education and is a certified firefighter (attach copy of certification)

or

Is a full-time instructor or faculty member of an institution of higher education in Kentucky, teaching in a fire science or fire technology curriculum.

Name of institution

Department head signature:

or

Holds a valid instructor's certificate issued by an out-of-state fire training agency approved by the fire commission. (attach copy of certificate)

Agency:

Agency head (signature):

Certification Terms:

Certification shall be made for a period of three (3) years, unless the commission determines sooner that the certification should be revoked.

Certification Renewal:

- (a) It shall be the responsibility of the individual instructor and his agency to submit this application for renewal.

- (b) Renewal applicant must have taught a minimum of sixty (60) hours during his three (3) year certification period or reattended a thirty-two (32) hour educational methodology course and taught a minimum of thirty (30) hours.

I have completed this application with the knowledge and understanding that any and all items contained herein may be subject to investigation prescribed by law in KRS Chapter 95A, 815 KAR 45:090 or commission directive, and I consent to the release of information concerning my capacity and fitness by employers, educational institutions and other individuals and agencies to duly accredited investigators and other authorized employees of the Commission or the Commonwealth of Kentucky.

I certify that all of the statements made by me in this application and any and all documentation attached is true, complete and correct to the best of my knowledge and belief, and are made in good faith.

I do hereby understand that any violation under 815 KAR 45:090 is subject to suspension of instructor certification.

Date:

Signature of Applicant:

XXXXXXXXXXXXXXXXXXXX

(3) Level III Certification Application and Renewal Form:

COMMISSION ON FIRE PROTECTION PERSONNEL
STANDARDS AND EDUCATION

CERTIFICATION AS
LEVEL III FIRE PROTECTION INSTRUCTOR

(PLEASE PRINT)

New Applicant ☐

Renewal ☐

FOR CENTRAL OFFICE USE ONLY

Date certified / /

Code Level Certified to Teach:

Status Active/Inactive

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Status Date: ___/___/___
Certification Type (V/P) ___

APPROVED BY AGENCY: October 5, 1998
FILED WITH LRC: October 7, 1998 at 10 a.m.

Social Security No.:
Name (last, first, middle initial):
Date of birth (month, day, year):
Fire department #:
Name:
County #:
Name:

I do hereby verify that the above named applicant is a member of the Fire Department/Agency listed above.

Signature of Chief or Agency Head:

Certification of a Level III Fire Protection Instructor shall be for the purpose of qualifying Level I and Level II Fire Protection Instructors and preparing Level II Fire Protection Instructors to become Level III Fire Protection Instructors.

Requirements for Certification: An individual may be certified by the commission as a Level III Fire Protection Instructor if satisfactory written evidence is provided to the commission that he or she:

- Attach a copy of resume;
- Presently certified as Level II Fire Protection Instructor
- Applicant has successfully assisted in delivery of an educational methodology class based on NFPA 1041 conducted by:

Agency:
Instructor (signature):

- Applicant may be required to undergo an interview by the commission.

Certification Terms:

Certification shall be made for a period of three (3) years, unless the commission determines that the certification should be revoked.

Certification Renewal:

- (a) It shall be the responsibility of the individual instructor to submit this application for renewal prior to expiration of certification.
- (b) Renewal applicant must have delivered at least one (1) educational methodology course during his three (3) year certification period; and
- (c) Renewal applicant must have taught a minimum of sixty (60) hours during his certification period.
- (d) Renewal applicant must attend at least one (1) instructor trainer workshop approved by the Fire Commission.

I have completed this application with the knowledge and understanding that any and all items contained herein may be subject to investigation prescribed by law in KRS Chapter 95A, 815 KAR 45:090 or commission directive, and I consent to the release of information concerning my capacity and fitness by employers, educational institutions and other individuals and agencies to duly accredited investigators and other authorized employees of the Commission or the Commonwealth of Kentucky.

I certify that all of the statements made by me in this application and any and all documentation attached is true, complete and correct to the best of my knowledge and belief, and are made in good faith.

I do hereby understand that any violation under 815 KAR 45:090 is subject to suspension of instructor certification.

Date:
Signature of Applicant:

GERALD STEWART, Chairman
LAURA M. DOUGLAS, Secretary
JUDITH G. WALDEN, Office of General Counsel

PUBLIC PROTECTION AND REGULATION CABINET
Commission on Fire Protection
Personnel Standards and Education
Office of State Fire Marshal
(As Amended at ARRS, December 8, 1998 and
As Amended at Interim Joint Committee on
Local Government, February 24, 1999)

815 KAR 45:100. Volunteer fire department loan fund.

RELATES TO: KRS 95A.262(4), (5), (13), (14)
STATUTORY AUTHORITY: KRS 95A.240

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.262 authorizes the Commission on Fire Protection Personnel Standards and Education to make low interest loans for the purchase of major equipment and construction of facilities to properly trained volunteer fire departments which do not have other sources of funds at rates which are favorable given their financial resources. This administrative regulation is necessary to establish the criteria for qualifying for the loan and the mandatory procedures to be followed in obtaining and repaying the loan.

Section 1. Definitions. (1) ["Act" means KRS 95A.262.

(2) "Accessory equipment" means ladders, hoses, self-contained breathing apparatus, portable pump and hard suction hoses, nozzles, power extrication tools and protective equipment necessary to carry out the ordinary functions of supporting fire fighting activities.

(2) [(3)] "Apparatus equipment" means pumpers, tankers and other large equipment used for fighting fires and emergencies. This equipment is more specifically categorized as follows:

(a) "Pumper" means any pumper which can pump 500, 750, 1,000, 1,250 or 1,500 gallons per minute at 150 pounds per square inch net pumping pressure.

(b) "Tanker" means a mobile water supply fire apparatus with a water capacity of 1,000 gallons or more and a minimum flow rate to pump connection of 500 gallons per minute except when a booster pump is provided.

(c) "Rescue-pumper" means an apparatus capable of pumping a minimum of 250 gallons per minute at 150 PSI net pumping pressure, carrying a minimum of 500 gallons of water.

(3) [(4)] "Approved" means approved by the commission or its authorized designee for a particular purpose.

(4) [(5)] "Commission" means commission [means] as defined by KRS 95A.210.

(5) [(6)] "Committee" means the loan committee of the Commission on Fire Protection Personnel Standards and Education.

(6) [(7)] "Communications equipment" means equipment or system, or both, necessary for the transmission and reception of signals, by voice, required to support the operations of the volunteer fire department.

(7) [(8)] "Eligible" means a volunteer fire department that has met the training requirements and is in good standing for receipt of state aid pursuant to 815 KAR 45:080 and the loan request requirements of this administrative regulation.

(8) [(9)] "Emergency" means fire department equipment, apparatus or facilities have been damaged, destroyed or rendered inoperable and established firefighting capacity is reduced to a level affecting public safety.

(9) [(10)] "Facilities" means any structure or portion of a structure intended for storage or protection of firefighting equipment [and shall not include meeting halls, social rooms or any other facilities not directly related to firefighting, but] including rooms or spaces designed and used for firefighting training.

[(11)] "Fund" means volunteer fire department low interest loan fund created pursuant to KRS 95A.262(14);

(10) [(12)] "Local government" as defined by KRS 95A.210(3).

(11) [(13)] "NFPA" means the National Fire Protection Association.

(12) [(14)] "Protective equipment" means clothing or equipment used by firefighters which affords protection from injury to the wearer

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or user including, but not limited to, fire coats, boots, helmets and turnout pants meeting current NFPA standards.

(13) [(15)] "UL" means Underwriters Laboratories.

(14) [(16)] "Volunteer fire department" means a fire department recognized by the Commission on Fire Protection Personnel Standards and Education as having [Department of Housing, Buildings and Construction upon recommendation of the commission, which has] a membership [consisting] of more [less] than fifty (50) percent of its members being full-time volunteer [paid] firefighters.

(15) [(17)] "Volunteer fire department loan fund" means the fund established pursuant to KRS 95A.262(14).

Section 2. Eligibility. (1) A volunteer fire department may apply to the commission to receive low interest loans for the purchase of major equipment and facility construction pursuant to the requirements of this administrative regulation.

(2) Eligibility to participate in the loan fund shall be limited to those volunteer fire departments meeting the training requirements of KRS 95A.262(2) and [-which] continue in good standing to receive [the] state aid, and which the commission finds are unable to obtain loans from conventional financial institutions at the rate of three (3) percent.

(3) A loan shall be considered from only one (1) fire department when more than one (1) department resides at the same physical location.

Section 3. Loan Purposes and Prohibitions. (1) Purposes. The commission shall consider a loan [loans] for the following purposes[; only]:

(a) The acquisition of apparatus equipment;

(b) The acquisition of communication equipment;

(c) The acquisition of accessory equipment or protective equipment;

(d) The construction of new facilities;

(e) The [and] modernization of existing facilities; and

(f) The [-

(b)} repair or rehabilitation of apparatus equipment where it has been determined that existing apparatus equipment no longer meets the standards of the NFPA and where the repair or rehabilitation, or both, of the equipment will bring it in compliance with NFPA standards.

(2) Prohibitions. A loan granted under this administrative regulation shall not be used for the following:

(a) [Acquisition of existing facilities;

(b)} Operating expenses;

[(c) To reduce a debt or other obligation incurred before a loan is approved;]

(b) [(d)] For payment of fees for the designing or planning of facilities or preparation of application; or

(c) [(e)] For investment or reinvestment.

Section 4. General Loan Requirements. (1) Loan period. A loan period shall not exceed twelve (12) years. The period of time for repayment of the loan shall depend upon the amount of the loan and shall be set forth in [pursuant to] the loan agreement. Except in the case of approved emergency loans, the minimum amount of a loan shall be \$5,000.

(2) Title of property. Any apparatus equipment or facilities financed by a loan from the fund shall be titled in the name of the volunteer fire department or in the name of the political subdivision with the commission as lien holder for the property. In the event the commission is supplying secondary funding, the commission shall become holder of a secondary encumbrance.

(3) Fire department matching funds. [As] A prerequisite to obtaining a loan [loans] for facilities, vehicles, or rehabilitation of facilities, vehicles, or equipment, the volunteer fire department shall verify the availability of unobligated funds in the amount of twenty-five (25) [twenty (20)] percent of the total cost of the facility, vehicle, or equipment or rehabilitation of the facility, vehicle, or equipment.

(4) Financial responsibility. A copy of the last twelve (12) monthly bank statements must accompany the loan application.

(5) Repayment of loans.

(a) Interest on the principal amount of the loan shall accrue at the rate of three (3) percent per annum and shall be due and payable on the unpaid balance annually.

(b) The principal of the loan shall be repaid proportionally over the period of the loan. The principal may be reduced at anytime through advanced payment.

(c) The principal and interest of the loan shall be payable at the office designated on the loan approval form, with the payment being deducted from the state aid allotment for that year with any additional payment due or desired be made by check made payable to the Kentucky State Treasurer.

(d) A payment [All payments] shall be made before the close of business on the due date or it [they] shall be considered delinquent.

(e) Delinquent accounts shall not receive further loans or grants for state aid or training facilities until the delinquency is cured. If the delinquency of the account extends beyond three (3) months of distribution of the state aid check, foreclosure or repossession procedures shall begin.

(f) A [All or any] portion of future state aid grants may be committed by the volunteer fire department to satisfy its loan agreement.

(g) Insurance. The volunteer fire department shall provide collateral protection insurance for the apparatus, equipment and facility construction sufficient to secure and protect the loan.

(6) [(5)] Emergency loans. An eligible volunteer fire department [departments] may be granted an approved emergency loan [loans] pursuant to this administrative regulation.

Section 5. Loan Requirements for Fire Department Facility Construction. A request [In addition to the other applicable requirements of the administrative regulation, requests] for a construction loan [loans] for fire department facilities shall meet the requirements of this section and other applicable requirements of this administrative regulation.

(1) A facility loan [Facility loans] shall be granted [only] for establishing or modernizing those facilities that house firefighting equipment.

(2) A facility loan [Facility loans] shall not exceed seventy-five (75) [eighty (80)] percent of the total cost of the construction of the facility or \$75,000 [50,000], whichever is less.

(3) A facility loan [Facility loans] shall not be used for land acquisition.

(4) [Facility loans shall not be granted or used for the refinancing of debts incurred or contracts entered into prior to the loan.]

(5) Land title. The title to the land upon which facilities are to be constructed or modernized under the loan shall be in the name of the volunteer fire department or the local government which the volunteer fire department serves.

(5) [(6)] Clear title. The volunteer fire department or the political subdivision for which the volunteer fire department provides service shall have clear title to the land upon which the facility is to be constructed or modernized.

(6) [(7)] Real property liens. Concurrent with the receipt of the loan, the volunteer fire department shall provide a copy of the deed and execute a lien document to be filed in the county court clerk's office in which the property is located.

(7) [(8)] Plans approval. Final plans for [any] construction shall be submitted for approval to the Department of Housing, Buildings and Construction or to an authorized local building official with a copy to the commission. The volunteer fire department shall be responsible for complying with the Kentucky Building Code, the Americans with Disabilities Act and other applicable laws. If any change to the plans or specifications is desired or required, the volunteer fire department shall furnish all additional labor and materials necessary to complete the project and the improvements in compliance with the changes to the plans and specifications.

(8) [(9)] A certificate of occupancy shall be submitted to the commission by the volunteer fire department prior to release of loan funds.

Section 6. Apparatus Equipment. (1) Loan limits.

(a) The amount of a loan for the purchase of a [any] single apparatus equipment shall not exceed \$75,000 [50,000] or seventy-five (75) [eighty (80)] percent of the total cost, whichever is less. The apparatus being purchased with the loan funding shall not be more than twenty (20) years old and a copy of a pump test conducted within the last year must accompany necessary documentation for the loan.

(b) The amount of a loan for the repair or rehabilitation for a single apparatus equipment shall not exceed \$35,000 or seventy-five (75)

[eighty (80)] percent of the cost of repair or rehabilitation, whichever is less, and the apparatus shall not be more than twenty (20) years old.

(2) Apparatus loans. An apparatus loan [Apparatus loans] shall be for the purpose designated in the loan request and approved by the commission for the following purposes:

- (a) The purchase of firefighting apparatus equipment;
 - (b) The rehabilitation of existing apparatus equipment for the purpose of upgrading the apparatus to meet applicable National Fire Protection Association standards; and
 - (c) Repair of existing apparatus.
- (3) Mandatory description or specification of equipment.
- (a) New apparatus. The volunteer fire department shall submit one (1) complete set of specifications of the new apparatus.
- (b) Repairs and rehabilitation. For the repair or rehabilitation of existing apparatus equipment, the volunteer fire department shall submit one (1) complete set of specifications along with three (3) estimates from qualified manufacturers for the repair or rehabilitation. If less than three (3) estimates are available, a statement shall be submitted explaining the reason why there are less than three (3).
- (c) Purchase of used apparatus equipment. For used apparatus equipment, the volunteer fire department shall submit documentation of the type and quality of the equipment.
- (d) Refurbished fire apparatus. For refurbished fire apparatus, the volunteer fire department shall submit the following: [meeting the following criteria will be considered by the loan committee:]

1. Certification of refurbished equipment.

2. Pump test at time of purchase.

3. Any additional information which the loan committee may request. [Loan committee reserves the right to request additional information:]

(e) Loans will only be granted on repairable equipment and apparatus which are not more than twenty (20) [twenty-five (25)] years old and a pump test shall be submitted upon completion of repairs and must meet NFPA pump test requirements and acceptance.

(4) Compliance with National Fire Codes. The volunteer fire department shall submit to the commission verification that the new equipment is NFPA 1901-91 equipment.

(5) Prerequisite materials. [Concurrent with receipt of the loan:] The volunteer fire department shall record a lien on the affected vehicle title documents in the local county court clerk's office.

Section 7. Protective, Accessory and Communication Equipment.

(1) An equipment loan [Equipment loans] shall be used for the purchase of protective, accessory and communication equipment [only].

(2) Equipment compliance.

(a) A volunteer fire department shall select protective and accessory equipment that shall be labeled as having been tested and listed by an approved nationally recognized testing agency.

(b) A volunteer fire department shall select communications equipment identified as meeting Federal Communications Commission regulations, 5 CFR Part 89.

(3) The amount of a loan for the purchase of equipment shall not exceed the lesser of \$75,000 or seventy-five (75) percent of the total cost price quote accepted by the borrower and submitted by the borrower as the accepted quote for purchase.

(4) Security interest. The commission shall retain a security interest in the property for the life of the loan.

Section 8. Loan Request Procedure. (1) An applicant seeking

[Each request for] a low interest loan shall submit [be made on the commission's Volunteer Fire Department Loan] Form FPPSE-1, April, 1993, to the commission [which is hereby incorporated by reference; and all information and documents required by the form shall be attached thereto by the applicant before filing with the commission. Copies are available at the Commission Office in 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].

(2) The commission administrator shall review the application and status of the volunteer fire department to determine if the minimum criteria for obtaining the loan has been met.

(3) The commission administrator shall notify the volunteer fire department of the disposition of the [its] loan application, forwarding final forms to those eligible volunteer fire departments whose applica-

tions are satisfactory.

Section 9. Establishing Priorities. (1) A loan [Loans] shall be reviewed for the applicant's stated purpose in the following order of preference:

- (a) A request [Requests] for replacement or repairs of unsafe or unusable fire apparatus, equipment or facilities.
 - (b) A request [Requests] for replacement of outmoded fire apparatus, equipment or facilities.
 - (c) A request [Requests] for additional apparatus, equipment or facilities because of unusual demands or present service.
- (2) Priority shall first be given to applicants establishing the greatest need, utilizing the following criteria, not excluding other considerations.
- (a) Financial need.
 - (b) Low economic base.
 - (c) Unusual fire hazards.
 - (d) County fire death rate.
 - (e) Population over sixty-five (65).
 - (f) Population growth.
 - (g) Tax exempt properties.
 - (h) New construction.
 - (i) Natural disaster.
 - (j) High mileage/usage.
 - (k) Existing equipment.

(3) Approval [Approvals] shall be granted in order of need and availability of funds for each qualifying volunteer fire department.

Section 10. Formal Application and Qualification Procedure. (1) To qualify for a loan, an eligible volunteer fire department shall submit [the commission's Volunteer Fire Department] Form FPPSE-2, April, 1993, to the commission [which is hereby incorporated by reference, together with the required documents attached, to the commission for final qualification. Copies are available at the Commission Office in 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].

(2) The commission shall render its decision at its next regularly scheduled meeting. Approved emergency loans may be granted prior to the regularly scheduled meeting.

(3) An [Any] eligible volunteer fire department aggrieved by a decision of the commission, may petition the commission, in writing, for reconsideration and the commission, upon receiving the request, shall provide the applicant with an opportunity to be heard at its next meeting.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) Form FPPSE-1, April, 1993, Loan Application Request Form.
- (b) Form FPPSE-2, April, 1993, Low Interest Loan Application.

(2) This material may be inspected, copied or obtained at the Commission on Fire Protection Personnel Standards and Education, 1049 U.S. 127 South, Suite 5, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GERALD STEWART, Chairman

LAURA M. DOUGLAS, Secretary

JUDITH G. WALDEN, Office of General Counsel

APPROVED BY AGENCY: October 5, 1998

FILED WITH LRC: October 7, 1998 at 10 a.m.

CABINET FOR FAMILIES AND CHILDREN
Department for Community-Based Services
Division of Policy Development
(As Amended at ARRS, March 9, 1999)

900 KAR 1:041. Repeal of 900 KAR 1:040.

RELATES TO: KRS [13A:310;] 210.290

STATUTORY AUTHORITY: KRS [13A:310;] 194B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050 authorizes the Cabinet for Families and Children to promulgate

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[adept] 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 acts specifically to repeal 900 KAR 1:040, Guardianship responsibilities, which is no longer applicable.

Section 1. 900 KAR 1:040, Guardianship responsibilities, is hereby repealed.

VIOLA P. MILLER, Secretary

DIETRA PARIS, Commissioner

CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: January 4, 1999

FILED WITH LRC: January 8, 1999 at 2 p.m.

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Adult and Child Health
(As Amended at Interim Joint Committee on
Health and Welfare, March 17, 1999)

902 KAR 4:110. Abortion information.

RELATES TO: KRS 194A.030, 211.090, 211.180, 311.720

STATUTORY AUTHORITY: KRS 194A.050, 311.725

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050 requires the cabinet to adopt such administrative regulations necessary to protect and maintain the health, welfare and personal dignity, of the citizens of the Commonwealth. KRS 311.725 requires the secretary of the cabinet to publish printed materials to inform the pregnant woman who is seeking an abortion concerning the probable anatomical and physiological characteristics of the embryo or fetus at appropriate gestational increments. Materials to inform the pregnant woman concerning public and private agencies and services to assist her through pregnancy, childbirth and while the child is a dependent and the support obligations of the father of the child who is born alive will be published.

Section 1. Definitions. (1) "Cabinet" means Cabinet for Health Services.

(2) "Department" means Department for Public Health.

Section 2. Informational Materials. (1) The cabinet shall develop and publish materials to be offered to pregnant women seeking an abortion at least twenty-four (24) hours in advance of the abortion. The materials are:

(a) The "Information About Fetal Development" pamphlet shall provide the following information:

1. Probable anatomical and physiological characteristics of the embryo or fetus;
2. Photographs depicting the embryo or fetus; and
3. A scale or explanation to aid in determining the actual size of the fetus.

(b) The "Available Resources for Pregnant Women" provides the following information:

1. A list of available public and private agencies with toll free numbers to assist women both during and after pregnancy;
2. A description of the services offered by the agencies; and
3. A description and toll free number of the Division of Child Support which shall provide information on the support obligations of a father of a child who is born alive.

(2) [(3)] The cabinet shall make available the requested number of materials.

(3) [(4)] The hospital, physician, medical facility, or entity requesting the materials shall be charged a fee of:

(a) One (1) dollar for a copy of "Available Resources for Pregnant Women"; or

(b) Three (3) dollars for a copy of "Information About Development. [four (4) dollars.]

(4) [(a)] The fee shall be paid by check made payable to the Kentucky State Treasurer.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Information About Development" dated January 1999 [12/1998]; and

(b) "Available Resources for Pregnant Women" dated January 1999 [12/1998].

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

RICE C. LEACH, M.D., Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: January 7, 1999

FILED WITH LRC: January 7, 1999 at 11 a.m.

CABINET FOR HEALTH SERVICES
Office of Inspector General
Division of Licensing and Regulation
(As Amended at ARRS, March 9, 1999)

902 KAR 20:016. Hospitals; operations and services.

RELATES TO: KRS 214.175, 216B.010, 216B.015, 216B.040, 216B.042, 216B.045 to 216B.055, 216B.075, 216B.105 to 216B.131, 216B.140 to 216B.250, 216B.990, 311.241 to 311.247, 311.560(4), 311.992, 314.011(8), 314.042(8), 320.210(2), 333.030, 29 CFR 1910.1030(d)(2)(vii), 42 CFR 405, 412.23(e) [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.010, 216B.040, 216B.042, 42 USC 263a [216B.042, 216B.105, 311.560(4), 314.011(8), 314.042(8), 320.210(2) [320.240(14)], 42 USC 263a]; EO 96-862]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires [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) "Organ procurement agency" means a federally designated organization which coordinates and performs activities which encourage the donation of organs or tissues for transplantation.

(8) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(9) "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) "Registered, certified or registry-eligible dietician" means a person who is certified in accordance with KRS Chapter 310.

(11) "Registered records administrator" means a person who is certified as a registered records administrator by the American Medical Record Association.

(12) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

(13) "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 shall [must] be read forty-eight (48) to seventy-two (72) hours after injection and recorded in terms of millimeters of induration.

(14) "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 multi-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 other ordering personnel acting within the limits of their statutory scope of practice ~~[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. A needle or other contaminated sharp [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 at 29 CFR 1910.1030(d)(2)(vii).

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 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 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 electronically ~~[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 other ordering personnel acting within the limits of their statutory scope of practice ~~[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, or other ordering personnel acting within the limits of their statutory scope of practice ~~[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 anesthetist, 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, or other ordering personnel acting within the limits of their statutory scope of practice ~~[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 compiler 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 other ordering personnel acting within the limits of their statutory scope of practice [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, ~~or other ordering personnel acting within the limits of their statutory scope of practice [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 or other ordering personnel acting within the limits of their statutory scope of practice. 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.

(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 42 CFR Part 405, 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 book-keeping 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 elements, 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 pre-anesthetic 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 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.

(2) A hospital that establishes its authority to be reimbursed for Title XVIII Medicare for long-term care acute inpatient hospital services pursuant to this section, shall not receive Title XIX Medicaid reimbursement for these services.

TIMOTHY L. VENO, Inspector General

JOHN MORSE, Secretary

JOHN WALKER, Attorney

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CABINET FOR HEALTH SERVICES
Office of Inspector General
Division of Licensing and Regulation
(As Amended at ARRS, February 9, 1999 and
As Amended at Interim Joint Committee on
Health and Welfare, March 17, 1999))

902 KAR 20:360. Abortion facilities.

RELATES TO: KRS 213.101, 216B.010 to 216B.130, 216B.990, 311.710 to 311.830, 314.011(8), 314.042(8), [1998 Ky. Acts ch. 614, sec. 2]

STATUTORY AUTHORITY: KRS 216B.0431 [1998 Ky. Acts ch. 582, sec. 4]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.0431 [1998 Ky. Acts ch. 582, sec. 4] requires that the Cabinet for Health Services regulate abortion facilities. This administrative regulation establishes the licensure requirements for abortion facilities.

Section 1. Definitions. (1) "Abortion" is defined in KRS 311.720(1).

(2) "Abortion facility" is defined in KRS 216B.015 [1998 Ky. Acts ch. 582, sec. 1].

(3) "Cabinet" means the Cabinet for Health Services.

(4) **"Volunteer" means a person who is not an employee of the abortion facility and who has direct patient health care responsibilities performed within the abortion facility, and excludes escort services. ["Volunteer" means a person involved in the provision of abortion facility services who has direct patient contact within the abortion facility and who is not an employee of the abortion facility.]**

Section 2. Licenses. (1) A license to operate an abortion facility shall not be required for a health facility licensed to perform the services regulated by 902 KAR 20:016 or 902 KAR 20:106. That health facility shall:

(a) Comply with the requirements of its respective licensure category and provide written notice of its intent to perform abortions to the Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621;

(b) Comply with the reporting requirements of KRS 216B.0431 [1998 Ky. Acts ch. 582, sec. 4]; and

(c) Be exempt from any other licensure requirements of this administrative regulation.

(2) The license required by KRS 216B.0431 [1998 Ky. Acts ch. 582, sec. 4] shall be conspicuously posted in a public area of the facility.

(3) An applicant for licensure shall file with the Office of the Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621, an application for license to operate an abortion facility.

(4) An applicant for a license shall, as a condition precedent to licensure or relicensure, be in compliance with the applicable administrative regulations relating to an abortion facility:

(a) Compliance with licensure administrative regulations shall be ascertained through an on-site inspection of the facility. A licensure inspection may be unannounced.

(b) A representative of the inspecting agency shall have access to the facility during the hours that the facility operates.

(c) A regulatory violation identified during an inspection shall be transmitted in writing to the facility by the inspecting agency.

(d) The facility shall submit a written plan for the elimination or correction of the regulatory violation to the inspecting agency within ten (10) days.

1. The plan shall specify the date by which each violation shall be corrected.

2. Following a review of the plan, the inspecting agency shall notify the facility in writing of the acceptability of the plan.

3. If a portion or all of the plan is unacceptable:

a. The inspecting agency shall specify the reasons for the unacceptability; and

b. The facility shall modify or amend the plan and resubmit it to the inspecting agency within ten (10) days.

(5) A licensee shall, as a condition of licensure or relicensure, be in compliance with the reporting requirements of KRS 213.101.

(6) An unannounced inspection shall be conducted:

(a) On a complaint allegation; and

(b) Utilizing the procedures established in subsection (3) of this section.

(7) A license shall remain in effect for one (1) year from the date of issuance unless otherwise expressly provided in the license certificate.

(8) A license shall be renewed upon payment of the prescribed fee and compliance with the licensure administrative regulations.

(9) Each license to operate shall be issued for the person or persons and premises named in the application.

(10) A new application shall be filed in the event of change of ownership.

(a) Upon the filing of a new application for a license because of change of ownership, the new license shall be automatically issued for the remainder of the current licensure period.

(b) An additional fee shall not be charged for the remainder of the licensure period.

Section 3. Fee Schedule. (1) Annual fees. The annual licensure fee (including a renewal) for abortion facilities shall be \$155 for each licensed facility.

(2) Fees shall be paid by check made payable to Kentucky State Treasurer and sent to Cabinet for Health Services, Division of Licensing and Regulation, 275 East Main Street, 4E-A, Frankfort, Kentucky 40621.

Section 4. Appeals. (1) Notice of the denial, suspension, or revocation of a license shall be made pursuant to the provisions of KRS Chapter 13B.

(2) A licensee may appeal the denial, suspension, or revocation of his license to the Secretary of the Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

(3) A hearing on the denial, suspension, or revocation of a license shall be conducted pursuant to the provisions of KRS Chapter 13B. (If the cabinet denies, suspends or revokes licensure, it shall issue and serve by certified mail or by personal service on the licensee of the facility, or its agent for service of process, a written notice of denial, suspension or revocation of licensure. Said notice shall set forth the specific findings of the cabinet alleged to have resulted in

the action taken and shall advise the licensee of the facility of his right to appeal such denial, suspension or revocation at a hearing before the cabinet.

(2) Within twenty (20) days of the receipt of the written notice of action by the cabinet, the licensee of the facility may file a written request for hearing with the Secretary of the Cabinet for Health Services. Upon receipt of the written request for hearing, the secretary shall designate a hearing officer in accordance with KRS 13B.030 and 13B.040.

(3) A hearing shall be scheduled and commenced as soon as practicable after receipt of the request for hearing. Notice of the hearing shall be served by certified mail, return receipt requested, to the last known address of the parties, or by personal service, not less than twenty (20) days in advance of the hearing date. The notice of the hearing shall include the legal authority for the hearing, together with reference to the statutes, regulations and administrative action by the cabinet involved, and shall comply with KRS 13B.050(3).

(4) The hearing officer may hold a prehearing conference to consider simplification of the issues, admissions of facts and documents which will avoid unnecessary proof, limitations of the numbers of witnesses and such other matters as will aid in the disposition of the matter. Disposition of the matter may be made at the prehearing conference, by stipulation, agreed settlement, or consent order. Prehearing conferences are to be open to the public. A written prehearing order shall be part of the record.

(5) The hearing shall be conducted in accordance with KRS 13B.080 and 13B.090.

(6) Within sixty (60) days of the closing of the record or hearing, the hearing officer shall make written findings of fact, conclusions of law, and a final decision based upon the official record of the proceeding. The record shall consist of those items listed in KRS 13B.130, including:

(a) The notice of denial, suspension or revocation of licensure which was forwarded to the licensee;

(b) Any staff reports, memoranda, or documents prepared by or for the cabinet regarding the matter under review which were introduced at the hearing;

(c) Any information provided by the parties which was introduced at the hearing;

(d) Any other evidence admitted during the hearing with respect to the matter under review;

(e) Upon its completion, the prehearing orders, if any, and the report of the hearing officer containing the findings of fact, conclusions of law and final decision.

(7) Any party aggrieved by the final decision may appeal that decision to the Franklin Circuit Court in accordance with KRS 13B.130.]

Section 5. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for the abortion facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the abortion facility.

(b) The licensee shall establish written policies for the administration and operation of the abortion facility.

(c) The licensee shall establish lines of authority and designate the person who shall be principally responsible for the daily operation of the abortion facility.

(2) Policies.

(a) Administrative policies. The abortion facility shall have written administrative policies covering all aspects of the operation, including:

1. A description of organizational structure, staffing and allocation of responsibility and accountability;

2. A description of referral linkages with inpatient facilities and other providers;

3. Policies and procedures for the guidance and control of personnel performances;

4. A description of services included in the program;

5. A description of the administrative and patient care records and reports;

6. Procedures to be followed in the storage, handling and administration of drugs and biologicals; and

7. A policy to specify the provision of emergency medical services.

8. Procedures to be followed in obtaining the voluntary and informed written consent of the pregnant woman, as required by KRS 311.725 [1998 Ky. Acts ch. 614, sec. 2].

(b) Patient rights policies. The abortion facility shall adopt written policies regarding the rights and responsibilities of patients. These patients' rights policies shall assure that each patient:

1. Is informed of these rights and of a procedure for handling patient grievances.

2. Is informed of services available at the abortion facility and of related charges including any charges not covered under third-party payor arrangements.

3. Is informed of her medical condition, unless medically contraindicated (as documented in her medical record), and is afforded the opportunity to participate in the planning of her medical treatment and to refuse to participate in experimental research.

4. Is encouraged and assisted to understand and exercise her patient rights; to this end she may voice grievances and recommend changes in policies and services. Upon the patient's request the grievances and recommendations will be conveyed within a reasonable time to an appropriate decision making level within the organization which has authority to take corrective action.

5. Is assured confidential treatment of her records and is afforded the opportunity to approve or refuse their release to any individual not involved in her care except as required by Kentucky law or third-party payment contract.

6. Is treated with consideration, respect, and full recognition of her dignity and individuality, including privacy in treatment and in the care of her personal health needs.

(3) Personnel.

(a) A facility shall have a staff that is adequately trained and capable of providing appropriate service and supervision to the patients.

1. The licensee shall obtain written applications for employment from all employees. The licensee shall obtain and verify information on the application as to education, training, experience, appropriate licensure, if applicable, and health and personal background of each employee.

2. Prior to performing job duties, all employees and volunteers who have direct patient contact within the abortion facility, shall have tuberculin skin testing conducted unless a previously positive reaction is documented in millimeters. The intradermal (Mantoux) method, using five tuberculin units of stabilized purified protein derivative (PPD) is to be used. For employees or volunteers who have no documentation of a negative PPD result during the preceding twelve (12) months, then the two (2) step procedure (one (1) PPD test with negative result followed one (1) to three (3) weeks later by another PPD test) is required to establish a reliable baseline. If employees or volunteers have complete documentation of a negative PPD during the preceding twelve (12) months (may be a single PPD or a two-(2) step PPD), then a single PPD is acceptable to establish the baseline for current employment.

a. A person with negative tuberculin skin tests who has direct contact with patients shall have an annual tuberculin skin test.

b. An initial or routine chest x-ray shall not be required for an employee or volunteer with negative tuberculin test results who is asymptomatic.

c. Personnel with a positive reaction to the skin test shall have no patient contact until certified noncontagious by a physician.

d. A chest x-ray shall be required to determine whether TB disease is present for an employee or volunteer:

(i) With reactions of 10mm and over to the preemployment tuberculin test;

(ii) Who has previously documented positive reactions;

(iii) With newly converted skin tests; and

(iv) With symptoms suggestive of TB (e.g., cough, weight loss, night sweats, fever, etc.)

e. If TB disease is diagnosed, appropriate treatment shall be given and patient contacts examined.

f. Personnel who are known or suspected to have TB shall be required to be evaluated by a physician and shall not be allowed to return to work until they have been certified noncontagious by the

physician.

g. Preventive treatment of personnel with new positive reactions is essential, and shall be considered for all infected employees or volunteers who have patient contact, unless specifically contraindicated.

(i) An employee or volunteer who completes treatment, either for disease or infection, may be exempt from further routine chest radiographic screening unless he has symptoms of TB.

(ii) Positive reactors who are unable or unwilling to take preventive treatment shall not receive an annual chest x-ray. These individuals shall be informed of their lifelong risk of developing and transmitting TB to individuals in the institution and in the community. They shall be informed of symptoms which suggest the onset of TB, and the procedure to follow should such symptoms develop.

h. Postexposure skin tests shall be provided for tuberculin negative employees or volunteers within twelve (12) weeks after termination of contact for any suspected exposure to a documented case of pulmonary TB.

i. A person shall be designated in writing at each facility to coordinate TB screening of personnel and any other TB control activities.

3. All professional and allied health professional staff members shall be currently certified with American Red Cross or American Heart Association to perform cardiopulmonary resuscitation and capable of recognizing symptoms of distress. ~~[A clinical staff member who is legally qualified to perform advanced cardiac life support shall be present while patients are undergoing abortion procedures and recovery in the facility.]~~

4. No employee or volunteer of the facility while afflicted with any infected wounds, boils, sores, or an acute respiratory infection, or any other contagious disease or illness, shall work in any capacity in which there is a likelihood of such person transmitting disease to other individuals.

5. Each facility shall have and execute a written orientation program to familiarize each new staff member with the facility and its policies and procedures, to include fire safety and other safety measures, medical emergencies, and infection control.

6. In-service training programs shall be planned and provided for all employees and volunteers to ensure and maintain their understanding of their duties and responsibilities. Records shall be maintained to reflect program content and individual attendance. The following training shall be provided at least annually:

a. Infection control, to include as a minimum, universal precautions against blood-borne diseases, general sanitation, personal hygiene such as hand washing, use of masks and gloves, and instruction to staff if there is a likelihood of transmitting a disease to patients or other staff members;

b. Fire protection, to include evacuating patients, proper use of fire extinguishers, and procedures for reporting fires;

c. Confidentiality of patient information and records, and protecting patient rights; and

d. Licensing regulations.

7. Job descriptions.

a. Written job descriptions that adequately describe the duties of every position shall be maintained.

b. Each job description shall include: position title, authority, specific responsibilities and minimum qualifications.

c. Job descriptions shall be reviewed at least annually, kept current and given to each employee and volunteer when assigned to the position and when revised.

8. A personnel file shall be maintained for each employee and for each volunteer. The records shall be completely and accurately documented, readily available, and systematically organized to facilitate the compilation and retrieval of information. The file shall contain a current job description that reflects the individual's responsibilities and work assignments, and documentation of the person's orientation, in-service education, appropriate licensure, if applicable, and TB skin testing.

(b) Clinical staff.

1. Physicians, nurses, and allied health professionals shall constitute the clinical staff.

2. The clinical staff shall meet at least quarterly to review and analyze their clinical experiences; minutes shall be maintained of such meetings.

3. Physicians.

a. Abortions shall be performed only by a physician who is licensed to practice medicine in Kentucky and who is properly qualified by training and experience to perform pregnancy termination procedures.

b. A physician shall remain on the premises until all patients are discharged [stable, and are ready for discharge].

(c) Nursing.

1. [a.] Nursing care shall be under the supervision of a registered nurse currently licensed in Kentucky.

2. [b.] A registered nurse shall be on duty to provide or supervise all nursing care of patients in preparation, during the termination procedure, the recovery period and until all patients leave the facility [discharge by the attending physician].

3. [c.] Licensed practical nurses, working under appropriate supervision and direction of a registered nurse, may be employed as components of the nursing staff.

(d) Allied health professionals, working under appropriate direction and supervision, may be employed to work only within areas where their competency has been established.

~~[(e) If ultrasonography is conducted, the procedure shall be conducted by a physician or by an ultrasound technician who shall have documented evidence of completion of a training course in ultrasonography.]~~

Section 6. ~~[Dissemination of Information. Abortion facilities shall comply with the requirements of 1998 Ky. Acts ch. 614, sec. 2 and maintain an adequate supply of current printed material from the Division of Adult and Child Health, Department for Public Health, Cabinet for Health Services, which has not been altered in content.~~

Section 7. Patient Care. Abortion facilities shall not serve patients whose needs exceed the resources or capabilities of the facility. The facility shall formulate and adhere to written patient care policies and procedures designed to ensure professional and safe care for patients, to include:

(1) Admission criteria;

(2) Physician and nurse responsibilities for the services offered;

(3) Specific details regarding the preoperative procedures performed, to include history and physical examination, including verification of pregnancy, estimation of gestational age, identification of any preexisting conditions or complications;

(4) The actual abortion procedure, to include the use of:

(a) IVs;

(b) Fluids;

(c) Analgesia/anesthesia. General anesthesia shall be administered only by personnel acting within the limits of their statutory scope of practice; and

(d) Tissue examination and disposal.

(5) Postprocedure care and recovery room procedures to include emergency care;

(6) Provisions for the education of patient, family and others, as appropriate in pre- and postprocedure care;

(7) Plans for follow-up patient care after discharge from the facility;

(8) Management and appropriate referral of high-risk conditions;

(9) Transfer of patients who, during the course of pregnancy termination are determined to need care beyond that of the facility; and

(10) Infection control and sanitation procedures to include duties and responsibilities of the infection control committee that shall include the development and implementation of specific patient care and administrative policies aimed at investigating, controlling and preventing infections in the facility.

Section 7. [8.] Pharmaceutical Services. Pharmaceutical services shall be provided in accordance with accepted professional practice and federal, state and local laws.

(1) Emergency drugs:

(a) Emergency kit or emergency drugs: Each facility shall maintain an emergency kit or stock supply of drugs and medicines for use in treating the emergency needs of patients. This kit or medicine shall be stored in such a manner as to prohibit its access by unauthorized personnel.

A listing of contents by drawer or shelf shall be placed on the cabinet or emergency cart to allow quick retrieval. Contents shall correspond with the inventory list. Drugs and equipment shall be available within the facility to treat, as a minimum, the following conditions:

1. Cardiac arrest;

2. Seizure;

3. Asthmatic attack;

4. Allergic reaction;

5. Narcotic toxicity;

6. Hypovolemic shock;

7. Vasovagal shock.

(b) Drug Reference Sources. Each facility shall maintain reference sources for identifying and describing drugs and medicines.

(2) Administering drugs and medicines. Drugs and medicines shall not be administered to individual patients or to anyone within or outside the facility except by those authorized by law under orders of a physician or other ordering personnel acting within the limits of their statutory scope of practice. Such orders shall be in writing and signed personally by the physician or other personnel who prescribes the drug or medicine.

(3) Medicine storage. Medicines and drugs maintained in the facility for daily administration shall not be expired and shall be properly stored and safeguarded in enclosures of sufficient size that are not accessible to unauthorized persons. Refrigerators used for storage of medications shall maintain an appropriate temperature as determined by the requirements established on the label of medications. A thermometer accurate to \pm three (3) degrees Fahrenheit shall be maintained in these refrigerators. Only authorized personnel shall have access to storage enclosures. Controlled substances and ethyl alcohol, if stocked, shall be stored under double locks and in accordance with applicable state and federal laws.

(4) Medicine preparation area. Medicines and drugs shall be prepared for administration in an area that contains a counter and a sink. This area shall be located in such a manner as to prevent contamination of medicines being prepared for administration.

(5) Records. Records shall be kept of all stock supplies of controlled substances giving an accounting of all items received or administered.

(6) Poisonous substances. All poisonous substances shall be plainly labeled and kept in a cabinet or closet separate from medicines and drugs to be prepared for administration.

Section 8. [9.] Laboratory Services. (1) Laboratory services shall be provided on site or through arrangement with a laboratory certified to provide the required procedures under 42 CFR 493.

(a) Facilities for collecting specimens shall be available on site.

(b) If laboratory services are provided on site they shall be directed by a person who qualifies as a director under KRS 333.090 [Chapter 333] and 42 CFR part 493 and shall be performed in compliance with KRS Chapter 333 and 42 CFR 493 standards.

(2) Prior to the procedure, laboratory tests shall include a recognized urine pregnancy test unless the physician identifies fetal heart beats or fetal movements on physical examination. If positive, the following additional tests are required:

(a) Urinalysis including albumin and glucose examination;

(b) Hematocrit or hemoglobin; and

(c) Determination of Rh factor with appropriate medical intervention [(including the Du variant when the patient is Rh negative); Rh (D) immune globulin (human) shall be administered, prior to discharge, to patients who are determined to be Rh negative].

(3) Aspirated tissues shall be examined to verify that villi or fetal parts are present; if villi or fetal parts cannot be identified with certainty, the tissue specimen shall be sent for further pathologic examination and the patient alerted to the possibility of an ectopic pregnancy.

(4) A written report of each laboratory test and examination shall be a part of the patient's record.

(5) If a patient is bleeding profusely and a transfusion of red blood cells is necessary, she shall be administered fluids and transported immediately to an acute care hospital.

(6) All laboratory supplies shall be monitored for expiration dates, if applicable.

Section 9. [10:] Medical Waste Disposal. (1) Sharp wastes.

(a) 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.

(b) 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.

(c) The containers of sharp wastes shall either be incinerated on or off site, or be rendered nonhazardous.

(2) Disposable waste.

(a) 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.

(b) The abortion facility shall establish specific written policies regarding handling and disposal of all wastes.

(c) Pathological waste, such as tissues, organs, body parts, and bodily fluids, [which includes all tissue specimens from surgical or necropsy procedures] shall be incinerated.

(d) The following wastes shall be disposed of by incineration, or be autoclaved before disposal, or be carefully poured down a drain connected to sanitary sewer: blood, blood specimens, used blood tubes, or blood products.

(e) Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment administrative regulations.

(f) Any incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:023 or 401 KAR 61:013.

Section 10. [11:] Emergency Care. (1) An abortion facility shall enter into written agreements with a licensed acute-care hospital and a local ambulance service for the transport and treatment of patients when hospitalization becomes necessary, as required by KRS 216B.0435 [1998 Ky. Acts ch. 582, sec. 5].

(2) These written agreements shall be filed with the cabinet.

Section 11. [12:] Equipment and Supplies. There shall be appropriate equipment and supplies maintained for the patients to include:

- (1) A bed or recliner suitable for recovery;
- (2) Oxygen with flow meters and masks or equivalent;
- (3) Mechanical suction;
- (4) Resuscitation equipment to include resuscitation bags and oral airways;
- (5) Emergency medications, intravenous fluids, and related supplies and equipment;
- (6) A clock with a sweep second hand;
- (7) Sterile suturing equipment and supplies;
- (8) Adjustable examination light;
- (9) Containers for soiled linen and waste materials with covers;
- (10) Refrigerator; and
- (11) Appropriate equipment for the administering of general anesthesia, if applicable.

Section 12. [13:] Consultation. Arrangements shall be made for consultation or referral services to be available as needed.

Section 13. [14:] Quality Improvement. (1) The facility shall establish and implement a written plan for a quality improvement program for patient care. The plan shall specify the individual responsible for coordinating the quality improvement program and shall provide for ongoing monitoring of staff and patient care services.

(2) There shall be an ongoing process for monitoring and evaluating patient care services, staffing, infection prevention and control, housekeeping, sanitation, safety, maintenance of physical plant and equipment, patient care statistics, and discharge planning services.

(3) Evaluation of patient care throughout the facility shall be criteria-based, so that certain actions are taken or triggered when specific quantified, predetermined levels of outcomes or potential problems are identified.

(4) The quality improvement process shall incorporate quarterly

review of a minimum of five (5) percent of medical records of patients undergoing procedures during a given quarter, but not less than five (5) records shall be reviewed.

(5) The quality improvement process shall include evaluation by patients of care and services provided by the facility. If the families of patients are involved in the care and services provided by the facility, the quality improvement process shall include a means for obtaining input from families of patients.

(6) The administrator shall review the findings of the quality improvement program to ensure that effective corrective actions have been taken, including as a minimum, policy revisions, procedural changes, educational activities, and follow-up on recommendations, or that additional actions are no longer indicated or needed.

(7) The quality improvement program shall identify and establish indicators of quality care, specific to the facility, that shall be monitored and evaluated.

(8) The results of the quality improvement program shall be submitted to the licensee for review at least annually and shall include at least the deficiencies found and recommendations for corrections or improvements. Deficiencies that jeopardize patient safety shall be reported immediately in writing to the licensee.

Section 14. [15:] Medical Records. (1) Medical records shall be maintained for all patients examined or treated in the abortion facility. The records shall be completely and accurately documented, readily available, and systematically organized to facilitate the compilation and retrieval of information. All information shall be centralized in the patient's medical record. All entries shall be legibly written or typed, dated and signed.

(a) The record shall include the following information:

1. A face sheet with patient identification data, to include: name, address, telephone number, Social Security number, date of birth, and name, address and telephone number of person to be notified in the event of an emergency;
2. Signed consent for the procedure;
3. Date of initial examination;
4. Date of abortion;
5. Referring and attending physicians' names and phone numbers, if applicable;
6. Complete medical history to include medications currently being taken;
7. Physical examination, to the extent necessary to determine the health status of the patient, within fifteen (15) days of the procedure, including detail of findings of pelvic examination and estimated gestational age, according to the first day of the last menstrual period;
8. Results of diagnostic tests and examinations, e.g., x-ray, electrocardiography, clinical laboratory, pathology, consultations, ultrasound;
9. Preoperative diagnosis;
10. Counselor's notes if applicable;
11. Physician's orders;
12. Complete record of abortion procedure to include:
 - a. Vital signs, i.e., temperature, pulse, respiration, and blood pressure, prior to and following the procedure;
 - b. Name of procedure performed;
 - c. Anesthetic agent utilized;
 - d. Name of attending physician performing the procedure;
 - e. Names of clinical assistants in attendance, to include other physicians, physician's assistants, anesthesiologists, nurses, or specially-trained technicians;
 - f. Signature of physician performing the procedure.
13. Nurses' notes;
14. Progress notes to include a postanesthesia note if general anesthesia is utilized;
15. Attending physician's description of gross appearance of tissue removed;
16. Final diagnosis;
17. Condition on discharge;
18. Post-op orders and follow-up care; and
19. Documented verification that the woman has received information and was offered printed materials as required by KRS 311.725 [1998 Ky. Acts ch. 614, sec. 2].

(b) The attending physician shall complete and sign the medical record within seventy-two (72) hours following discharge.

(2) Confidentiality of all patient records shall be maintained at all times.

(3) Transfer of records. The abortion facility shall establish systematic procedures to assist in continuity of care where the patient moves to another source of care, and shall, upon proper release, transfer medical records or an abstract thereof when requested.

(4) Retention of records. After patient's death or discharge the complete medical record shall be placed in an inactive file and retained for five (5) years or, in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 15. [16:] Infection Control. (1) There shall be an infection control program developed to prevent, identify, and control infections.

(2) Written policies and procedures pertaining to the operation of the infection control program shall be established, reviewed at least annually, and revised as necessary.

(3) A practical system shall be developed for reporting, evaluating, and maintaining records of infections among residents and personnel.

(4) The system shall include assignment of responsibility for the ongoing collection and analysis of data, as well as for the implementation of required follow-up actions.

(5) Corrective actions shall be taken on the basis of records and reports of infections and infection potentials among patients and personnel and shall be documented.

(6) All new employees shall be instructed in the importance of infection control and personal hygiene and in their responsibility in the infection control program.

(7) The facility shall document that in-service education in infection prevention and control is provided to all services and program components.

(8) Adequate space shall be provided for storage, maintenance and distribution of sterile supplies and equipment.

(9) Sterile supplies and equipment shall not be mixed with unsterile supplies, and shall be stored in dust-proof and moisture-free units. They shall be properly labeled.

(10) Sterilizing equipment of appropriate type shall be available and of adequate capacity to properly sterilize instruments and materials. The sterilizing equipment shall have approved control and safety features.

Section 16. [17:] Linen and Laundry. (1) An adequate supply of clean linen or disposable materials shall be maintained in order to ensure change of linen on procedure tables between patients.

(2) Provisions for proper laundering of linen and washable goods shall be made. Soiled and clean linen shall be handled and stored separately. Storage shall be in covered containers.

(3) A sufficient supply of cloth or disposable towels shall be available so that a fresh towel can be used after each hand washing. Towels shall not be shared.

Section 17. [18:] Housekeeping. (1) General.

(a) A facility shall be kept neat, clean and free from odors;

(b) Accumulated waste material shall be removed daily or more often if necessary;

(c) There shall be frequent cleaning of floors, walls, ceilings, woodwork and windows;

(d) The premises shall be kept free from rodent and insect infestation; and

(e) Bath and toilet facilities shall be maintained in a clean and sanitary condition at all times.

(2) Cleaning materials and supplies shall be stored in a safe manner. All harmful agents shall be locked in a closet or cabinet used for this purpose only.

Section 18. [19:] Refuse and Waste Disposal. (1) All garbage and waste shall be collected, stored and disposed of in a manner designed to prevent the transmission of disease.

(a) Containers shall be washed and sanitized before being re-

turned to work areas; and

(b) Disposable type containers shall not be reused.

(2) Containers for garbage and refuse shall be covered and stored outside and placed on an approved platform to prevent overturning by animals, the entrance of flies or the creation of a nuisance. All solid waste shall be disposed of at sufficient frequencies in a manner so as not to create a rodent, insect or other vermin problem.

(3) Immediately after emptying, containers for garbage shall be cleaned.

(4) All medical waste shall be managed in accordance with Section 9 [12] of this administrative regulation.

Section 19. [20:] Outside Areas. All outside areas, grounds and adjacent buildings shall be kept free of rubbish, grass, and weeds that may serve as a fire hazard or as a haven for insects, rodents and other pests. Outside stairs, walkways, ramps and porches shall be maintained free from accumulations of water, ice, snow and other impediments.

Section 20. [21:] Disaster Preparedness. (1) All staff shall be knowledgeable of a written plan and procedure for meeting potential disasters and emergencies such as fires or severe weather. The plan shall be posted. Staff shall be trained in properly reporting a fire, extinguishing a small fire, and in evacuation from the building. Fire drills shall be practiced in accordance with state fire administrative regulations.

(2) All fire protection and alarm systems and other fire fighting equipment shall be inspected and tested at least once each year, and more often if necessary to maintain them in serviceable condition.

Section 21. [22:] Facility Specifications. (1) An abortion facility shall provide a functionally safe and sanitary environment for patients, personnel, and the public.

(2) An abortion facility shall include space for the following functions:

(a) Reception and waiting;

(b) Administrative activities such as patient admission, record storage, and business affairs;

(c) Patient dressing and storage of personal items;

(d) Preoperative evaluation, including physical examination, laboratory testing, and preparation for anesthesia;

(e) Performance of surgical procedures;

(f) Preparation and sterilization of instruments;

(g) Storage of equipment, drugs, and fluids;

(h) Postanesthetic recovery; and

(i) Janitorial and utility support.

Section 22. [23:] Injunctive Relief. The Office of Inspector General shall refer instances where administrative penalties and legal sanctions have failed to prevent or cause a discontinuance of a violation of KRS Chapter 216B to the secretary of the cabinet for action in accordance with KRS 15.241 [1998 Ky. Acts ch. 582, sec. 7].

Section 23. [24:] Incorporation by Reference. (1) The Application for License to Operate an Abortion Facility, L&R 240 (7/98), is incorporated by reference.

(2) This material may be inspected, copied or obtained at the Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

TIMOTHY L. VENO, Inspector General

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: January 7, 1999

FILED WITH LRC: January 7, 1999 at 11 a.m.

VOLUME 25, NUMBER 10 – APRIL 1, 1999

CABINET FOR FAMILIES AND CHILDREN Department for Community-Based Services Division of Policy Development (As Amended at ARRS, March 9, 1999)

904 KAR 2:116. Home Energy Assistance Program.

RELATES TO: KRS 194B.010, 194B.050(1), (2) 194B.060, 194B.070, 194B.090(1)(a), 45 CFR 96 Subpart H [194.050], 42 USC 8621 through 8627, 9902(2) [et seq.], EO 98-731 [96-862]

STATUTORY AUTHORITY: KRS 194B.050(1), 45 CFR 96 Subpart H [194.050], 42 USC 8621 [et seq.]

NECESSITY, FUNCTION, AND CONFORMITY: [Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Social Insurance and its programs under the Cabinet for Families and Children.] The Cabinet for Families and Children has responsibility under [as prescribed by] 42 USC 8621 [et seq., as amended,] to administer the Low Income Home Energy Assistance Program [(LIHEAP)] to help [provide assistance for eligible] low income households [within the Commonwealth of Kentucky to help] meet the cost [costs] of home energy. This administrative regulation establishes [states] the eligibility and benefits criteria for heating assistance.

Section 1. Definitions. (1) "Annual low income home energy assistance program state plan" means an application prepared in accordance with 42 USC 8624(c) and 42 CFR 96, Subpart H, sections 968.3 through 968.7.

(2) [An] "Authorized representative" means the person who presents to the cabinet or its representative a written statement signed by the head of the household or spouse of the head of the household [appropriate household member] authorizing that person to apply on the household's behalf.

(3) "Crisis component" means the component that provides assistance to households which are experiencing a home heating crisis.

(4) "Economic unit" means one (1) or more persons sharing common living arrangements.

(5) "Emergency" means the household is without heat at the time of application or will be disconnected from a utility service within forty-eight (48) hours.

(6) "Energy" means electricity, gas, and any other fuel that is used to sustain reasonable living conditions.

(7) "Gross income" means all earned and unearned income, including lump sum payments received by the household [households] during the calendar month preceding the month of the application.

(8) "HEAP" means home energy assistance program and shall refer to the heating assistance portion of LIHEAP.

(9) "Heating season" means the period from October through April.

(10) "Household" means any individual or group of individuals who are living together in the principal residence as one (1) economic unit and who purchase energy in common.

(11) "Life threatening situation" means the household is [without heat] or will be without heat within forty-eight (48) hours and temperatures are at a dangerous level [for household members].

(12) "LIHEAP" means Low Income Energy Assistance Program.

(13) "Principal residence" means the place:

(a) Where a person is living voluntarily and not on a temporary basis;

(b) He considers home;

(c) To which, when absent, he intends to return; and

(d) Is identifiable from other residences, commercial establishments, or institutions.

(14) "Subsidy component" means the component that provides an eligible household [households] with a one (1) time payment to the household's energy provider.

Section 2. Application. (1) A [Each] household or authorized representative shall complete an application and provide:

(a) Proof of [all] household income;

(b) The most recent heating bill or verification that heat is included in the rent; and

(c) A Social Security number [numbers] for each household member [all household members for the agency to determine eligibility and benefit amount].

(2) An application shall not be considered complete [completed] until all required information [needed] is received.

Section 3. Eligibility Criteria. (1) Income. [(a)] Gross household income shall be at or below 110% of the official poverty income guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services, under authority of 42 USC 9902(2). [federal poverty income guideline.] [Relative to household size, the gross monthly income for the month prior to application shall be at or below the following:

Household Size	Gross Monthly Income	Household Size	Gross Monthly Income
1	\$685	7	\$2,093
2	\$920	8	\$2,328
3	\$1,155	9	\$2,563
4	\$1,389	10	\$2,798
5	\$1,624	11	\$3,033
6	\$1,859	12	\$3,268

For each additional family member, \$235 shall be added.

(b) Excluded from income are:

1. Payments received by a household from a federal, state, or local agency designated for a special purpose and which the applicant must spend for that purpose;

2. Payments made to others on the household's behalf;

3. Loans;

4. Reimbursements for expenses;

5. Incentive payments (JET and JTPA) normally disregarded in AFDC;

6. Federal payments or benefits which shall be excluded according to federal law; and

7. Supplemental medical insurance premiums;

(2) Liquid assets.

(a) The household shall have total liquid assets at the time of application of not more than:

1. \$1,500; or

2. \$4,000, if a member of the household has an illness which requires liquid resources to be accessed regularly for medical and living expenses.

(b) Excluded assets shall be [are]:

1. Cars;

2. Household or personal belongings;

3. Principal residence;

4. Cash surrender value of insurance policies;

5. Prepaid burial policies;

6. Real property; and

7. Cash on hand or in a bank account if the cash is income considered under subsection (1)[(a)] of this section.

(3) The household shall be responsible for home heating costs or shall pay heating costs as an undesignated portion of the rent.

(4) Crisis component. In addition to meeting [(a) Applicants shall meet] the criteria in subsections (1), (2), and (3) of this section, an applicant shall:

(a) [; and

(b)] Be within four (4) days of running out of fuel, if propane, fuel oil, coal, wood, or kerosene is the primary heat source; [without fuel if coal, wood, or kerosene is the primary heat source;] or

(c) Have received [(c)] a past-due or disconnect notice, [has been received] if natural gas or electric is the primary heat source; and [;] [Be without fuel or disconnected from services within forty-eight (48) hours if propane, fuel oil, natural gas, or electric is the primary heat source; or

(d) Have an inoperable heating system; or]

(c) Have received a note of eviction for nonpayment of rent, if home heating cost is included as an undesignated portion of the rent. [(d) [(e)] For those households whose home heating costs are included as an undesignated portion of the rent, the household must have received a notice of eviction for nonpayment of rent.]

Section 4. Benefit Levels. (1)(a) A payment [Payments] to the

household's [households'] heating fuel provider [providers] shall be made for the full benefit amount.

(b) Benefits shall be determined from fuel usage data and from the average heating season energy cost for the six (6) primary heating fuels, prior to the implementation of the subsidy component.

(c) A household [Households] shall receive benefits based on [the household's] poverty level and the type of heating fuel. A household [Those households] with the lowest income [incomes] and highest heating season fuel cost [costs] shall receive the highest benefits. Benefits shall be a percentage of the average annual heating season energy cost [costs] of the primary heating fuel.

(d) A household [Households] living in federally assisted housing and receiving a utility allowance shall be eligible for [benefits which shall be] lower [than] benefits than provided to [all] other households.

(2) Crisis component. A benefit to a household, including a household [Benefits to households, including households] living in federally assisted housing, shall be the minimum amount necessary to alleviate the crisis. A benefit [Benefits] may be fuel or other energy for heating, a space heater [space heaters], blankets or sleeping bags, or emergency shelter. Space heaters shall be a temporary service, [and shall be] loaned to a household until fuel is delivered; [the heating system is repaired] or another resource is [other resources are] located which will alleviate the crisis. [The contracting agency shall determine the type and value of assistance necessary to alleviate the crisis.]

(a) In determining the minimum amount of assistance, the contracting agency shall take into consideration a direct subsidy [subsidies] for payment of utility cost received by the household from another program [other programs].

(b) A household may receive assistance more than once, but shall not receive more than the maximum allowable for the primary heating fuel, minus a required copayment. The maximum allowable benefit shall equal [fuels which is the] cost for delivery of:

1. One (1) ton of coal;
2. One (1) cord of wood;
3. 100 gallons of propane;
4. 100 gallons of fuel oil;
5. 100 gallons of kerosene; or
6. \$100 for natural gas or [and] electric [minus any copayment required of the household]. [determined prior to component implementation.]

(c) [The benefits for] A household threatened with eviction whose heat is an undesignated portion of the rent shall not receive more than the maximum allowable for the primary heating fuel. [which is the cost for delivery of one (1) ton of coal, one (1) cord of wood, 100 gallons of propane, 100 gallons of fuel oil, 100 gallons of kerosene, or \$100 for natural gas and electric minus any copayment required of the household.] [fuel as determined prior to component implementation.]

(d) A household that has a heating system that has become inoperable since the end of the previous heating season shall be referred to the local weatherization program to have its heating system evaluated and repaired if necessary.

(d) [(e)] An eligible household, including a household [All eligible households, including those] residing in subsidized housing, with an income at or above twenty-eight (28) percent of the poverty level shall make a copayment equal to [amount as] a percentage of the amount needed to relieve the crisis. A household [Those households] residing in subsidized housing and receiving a utility allowance shall pay a higher copayment amount.

(e) [(f)] The copayment amount shall be based on the housing type and the household's percentage of poverty and shall be as follows:

Percent Of Poverty	Copayment Percentage for Households Residing in Nonsubsidized Housing	Copayment Percentage for Households Residing in Subsidized Housing
0 - 27%	0%	0%
28 - 55%	10%	15%
56 - 83%	15%	20%
84 - 110%	20%	25%

Section 5. Benefit Delivery Methods. (1)(a) Payment under the subsidy component shall be [is] authorized by a one (1) party check

made payable to the household's:

1. Energy provider; or
2. Landlord, if the cost of heating is included as an undesignated portion of rent.

(b) At the recipient's discretion, the total benefit may be made in separate authorizations to more than one (1) provider if heating services were provided by more than one (1) provider. [(for example, when the recipient heats with both a wood stove and electric space heaters).] However, the total amount of the payments shall not exceed the maximum for the primary source of heating.

(2) For the crisis component, a direct cash payment [payments] shall not be made to the recipient. A payment [Payments] shall be authorized to the energy provider by a one (1) party check [checks] upon delivery of fuel or restoration, or continuation, of service; or to a vendor who supplies [vendors supplying] heaters, blankets, or emergency lodging.

Section 6. Right to a Fair Hearing. An [Any] individual who has been denied assistance or whose application has not been acted upon with reasonable promptness shall have [has] a right to request and receive a fair hearing in accordance with 921 [904] KAR 2:055.

Section 7. Vendor Selection. (1) Subsidy component.

(a) The contracting agency shall solicit vendors for all nonmetered fuels and shall establish an approved vendor listing.

(b) The contracting agency shall place an advertisement for interested vendors in the local newspaper [newspapers] with the largest circulation and shall contact all vendors in good standing that participated in the program during the last contract period.

(c) A potential vendor [All potential vendors] shall provide the contracting agency with a fixed price in gallons for propane or fuel oil, cords for wood, or tons for coal, delivered or picked up by the client.

(d) A prospective [Prior to being accepted as a vendor, the] vendor shall sign Low Income Home Energy Assistance Program (LIHEAP) Vendor Agreement [an agreement] to comply with the requirements in Section 11 of this administrative regulation and shall: [agree to the following:]

1. Allow contracting agency and authorized federal or state representatives to inspect records upon request;
2. Maintain records to financial transactions regarding HEAP for a period of three (3) years;
3. Inform the agency if he has knowledge that a household has obtained a benefit by misrepresentation; [Provide information to the agency on any instances where the vendor may be aware that a household has been approved for benefits by misrepresentation of the household's situation;]
4. Provide fuel as specified and at the price quoted;
5. Comply with federal and state law pertaining to equal employment opportunity [the Equal Employment Opportunity standards]; and
6. Comply with billing procedures established by the agency.

(e) A household [Households] shall select a vendor from the agency's approved vendor list.

(2) Crisis component.

(a) Each agency shall perform a local price survey for each bulk fuel type and shall establish a reasonable price for quality of fuel, delivery and on-site pick-up for each fuel type.

(b) Each agency shall maintain a list of all approved vendors and prices throughout the crisis component.

(c) A household may use its regular vendor if the price does not exceed the established price for that fuel type and mode of delivery.

(d) For a household [households] with no regular vendor, the agency shall select from its vendor list the lowest priced vendor capable of providing fuel within forty-eight (48) hours.

Section 8. Time Standards. (1) Under the subsidy component, an eligibility determination shall be made promptly after receipt of a completed and signed application, but not to exceed thirty (30) days.

(2) Under the crisis component, a completed application [applications] shall be processed so that the crisis is resolved within forty-eight (48) hours, and in a life threatening situation [situations] within eighteen (18) hours.

(3) An applicant [Applicants] shall have five (5) working days

from the date of application to provide information necessary to complete the application.

Section 9. Effective Dates. (1) Implementation and termination dates for HEAP, depending upon the availability of funds, shall be [are]:

(a) An application [Applications] for the subsidy component shall be accepted within the time period the department designates in the annual LIHEAP state plan [as] submitted to the federal government.

(b) An application [Applications] for the crisis component shall be accepted beginning on the date specified in the annual LIHEAP state plan and ending by March 31, or until all available funds have been expended. Applications shall be processed in the order received, [taken] until funds are expended.

(2) HEAP may be reactivated after termination under the same terms and conditions as shown in this administrative regulation, if [additional] federal funds are [made] available.

Section 10. Allocation of Funds. (1) An amount of funds sufficient to provide benefits to all eligible households that apply during the subsidy application period shall be reserved for the subsidy component.

(2) The balance of benefit funds for HEAP shall be reserved for the crisis component. [All] Benefit funds reserved for the crisis component shall be allocated based upon each local administering agency's percentage of the statewide [eligible] population at or below 100 percent of the poverty level. [share of the nonduplicated households assisted in the 1994 crisis component:] \$400,000 of the crisis benefit funds shall be identified as contingency funds and allocated to agencies as needed.

(3) [Each agency shall reserve ten (10) percent of the allocation under subsection (2) of this section to assure that funds are available until April 30, to assist households who are without heat or will be disconnected from utility services within forty-eight (48) hours:

(4) [No less than] \$25,000 or more shall be reserved for the Preventive Assistance Program [administered by the Department for Social Services] to assist families with an energy payment not to exceed \$300 for each family if the payment will:

(a) [shall] Prevent the removal of a child from the [a] family; or

(b) [or if it shall] Assist in reuniting a child with the family.

Section 11. Energy Provider Responsibilities. A [Any] provider accepting payment from HEAP for energy or services provided to an eligible recipient [recipients] shall comply with the following:

(1) Reconnection of utilities and delivery of fuel during the crisis component shall be accomplished upon certification for payment;

(2) The household shall be charged, in the normal billing process, the difference between the actual cost of the home energy and the amount of payment made through this program;

(3) A HEAP recipient [recipients] shall be treated the same as a household [households] not receiving benefits;

(4) The household on whose behalf benefits are paid shall not be discriminated against, either in the costs of goods supplied or the services provided; and

(5) A landlord shall not increase the rent of a recipient household [households] due to receipt of this payment.

Section 12. Incorporation by Reference. (1) "Low Income Home Energy Assistance Program (LIHEAP) Vendor Agreement", August 1998, is incorporated by reference.

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

DIETRA PARIS, Commissioner

VIOLA P. MILLER, Ed.D., Secretary

CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: January 6, 1999

FILED WITH LRC: January 8, 1999 at 2 p.m.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Financial Management and Analysis
(As Amended at ARRS, March 9, 1999)

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

RELATES TO: KRS 205.558, 42 CFR 435.1009, 483.100-483.138, 42 USC 1396r

STATUTORY AUTHORITY: KRS 194A.050, 205.520, 205.558

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has the responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the program requirements and payment provisions for preadmission screening and resident review (PASRR).

Section 1. Definitions. (1) "Appropriate placement" means the admission to a nursing facility of an individual with mental illness, mental retardation, or a related condition [only] if:

(a) Based on the individual's needs, [are such that] he meets the level of care standards for nursing facility admission as established in 907 KAR 1:022; and

(b) The individual's needs for treatment may [can] be met by the level of services delivered in the nursing facility alone or, if [when] necessary, through nursing facility services supplemented by specialized services provided by or arranged through the Department for Mental Health and Mental Retardation Services as established in Section 5 of this administrative regulation.

(2) "Department for Mental Health and Mental Retardation Services" or "[DMHMRS]" means the state agency or its designee with the responsibility for both the evaluation and determination functions for individuals with serious mental illness, mental retardation, or a related condition as defined in 42 CFR 483.106(d) and (e).

(3) "Exempted hospital discharge" means, as it is defined in 42 CFR 483.106(b)(2), [as] an individual:

(a) Who is admitted to a [any] nursing facility directly from a hospital after receiving acute inpatient care at the hospital;

(b) Who requires nursing facility services for the condition for which he received care in the hospital; and

(c) Whose attending physician has certified, prior to admission to the nursing facility, that the individual is likely to require less than thirty (30) days nursing facility services.

(4) "Interfacility transfer" means an individual who is transferred from one nursing facility to another nursing facility, with or without an intervening hospital stay.

(5) "Level of care of nursing facility services" means those standards as defined in 907 KAR 1:022, Section 4 and in 907 KAR 1:025.

(6) "Mental retardation" means an individual's condition which has been determined to have a level of retardation (mild, moderate, severe or profound) as defined in 42 CFR 483.102(b)(3).

(7) "New admission" means an individual who is admitted to a nursing facility (NF) for the first time or who is not a readmission or an exempted hospital discharge.

(8) "Nursing facility" or "[NF]" means a facility meeting the requirements established in 907 KAR 1:022.

(9) "Preadmission screening" [and resident review] (PASRR) means the process which:

(a) Screens and identifies an individual with a serious mental illness, mental retardation, or a related condition prior to admission to an NF;

(b) Results in a determination, based on a physical and mental evaluation of each individual with mental illness, mental retardation, or a related condition of the appropriateness of the individual's admission to an NF; and

(c) Identifies appropriate services if the individual is admitted to an NF.

(10) "PRO" means a peer review organization which is under

contract with the department.

(11) "Provisional admission" means an individual;

(a) is admitted to an NF for fourteen (14) days or less before a PASRR level II is required; ~~and;~~

(b) ~~[(a)]~~ Meets the NF's level of care as established in 907 KAR 1:022; and

(c) ~~1. [(b) Who]~~ Has been diagnosed with delirium, pursuant to [as defined in] 42 CFR 483.130(d)(4), which precludes an accurate diagnosis and assessment until the delirium clears; or

2. ~~[(c) Who]~~ Is in need of respite for an in-home care giver ~~[givers]~~ and to whom the individual with serious mental illness, mental retardation, or a related condition is expected to return after fourteen (14) days.

(12) "Readmission" means an individual who is readmitted to an NF from a hospital to which he was transferred for the purpose of receiving acute inpatient care.

(13) "Related condition" means, as it is defined in 42 CFR 435.1009, [as] a severe, chronic disability that shall meet the following conditions:

(a) Cerebral palsy or epilepsy; or

(b) Any other condition, other than mental illness, found to be closely related to mental retardation because it results in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation, and requires treatment or services similar to those required for these persons; and

(c) Is manifested before the person reaches age twenty-two (22);

(d) Is likely to continue indefinitely; and

(e) Results in substantial functional limitations in three (3) or more of the following areas of major life activity:

1. Self-care;
2. Understanding and use of language;
3. Learning;
4. Mobility;
5. Self-direction; and
6. Capacity for independent living.

(14) "Serious mental illness" means an individual's condition which meets the definition in 42 CFR 483.102(b)(1).

(15) "Significant change" means that the individual's condition has immediate treatment needs requiring a comprehensive reassessment and material change in plan of care established by the Long Term Care Resident Assessment Instrument User's Manual; ~~incorporated by reference in this administrative regulation~~.

(16) "Specialized services for mental illness" means, as it is defined in 42 CFR 483.120(a)(1), [as] the implementation of an individualized plan of care that:

(a) is developed and supervised by a physician;

(b) is provided by an interdisciplinary team of qualified mental health professionals;

(c) Prescribes specific therapies and activities for the treatment of a person who is ~~[persons who are]~~ experiencing an acute episode of serious mental illness which necessitates continuous supervision by trained mental health personnel; and

(d) Requires the level of intensity provided in a psychiatric inpatient hospital.

(17) "Specialized services for mental retardation or a related condition" means, as it is defined in 42 CFR 483.120(a)(2) and 483.440(a)(1), [as] the continuous, aggressive and consistent implementation of a program of specialized and generic training, treatment, health and related services, which are comparable to services an individual receives in an intermediate care facility for the mentally retarded-developmentally disabled (ICFMR), or in a community based waiver program which provides services to persons with the mental retardation or a related condition in which twenty-four (24) hour supervision is available that is directed toward:

(a) The acquisition of the skills necessary for the person to function with as much self-determination and independence as possible;

(b) The prevention or deceleration of regression or loss of current optimal functional status; and

(c) The coordination and interaction, at all times and in all settings, of all staff and the individual served, in the implementation of the specified individual program plan (IPP) objectives for the individual.

Section 2. General Applicability. (1) The provisions of this administrative regulation shall be applicable to an individual applying for admission to, or continued stay in, a nursing facility (NF) participating in the Kentucky Medicaid Program.

(2) Pursuant to 42 CFR 483.106(d) and (e), DMHMRS shall be responsible for PASRR determination and evaluation functions.

(a) The Division of Mental Retardation of DMHMRS shall be responsible for determining and evaluating whether an individual applying for admission to an NF needs NF services and specialized services for mental retardation.

(b) The Division of Mental Health of DMHMRS shall be responsible for determining whether an individual applying for admission to an NF needs NF services and specialized services for mental illness.

(c) The department may delegate the authority to evaluate whether an individual who is applying for admission to an NF needs NF services and specialized services for mental illness to the Division of Mental Health.

(d) The Division of Mental Health may delegate the evaluation and determination functions for which they are responsible except that the designee shall not be an NF or an entity that has a direct relationship or indirect affiliation or relationship with an NF.

(3) For nursing facility reimbursement of services by the Medicaid Program, an individual shall be Medicaid eligible and meet the ~~[usual]~~ patient care criteria specified in 907 KAR 1:022 and 907 KAR 1:025.

Section 3. Deemed Consent for PASRR. An individual applying for admission to, or requesting a continued stay in, a nursing facility participating in Medicaid shall be deemed to have given consent for the department to make the determination of appropriateness for the individual to enter or remain in the facility using the standards specified 42 USC 1396r.

Section 4. Responsibility for Performing the Level I PASRR. (1) A nursing facility, prior to admitting an individual, except a readmission or an interfacility transfer, shall conduct a Level I PASRR. The Level I PASRR is an identification function, which ~~[-The Level I PASRR]~~ process shall comply with the requirements of 42 CFR 483.128.

(2) If a positive response is noted in the Level I PASRR, a Level II PASRR shall be performed prior to the individual's admission to an NF unless the individual is a provisional admission, readmission, interfacility transfer or exempt hospital discharge.

(a) The Level II PASRR shall be used to evaluate and determine ~~[is the evaluation and determination]~~ if an individual needs NF and specialized services.

(b) The individual or legal guardian of an individual who is identified in the Level I PASRR as suspected of having a mental illness, mental retardation, or a related condition shall be notified by the NF of a referral to DMHMRS for Level II PASRR.

(3) If a Level II PASRR is required, the nursing facility shall ~~[it shall be the responsibility of the nursing facility to]~~ contact DMHMRS to perform the Level II PASRR as follows:

(a) For a new admission, an NF shall first conduct a Level I PASRR prior to admission, notify DMHMRS if a Level II PASRR is necessary, and complete the Level II PASRR prior to admission.

(b) For an exempt hospital discharge, an NF shall first conduct a Level I PASRR prior to admission and shall notify DMHMRS prior to the end of the exempt thirty (30) days if the individual is found to require more than thirty (30) days of NF care. DMHMRS shall conduct a Level II PASRR evaluation and complete the determination within forty (40) calendar days of the date of admission to the NF.

(c) For a provisional admission pending clearing of delirium, DMHMRS shall conduct a Level II PASRR and make an evaluation and determination of the need for specialized services within nine (9) working days of the referral to DMHMRS, [and] The referral to DMHMRS shall be made within the fourteen (14) day provisional admission.

(d) If a significant change in the individual's condition occurs, the NF shall notify DMHMRS within twenty-one (21) days and DMHMRS shall complete the Level II PASRR within nine (9) working days.

(e) The Level II PASRR process shall comply with the requirements of 42 CFR 483.128 through 483.136.

(4) An NF shall transmit to the PRO a completed copy of an individual's PASRR prior to or simultaneously with a request for certification of level of care for an individual's admission to an NF.

Section 5. Responsibility for Performing the Level II PASRR. DMHRS shall be responsible for:

(1) Determining whether an individual entering or remaining in an NF is mentally ill, mentally retarded or has a related condition;

(2) Determining whether the individual requires the level of services provided by an NF in accordance with 42 CFR 483.132;

(3) If the nursing facility level of service is required, determining if the individual requires specialized services or services of a lesser intensity than specialized services for mental illness, mental retardation, or a related condition in accordance with 42 CFR 483.134 and 483.136;

(4) Contracting with mental health-mental retardation centers for evaluations and determinations if the individual is mentally ill, mentally retarded, has a related condition or requires specialized services;

(5) Contracting with other agencies, organizations or entities, if necessary, to fulfill DMHRS' requirements with regard to the PASRR function so long as it retains ultimate control and responsibility for the performance of its obligations under 42 CFR 483.100 - 138 and this administrative regulation; and

(6) Notifying the individual or his legal guardian of the written findings of the Level II report and explaining the meaning of the report.

Section 6. Payments for PASRR Evaluations and Determinations. (1) The department shall reimburse DMHRS for the cost of providing PASRR services under this administrative regulation.

(2) The department's reimbursement to DMHRS for this purpose shall not exceed the actual cost to DMHRS, including contract costs, of implementing and operating the PASRR program.

(3) Except as provided in subsection (4) of this section, the department shall reimburse an NF ~~only~~ if:

(a) The Level I and, if required, Level II PASRR are completed prior to a new admission and in a timely fashion as established in Sections 4 and 5 of this administrative regulation; or

(b) A review is required because of a significant change in the individual's condition, and it is performed timely in accordance with Sections 4 and 5 of this administrative regulation.

(4) ~~If (c)-When~~ a Level I and, if required, a Level II PASRR is not timely completed prior to admission or a subsequent review is required but not timely performed in accordance with Section 8 of this administrative regulation, but the required PASRR is performed at a later date, reimbursement shall be made for NF services provided after the PASRR is completed if the individual is determined to need NF level of care.

(5) ~~[(4)]~~ The department shall not reimburse an NF for specialized services provided to an individual who is mentally ill, mentally retarded, or has a related condition and is in an NF. ~~[However,]~~ Services of a lesser intensity than specialized services shall be provided by an NF to an individual so identified in a Level II PASRR.

Section 7. Admissions Criteria Under PASRR. (1) An admission to an NF shall be in accordance with 42 USC 1396r.

(2) An individual who is mentally ill, mentally retarded, or has a related condition may be admitted to an NF ~~if~~ when:

(a) The PASRR determines that he requires NF level of care; and

(b) A determination of the need for specialized services for mental illness, mental retardation, or a related condition is made.

(3) An individual who is mentally ill, mentally retarded, or has a related condition and who does not require NF level of care shall not be admitted to an NF regardless of whether he requires specialized services for mental illness or mental retardation.

Section 8. Criteria for Subsequent Reviews. (1) An individual in an NF shall not be subject to mandatory annual resident review in accordance with 42 USC 1396r. ~~[However,]~~ If an individual experi-

ences a significant change in condition, a PASRR shall be conducted ~~[is required]~~ as established in Sections 4 and 5 of this administrative regulation.

(2) An individual who is determined not to be mentally ill, mentally retarded, or have a related condition shall not be subject to further PASRR activity.

(3) An individual who is determined to be mentally ill, mentally retarded, or has a related condition but who requires the level of care provided by an NF may remain in the facility. A determination as specified in Section 5 of this administrative regulation shall be made as to whether specialized services for mental illness, mental retardation, or a related condition are required.

(4) An individual who is mentally ill, mentally retarded, or has a related condition but who is determined not to require the level of care provided by an NF may remain in the facility if he has continuously resided in an NF for thirty (30) months or more before the date of the determination. If he requires specialized services for mental illness, mental retardation, or a related condition, DMHRS shall be responsible for the cost of those ~~[such]~~ services.

(5) An individual who is mentally ill, mentally retarded, or has a related condition and who is determined not to require the level of care provided by an NF but does require specialized services and who has resided in an NF for less than thirty (30) consecutive months shall be discharged from the NF in accordance with 42 CFR 483.12 to an appropriate setting where specialized services shall be provided or arranged. The individual shall be advised by DMHRS of his discharge rights in accordance with 42 CFR 431.200 through 431.260 and 483.12.

(6) An individual who is mentally ill, mentally retarded, or has a related condition and who is determined not to require the level of care provided by an NF and does not require specialized services, regardless of length of stay, shall be discharged. The individual shall be advised by DMHRS of his discharge rights in accordance with 42 CFR 431.200 through 431.250 and 483.12.

Section 9. Responsibility of the Department for Inappropriately Placed Persons. (1) The department shall be responsible for the orderly discharge of an individual determined through the PASRR process established in this administrative regulation to be inappropriately placed.

(2) DMHRS shall be responsible for providing, or arranging for the provision of, specialized services to an individual for whom that ~~[such-a]~~ need has been determined.

Section 10. Appeals. An individual who is determined not to require NF services or specialized services as a result of a PASRR determination by DMHRS may appeal the denial in accordance with 907 KAR 1:563.

Section 11. Incorporation by Reference. (1) The Manual, Long Term Care Resident Assessment Instrument User's Manual Version 2.0 for use with version 2.0 of the Health Care Financing Administration's Minimum Data Set, Resident Assessment Protocols and Utilization Guidelines, October 1995, is incorporated by reference.

(2) This material may be inspected, copied or obtained at the Department for Medicaid Services, 275 East Main Street, 6th Floor West, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

DENNIS BOYD, Commissioner
JOHN MORSE, Secretary
JOHN WALKER, Attorney

APPROVED BY AGENCY: December 14, 1998

FILED WITH LRC: December 15, 1998 at 11 a.m.

CABINET FOR HEALTH SERVICES
Department for Mental Health and Mental Retardation Services
Division for Mental Health
(As Amended at ARRS, March 9, 1999)

908 KAR 3:025. Notification of discharge, transfer or escape of violent offenders.

RELATES TO: KRS 202A.026, 202A.051, 202A.101, 202A.201, 202A.241, 202A.410, 439.3401

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 202A.008, 202A.410(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050 authorizes the Cabinet for Health Services to establish policies, procedures and administrative regulations necessary to carry out health programs. KRS 202A.410 requires [directs] the cabinet to notify law enforcement and correctional authorities of the discharge, transfer or [and] escape of a violent offender [offenders] from a psychiatric facility [facilities]. This administrative regulation establishes the procedures for notifying law enforcement authorities that a violent offender has been discharged, [or] transferred or has escaped from a state psychiatric facility.

Section 1. Definitions. (1) [~~"CHS" or "cabinet" means the Cabinet For Health Services;~~

(2)] "Facility administrator" means the director of the facility or his designee.

(2) "State psychiatric facility" or "facility" means a hospital operated or contracted by the Department for Mental Health and Mental Retardation Services.

(3) "Violent offender" is defined in KRS 439.3401.

Section 2. Identification of Violent Offenders. (1) If a person is committed to a state psychiatric facility pursuant to a court order issued in accordance with KRS [Chapter] 202A.101 and the order indicates that the person has been [is] charged with or convicted of a violent crime as defined in KRS 439.3401, the facility staff person who authorized [authorizing] admission to the facility shall determine if the requirements of KRS 202A.101(5) have been met. [~~committed individual is a violent offender based on the charges specified in the commitment order and the information contained in the documents specified in KRS 202A.101(5);~~]

(2) Upon admission of [If] a violent offender who has been involuntarily committed to a state psychiatric facility, the facility staff person who authorized [is admitted to the facility, the person authorizing] the admission shall notify the facility administrator that the violent offender has been admitted. The notification shall specify:

- (a) The offender's name;
- (b) The offender's date of birth;
- (c) The criminal charge pending against the offender, if applicable;
- (d) The criminal charge for which the offender has been convicted, if applicable;
- (e) The county in which the offense occurred; and
- (f) The location where the offender is housed within the facility.

Section 3. Required Procedures for Notification of Transfer or Discharge. (1) Prior to the discharge or transfer of a violent offender who has been involuntarily committed [~~in accordance with KRS Chapter 202A~~], the facility administrator shall notify officials specified in KRS 202A.410 in the following manner:

- (a) The Department of Corrections in accordance with the provisions of 501 KAR 14:010;
- (b) The prosecutor in the county where the violent crime was committed by sending a certified or registered letter; and
- (c) The law enforcement agency with jurisdiction in the area to which the violent offender is discharged or transferred by sending a certified or registered letter.

(2) Notification of prosecutors and law enforcement agencies shall:

- (a) Include the date of discharge or transfer;
- (b) The name and address of the facility to which a violent offender is transferred if applicable; and

(c) The information specified in Section 2(2)(a) through (e) of this administrative regulation.

(3) If a violent offender is ordered to be transferred to a psychiatric facility in accordance with KRS 202A.201, the psychiatric facility shall not transfer or discharge the offender except in accordance with KRS 202A.201(3) [(4)].

Section 4. Required Procedures for Notification of Escape. (1) If a violent offender who has been involuntarily committed [~~in accordance with KRS Chapter 202A~~] escapes from a psychiatric facility, the facility administrator shall notify the officials specified in KRS 210.410 no later than one (1) hour after an escape is discovered. The notification process shall be to the following entities as follows:

(a) The Department of Corrections in accordance with the provisions of 501 KAR 14:010;

(b) The prosecutor in the county where the violent crime was committed, by telephone, facsimile transmission, or other electronic device; and

(c) A local law enforcement agency that has jurisdiction in the area in which the facility is located, by telephone, facsimile transmission, or other electronic device.

(2) Notification of prosecutors and law enforcement agencies shall include:

(a) The date and time the escape was discovered; and

(b) The information specified in Section 2(2)(a) through (e) of this administrative regulation.

Section 5. Internal Procedures for Implementation. The facility administrator shall establish internal procedures to assure the proper and effective implementation of this administrative regulation. The internal procedures shall specify:

(1) Staff designated to make the notifications required by Sections 3 and 4 of this administrative regulation;

(2) Requirements for documentation of a discharge, transfer, or escape of a violent offender; [~~discharges, transfers, and escapes of violent offenders;~~]

(3) Requirements for notifying the facility administrator if a violent offender is transferred, is discharged or escapes;

(4) Methods of monitoring the movement of violent offenders within the facility; and

(5) Methods for discovering, reporting, and documenting the escape of a violent offender.

ELIZABETH REHM WACHTEL, Commissioner

JOHN H. MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: December 21, 1998

FILED WITH LRC: December 22, 1998 at 3 p.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Amended After Hearing)

401 KAR 68:010. General provisions.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.1 to 68.15, 42 USC 7412(r)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.1 to 68.15, 42 USC 7412(r)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes the general provisions for the federal program for chemical accident prevention and risk management.

Section 1. Definitions. (1) "Administrator," as used in 40 CFR 68.3, means the Secretary of the Natural Resources and Environmental Protection Cabinet.

Section 2. Incorporation by Reference. (1) 40 CFR 68.1 to 68.15 (40 CFR Part 68, Subpart A), "General," as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998, and as amended in the Federal Register, 64 Fed. Reg. 979, January 6, 1999 [63 to 71, July 1, 1997], is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, London, Kentucky 40741, (606) 878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (502) 687-7304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: March 5, 1999

FILED WITH LRC: March 5, 1999 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal general provisions, 40 CFR 68.1 to 68.15, as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998, and as amended in the Federal Register, 64 Fed. Reg. 979, January 6, 1999. The provisions of the federal regulation apply to sources of hazardous air pollutants which are subject to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented. There are no costs or savings beyond those which are described in the federal rulemaking.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where it will be implemented beyond the costs described in the federal rulemaking.

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

1. First year following implementation: There are no reporting or paperwork requirements beyond those required in the federal regulation.

2. Second and subsequent years: There are no requirements beyond those required in the federal regulation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings beyond those described in the federal rulemaking.

2. Continuing costs or savings: There are no continued costs or savings beyond those described in the federal rulemaking.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements beyond those in the federal regulation.

(4) Assessment of anticipated effect on state and local revenues: There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used to implement and enforce this administrative regulation.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will have no economic impact beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation, 40 CFR 68.1 to 68.15. This administrative regulation is necessary for the Commonwealth to be granted delegation of authority to enforce the federal chemical accident prevention and risk management program mandated under 42 USC 7412(r).

(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 will be no effects on public health and environmental welfare in Kentucky beyond those described in the federal rulemaking.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations, or government

policies which are in conflict, or which overlap or duplicate this administrative regulation.

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The cabinet has no additional information or comments.

(11) TIERING: Is tiering applied? No. The cabinet is incorporating by reference the federal regulation without change. There is no tiering of requirements in the federal regulation and, therefore, no tiering of requirements by the state.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is found at 40 CFR 68.1 to 68.15. The adoption of the federal regulation is necessary for Kentucky to receive delegation of authority to enforce the federal program for chemical accident prevention and risk management.

2. State compliance standards. The state compliance standards are found in KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal regulation, 40 CFR 68.1 to 68.15, contains general provisions for sources of hazardous air pollutants which are subject to the requirements of 40 CFR Part 68.

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 imposes no stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not imposed.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect any unit, part, or division of local government which uses or stores a substance listed in 401 KAR 68:100, Regulated substances for accidental release prevention, in an amount that is above the specified threshold quantity.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation is most likely to apply to municipal utilities which use or store chlorine or propane. These entities are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative 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 (+/-): There is no effect on current revenues beyond those specified in the federal rulemaking.

Expenditures (+/-): There is no effect on current expenditures beyond those specified in the federal rulemaking.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (Amended After Hearing)

401 KAR 68:020. Hazard assessment.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.20 to 68.42, 42 USC 7412(r)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.20 to 68.42, 42 USC 7412(r)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes the hazard assessment provisions pursuant to the federal program for chemical accident prevention and risk management.

Section 1. Incorporation by Reference. (1) 40 CFR 68.20 to 68.42 (40 CFR Part 68, Subpart B), "Hazard Assessment," as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998, and as amended in the Federal Register, 64 Fed. Reg. 979, January 6, 1999 [Part 63 to 71, July 1, 1997], is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, London, Kentucky 40741, (606)-878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (502) 687-7304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: March 5, 1999

FILED WITH LRC: March 5, 1999 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal hazard assessment provisions, 40 CFR 68.20 to 68.42, as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998, and as amended in the Federal Register, 64 Fed. Reg. 979, January 6, 1999. The provisions of the federal regulation apply to sources of hazardous air pollutants which are subject to the hazard assessment requirements pursuant to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented. There are no costs or savings beyond those which are described in the federal rulemaking.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative

regulation does not affect the cost of doing business in the geographical areas where it will be implemented beyond the costs described in the federal rulemaking.

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

1. First year following implementation: There are no reporting or paperwork requirements beyond those required in the federal regulation.

2. Second and subsequent years: There are no requirements beyond those required in the federal regulation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings beyond those described in the federal rulemaking.

2. Continuing costs or savings: There are no continued costs or savings beyond those described in the federal rulemaking.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements beyond those in the federal regulation.

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

There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used to implement and enforce this administrative regulation.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will have no economic impact beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation, 40 CFR 68.20 to 68.42. The administrative regulation is necessary for the Commonwealth to be granted delegation of authority to enforce the federal chemical accident prevention and risk management program mandated under 42 USC 7412(r).

(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 will be no effects on public health and environmental welfare in Kentucky beyond those described in the federal rulemaking.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations, or government policies which are in conflict, or which overlap or duplicate this administrative regulation.

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The cabinet has no additional information or comments.

(11) TIERING: Is tiering applied? No. The cabinet is incorporating by reference the federal regulation without change. There is no

tiering of requirements in the federal regulation and, therefore, no tiering of requirements by the state.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is found at 40 CFR 68.20 to 68.42. The adoption of the federal regulation is necessary for Kentucky to receive delegation of authority to enforce the federal program for chemical accident prevention and risk management.

2. State compliance standards. The state compliance standards are found in KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal regulation, 40 CFR 68.20 to 68.42, provides the criteria for the hazard assessment for major sources of hazardous air pollutants which are subject to 40 CFR Part 68.

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 imposes no stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not imposed.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect any unit, part, or division of local government which uses or stores a substance listed in 401 KAR 68:100, Regulated substances for accidental release prevention, in an amount that is above the specified threshold quantity.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation is most likely to apply to municipal utilities which use or store chlorine or propane. These entities are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative 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 (+/-): There is no effect on current revenues beyond those specified in the federal rulemaking.

Expenditures (+/-): There is no effect on current expenditures beyond those specified in the federal rulemaking.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (Amended After Hearing)

401 KAR 68:048. Program 2 Prevention Program.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.48 to 68.60, 42 USC 7412(r)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.48 to 68.60, 42 USC 7412(r)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes the Program 2 process requirements pursuant to the federal program for chemical accident prevention and risk management.

Section 1. Incorporation by Reference. (1) 40 CFR 68.48 to 68.60 (40 CFR Part 68, Subpart C), "Program 2 Prevention Program," as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998 [63 to 71, July 1, 1997], is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, London, Kentucky 40741, (606)-878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (502) 687-7304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: March 5, 1999

FILED WITH LRC: March 5, 1999 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal requirements for the Program 2 Prevention Program, 40 CFR 68.48 to 68.60, as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998. The provisions of the federal regulation apply to sources of hazardous air pollutants subject to the requirements of the Program 2 Prevention Program pursuant to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented. There are no costs or savings beyond those which are described in the federal rulemaking.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where it will be implemented beyond the costs described in the federal rulemaking.

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

1. First year following implementation: There are no reporting or paperwork requirements beyond those required in the federal regulation.

2. Second and subsequent years: There are no requirements beyond those required in the federal regulation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings beyond those described in the federal rulemaking.

2. Continuing costs or savings: There are no continued costs or savings beyond those described in the federal rulemaking.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements beyond those in the federal

regulation.

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

There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used to implement and enforce this administrative regulation.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will have no economic impact beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation, 40 CFR 68.48 to 68.60. This administrative regulation is necessary for the Commonwealth to be granted delegation of authority to enforce the federal chemical accident prevention and risk management program mandated under 42 USC 7412(r).

(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 will be no effects on public health and environmental welfare in Kentucky beyond those described in the federal rulemaking.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations, or government policies which are in conflict, or which overlap or duplicate this administrative regulation.

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The cabinet has no additional information or comments.

(11) TIERING: Is tiering applied? No. The cabinet is incorporating by reference the federal regulation without change. There is no tiering of requirements in the federal regulation and, therefore, no tiering of requirements by the state.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is found at 40 CFR 68.48 to 68.60. The adoption of the federal regulation is necessary for Kentucky to receive delegation of authority to enforce the federal program for chemical accident prevention and risk management.

2. State compliance standards. The state compliance standards are found in KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal regulation, 40 CFR 68.48 to 68.60, contains the provisions for sources of hazardous air pollutants which are subject to the requirements of the Program 2 Prevention Program pursuant to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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 imposes no stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not imposed.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect any unit, part, or division of local government which uses or stores a substance listed in 401 KAR 68:100, Regulated substances for accidental release prevention, in an amount that is above the specified threshold quantity.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation is most likely to apply to municipal utilities which use or store chlorine or propane. These entities are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative 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 (+/-): There is no effect on current revenues beyond those specified in the federal rulemaking.

Expenditures (+/-): There is no effect on current expenditures beyond those specified in the federal rulemaking.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (Amended After Hearing)

401 KAR 68:065. Program 3 Prevention Program.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.65 to 68.87, 42 USC 7412(r)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.65 to 68.87, 42 USC 7412(r)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes the Program 3 Prevention Program requirements pursuant to the federal program for chemical accident prevention and risk management.

Section 1. Incorporation by Reference. (1) 40 CFR 68.65 to 68.87 (40 CFR Part 68, Subpart D), "Program 3 Prevention Program," as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998, and as amended in the Federal Register, 64 Fed. Reg. 979, January 6, 1999 [63 to 71, July 1, 1997], is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8,

Florence, Kentucky 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, London, Kentucky 40741, (606)-878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (502) 687-7304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: March 5, 1999

FILED WITH LRC: March 5, 1999 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal requirements for the Program 3 Prevention Program, 40 CFR 68.65 to 68.87, as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998, and as amended in the Federal Register, 64 Fed. Reg. 979, January 6, 1999. The provisions of the federal regulation apply to sources of hazardous air pollutants subject to the requirements of the Program 3 Prevention Program pursuant to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented. There are no costs or savings beyond those which are described in the federal rulemaking.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where it will be implemented beyond the costs described in the federal rulemaking.

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

1. First year following implementation: There are no reporting or paperwork requirements beyond those required in the federal regulation.

2. Second and subsequent years: There are no requirements beyond those required in the federal regulation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings beyond those described in the federal rulemaking.

2. Continuing costs or savings: There are no continued costs or savings beyond those described in the federal rulemaking.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements beyond those in the federal regulation.

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

There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used to implement and enforce this administrative regulation.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will have no economic impact beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no eco-

nomic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation, 40 CFR 68.65 to 68.87. This administrative regulation is necessary for the Commonwealth to be granted delegation of authority to enforce the federal chemical accident prevention and risk management program mandated under 42 USC 7412(r).

(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 will be no effects on public health and environmental welfare in Kentucky beyond those described in the federal rulemaking.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations, or government policies which are in conflict, or which overlap or duplicate this administrative regulation.

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The cabinet has no additional information or comments.

(11) TIERING: Is tiering applied? No. The cabinet is incorporating by reference the federal regulation without change. There is no tiering of requirements in the federal regulation and, therefore, no tiering of requirements by the state.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is found at 40 CFR 68.65 to 68.87. The adoption of the federal regulation is necessary for Kentucky to receive delegation of authority to enforce the federal program for chemical accident prevention and risk management.

2. State compliance standards. The state compliance standards are found in KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal regulation, 40 CFR 68.65 to 68.87, contains the provisions for sources of hazardous air pollutants which are subject to the requirements of the Program 3 Prevention Program pursuant to the federal program for accident prevention and risk assessment as described in 40 CFR Part 68.

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 imposes no stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not imposed.

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 ad-

ministrative regulation will affect. This administrative regulation will affect any unit, part, or division of local government which uses or stores a substance listed in 401 KAR 68:100, Regulated substances for accidental release prevention, in an amount that is above the specified threshold quantity.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation is most likely to apply to municipal utilities which use or store chlorine or propane. These entities are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative 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 (+/-): There is no effect on current revenues beyond those specified in the federal rulemaking.

Expenditures (+/-): There is no effect on current expenditures beyond those specified in the federal rulemaking.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (Amended After Hearing)

401 KAR 68:090. Emergency response.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.90 to 68.95, 42 USC 7412(r)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.90 to 68.95, 42 USC 7412(r)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes emergency response requirements pursuant to the federal program for chemical accident prevention and risk management.

Section 1. Incorporation by Reference. (1) 40 CFR 68.90 to 68.95 (40 CFR Part 68, Subpart E), "Emergency Response," as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998 [~~63 to 71, July 1, 1997~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, London, Kentucky 40741, (606)-878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (502) 687-7304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel

VOLUME 25, NUMBER 10 – APRIL 1, 1999

APPROVED BY AGENCY: March 5, 1999
FILED WITH LRC: March 5, 1999 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal emergency response requirements, 40 CFR 68.90 to 68.95, as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998. The provisions of the federal regulation apply to sources of hazardous air pollutants subject to the emergency response plan requirements pursuant to the federal program for accident prevention and risk management as described in 40 CFR Part 68.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented. There are no costs or savings beyond those which are described in the federal rulemaking.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where it will be implemented beyond the costs described in the federal rulemaking.

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

1. First year following implementation: There are no reporting or paperwork requirements beyond those required in the federal regulation.

2. Second and subsequent years: There are no requirements beyond those required in the federal regulation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings beyond those described in the federal rulemaking.

2. Continuing costs or savings: There are no continued costs or savings beyond those described in the federal rulemaking.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements beyond those in the federal regulation.

(4) Assessment of anticipated effect on state and local revenues: There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used to implement and enforce this administrative regulation.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will have no economic impact beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation, 40 CFR 68.90 to 68.95. This administrative regulation is necessary for the Commonwealth to be granted delegation of authority to enforce the federal chemical accident prevention and risk management program mandated under 42 USC 7412(r).

(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 will be no effects on public health and environmental welfare in Kentucky beyond those described in the federal rulemaking.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result because affected sources in Kentucky are already subject to

the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations, or government policies which are in conflict, or which overlap or duplicate this administrative regulation.

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The cabinet has no additional information or comments.

(11) TIERING: Is tiering applied? No. The cabinet is incorporating by reference the federal regulation without change. There is no tiering of requirements in the federal regulation and, therefore, no tiering of requirements by the state.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is found at 40 CFR 68.90 to 68.95. The adoption of the federal regulation is necessary for Kentucky to receive delegation of authority to enforce the federal program for chemical accident prevention and risk management.

2. State compliance standards. The state compliance standards are found in KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal regulation, 40 CFR 68.90 to 68.95, contains the provisions and requirements for the development and implementation of the emergency response program for sources which are subject to the federal program for accident prevention and risk management as described in 40 CFR Part 68.

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 imposes no stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not imposed.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect any unit, part, or division of local government which uses or stores a substance listed in 401 KAR 68:100, Regulated substances for accidental release prevention, in an amount that is above the specified threshold quantity.

3. State the aspect or service of local government to which this administrative regulation relates. The administrative regulation is most likely to apply to municipal utilities which use or store chlorine or propane. These entities are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative 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 (+/-): There is no effect on current revenues beyond those specified in the federal rulemaking.

Expenditures (+/-): There is no effect on current expenditures beyond those specified in the federal rulemaking.

Other Explanation: There is no further explanation.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Amended After Hearing)**

401 KAR 68:100. Regulated substances for accidental release prevention.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.100 to 68.130, 42 USC 7412(r)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.100 to 68.130, 42 USC 7412(r)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation provides the listing of substances under 42 USC 7412(r)(3), (4), and (5); the identification of threshold quantities for these substances; and the process for amending that list, pursuant to the federal program for chemical accident prevention and risk management.

Section 1. Definitions. "Administrator," as used in 40 CFR 68.120, means the Secretary of the Natural Resources and Environmental Protection Cabinet.

Section 2. Incorporation by Reference. (1) 40 CFR 68.100 to 68.130 (40 CFR Part 68, Subpart F), "Regulated Substances for Accidental Release Prevention," as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1999 [63 to 71, July 1, 1997], is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, London, Kentucky 40741, (606)-878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (502) 687-7304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: March 5, 1999

FILED WITH LRC: March 5, 1999 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal requirements for regulated substances for accidental release prevention, 40 CFR 68.100 to 68.130, as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998. The provisions of the federal

regulation apply to sources of hazardous air pollutants which are subject to the requirements for regulated substances for accidental release prevention pursuant to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented. There are no costs or savings beyond those which are described in the federal rulemaking.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where it will be implemented beyond the costs described in the federal rulemaking.

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

1. First year following implementation: There are no reporting or paperwork requirements beyond those required in the federal regulation.

2. Second and subsequent years: There are no requirements beyond those required in the federal regulation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings beyond those described in the federal rulemaking.

2. Continuing costs or savings: There are no continued costs or savings beyond those described in the federal rulemaking.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements beyond those in the federal regulation.

(4) Assessment of anticipated effect on state and local revenues: There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used to implement and enforce this administrative regulation.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will have no economic impact beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation, 40 CFR 68.100 to 68.130. This administrative regulation is necessary for the Commonwealth to be granted delegation of authority to enforce the federal chemical accident prevention and risk management program mandated under 42 USC 7412(r).

(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 will be no effects on public health and environmental welfare in Kentucky beyond those described in the federal rulemaking.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations, or government

policies which are in conflict, or which overlap or duplicate this administrative regulation.

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The cabinet has no additional information or comments.

(11) TIERING: Is tiering applied? No. The cabinet is incorporating by reference the federal regulation without change. There is no tiering of requirements in the federal regulation and, therefore, no tiering of requirements by the state.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is found at 40 CFR 68.100 to 68.130. The adoption of the federal regulation is necessary for Kentucky to receive the delegation of authority to enforce the federal program for chemical accident prevention and risk management.

2. State compliance standards. The state compliance standards are found in KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal regulation, 40 CFR 68.100 to 68.130, contains the listing of substances under 42 USC 7412(r)(3), (4), and (5); the identification of threshold quantities for these substances; and the process for amending that list, pursuant to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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 imposes no stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not imposed.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect any unit, part, or division of local government which uses or stores a substance listed in 401 KAR 68:100, Regulated substances for accidental release prevention, in an amount that is above the specified threshold quantity.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation is most likely to apply to municipal utilities which use or store chlorine or propane. These entities are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative 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 (+/-): There is no effect on current revenues beyond those specified in the federal rulemaking.

Expenditures (+/-): There is no effect on current expenditures beyond those specified in the federal rulemaking.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (Amended After Hearing)

401 KAR 68:150. Risk management plan.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.150 to 68.190, 42 USC 7412(r)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.150 to 68.190, 42 USC 7412(r)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes requirements for submission of a risk management plan (RMP) pursuant to the federal program for chemical accident prevention and risk management.

Section 1. Incorporation by Reference. (1) 40 CFR 68.150 to 68.190 (40 CFR Part 68, Subpart G), "Risk Management Plan," as published in the Code of Federal Regulations, 40 CFR Parts **64 to 71, July 1, 1998, and as amended in the Federal Register, 64 Fed. Reg. 979, January 6, 1999 [63 to 71, July 1, 1997]**, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (502) 746-7475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 292-6411;

(e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;

(f) London Regional Office, 85 State Police Road, London, Kentucky 40741, (606)-878-0157;

(g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (502) 687-7304; and

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: March 5, 1999

FILED WITH LRC: March 5, 1999 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal requirements for the risk management plan, 40 CFR 68.150 to 68.190, as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998, and as amended in the Federal Register, 64 Fed. Reg. 979, January 6, 1999. The provisions of the federal regulation apply to sources of hazardous air pollutants which are subject to the requirements for the risk management plan pursuant to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented. There are no costs or savings beyond those which are described in the federal rulemaking.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where it will be implemented beyond the costs described in the federal rulemaking.

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

1. First year following implementation: There are no reporting or paperwork requirements beyond those required in the federal regulation.

2. Second and subsequent years: There are no requirements beyond those required in the federal regulation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings beyond those described in the federal rulemaking.

2. Continuing costs or savings: There are no continued costs or savings beyond those described in the federal rulemaking.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements beyond those in the federal regulation.

(4) Assessment of anticipated effect on state and local revenues: There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used to implement and enforce this administrative regulation.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will have no economic impact beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation, 40 CFR 68.150 to 68.190. This administrative regulation is necessary for the Commonwealth to be granted delegation of authority to enforce the federal chemical accident prevention and risk management program mandated under 42 USC 7412(r).

(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 will be no effects on public health and environmental welfare in Kentucky beyond those described in the federal rulemaking.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations, or government policies which are in conflict, or which overlap or duplicate this administrative regulation.

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The cabinet has no additional information or comments.

(11) TIERING: Is tiering applied? No. The cabinet is incorporated

by reference the federal regulation without change. There is no tiering of requirements in the federal regulation and, therefore, no tiering of requirements by the state.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is found at 40 CFR 68.150 to 68.190. The adoption of the federal regulation is necessary for Kentucky to receive the delegation of authority to enforce the federal program for chemical accident prevention and risk management.

2. State compliance standards. The state compliance standards are found in KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal regulation, 40 CFR 68.150 to 68.190, contains the requirements for submission of a risk management plan pursuant to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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 imposes no stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not imposed.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect any unit, part, or division of local government which uses or stores a substance listed in 401 KAR 68:100. Regulated substances for accidental release prevention, in an amount that is above the specified threshold quantity.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation is most likely to apply to municipal utilities which use or store chlorine or propane. These entities are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative 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 (+/-): There is no effect on current revenues beyond those specified in the federal rulemaking.

Expenditures (+/-): There is no effect on current expenditures beyond those specified in the federal rulemaking.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (Amended After Hearing)

401 KAR 68:200. Other requirements. [Recordkeeping.]

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.200 to 68.220, 42 USC 7412(r)

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 CFR 68.200 to 68.220, 42 USC 7412(r)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention,

abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation establishes the recordkeeping, **public information, permitting, and audit** requirements pursuant to the federal program for chemical accident prevention and risk management.

Section 1. Incorporation by Reference. (1) 40 CFR 68.200 to 68.220 (40 CFR Part 68, Subpart H), "**Other Requirements [Recordkeeping]**," as published in the Code of Federal Regulations, 40 CFR Parts **64 to 71, July 1, 1998** [63 to 71, July 1, 1997], is incorporated by reference.

(2) This material incorporated by reference may be inspected, copied, or obtained at the following offices of the Division for Air Quality, Monday through Friday, 8 a.m. to 4:30 p.m.:

- (a) The Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, (502) 573-3382;
- (b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2067;
- (c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (502) 746-7475;
- (d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 292-6411;
- (e) Hazard Regional Office, 233 Birch Street, Suite 2, Hazard, Kentucky 41701, (606) 435-6022;
- (f) London Regional Office, 85 State Police Road, London, Kentucky 40741, (606)-878-0157;
- (g) Owensboro Regional Office, 3032 Alvey Park Drive, W., Suite 700, Owensboro, Kentucky 42303, (502) 687-7304; and
- (h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

(3) Copies of the Code of Federal Regulations (CFR) are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: March 5, 1999

FILED WITH LRC: March 5, 1999 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact: Millie Ellis

(1) Type and number of entities affected: This administrative regulation incorporates by reference the federal recordkeeping, public information, permitting, and audit requirements, 40 CFR 68.200 to 68.220, as published in the Code of Federal Regulations, 40 CFR Parts 64 to 71, July 1, 1998. The provisions of the federal regulation apply to sources of hazardous air pollutants which are subject to the recordkeeping, public information, permitting, and audit requirements pursuant to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented. There are no costs or savings beyond those which are described in the federal rulemaking.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented. This administrative regulation does not affect the cost of doing business in the geographical areas where it will be implemented beyond the costs described in the federal rulemaking.

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

1. First year following implementation: There are no reporting or paperwork requirements beyond those required in the federal regulation.

2. Second and subsequent years: There are no requirements beyond those required in the federal regulation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings

beyond those described in the federal rulemaking.

2. Continuing costs or savings: There are no continued costs or savings beyond those described in the federal rulemaking.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements beyond those in the federal regulation.

(4) Assessment of anticipated effect on state and local revenues: There are no anticipated effects on local and state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The division's operating budget will be used to implement and enforce this administrative regulation.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation will have no economic impact beyond that described in the federal rulemaking.

(b) Kentucky: This administrative regulation will have no economic impact in any geographical location in Kentucky beyond that described in the federal rulemaking.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because this administrative regulation contains the same provisions as the federal regulation, 40 CFR 68.200 to 68.220. This administrative regulation is necessary for the Commonwealth to be granted delegation of authority to enforce the federal chemical accident prevention and risk management program mandated under 42 USC 7412(r).

(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 will be no effects on public health and environmental welfare in Kentucky beyond those described in the federal rulemaking.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result because affected sources in Kentucky are already subject to the provisions of the federal regulation.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, rules, administrative regulations, or government policies which are in conflict, or which overlap or duplicate this administrative regulation.

(a) Necessity of proposed administrative regulation if in conflict: The administrative regulation is not in conflict.

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

(10) Any additional information or comments: The cabinet has no additional information or comments.

(11) TIERING: Is tiering applied? No. The cabinet is incorporating by reference the federal regulation without change. There is no tiering of requirements in the federal regulation and, therefore, no tiering of requirements by the state.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is found at 40 CFR 68.200 to 68.220. The adoption of the federal regulation is necessary for Kentucky to receive the delegation of authority to enforce the federal program for chemical accident prevention and risk management.

2. State compliance standards. The state compliance standards are found in KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.

3. Minimum or uniform standards contained in the federal mandate. The federal regulation, 40 CFR 68.200 to 68.220, contains the

recordkeeping, public information, permitting and audit requirements pursuant to the federal program for chemical accident prevention and risk management as described in 40 CFR Part 68.

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 imposes no stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not imposed.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect any unit, part, or division of local government which uses or stores a substance listed in 401 KAR 68:100, Regulated substances for accidental release prevention, in an amount that is above the specified threshold quantity.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation is most likely to apply to municipal utilities which use or store chlorine or propane. These entities are already subject to the provisions of the federal regulation, which will be implemented by the U.S. EPA if Kentucky fails to do so.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative 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 (+/-): There is no effect on current revenues beyond those specified in the federal rulemaking.

Expenditures (+/-): There is no effect on current expenditures beyond those specified in the federal rulemaking.

Other Explanation: There is no further explanation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Natural Resources Division of Forestry (Amended After Hearing)

402 KAR 3:020. Master Logger Program.

RELATES TO: KRS 149.330, 149.332, 149.334, 149.342, 149.344, 149.346, 149.348, 149.350, 149.355, 224.10-100

STATUTORY AUTHORITY: KRS 149.334, 149.342

NECESSITY, FUNCTION, AND CONFORMITY: KRS 149.334 authorizes the cabinet to promulgate administrative regulations relating to the Kentucky Forest Conservation Act. KRS 149.342 requires that after two (2) years from the Act's effective date, no person shall conduct timber harvesting operations within the Commonwealth unless there is on the site at least one (1) logger in charge of the harvest who has completed the Master Logger Program. This administrative regulation is necessary to establish the education and training requirements for the Master Logger Program.

Section 1. Master Logger Program Training Course. (1) The Master Logger Program training course shall consist of three (3) one (1) day sessions covering the following topics:

(a) First aid and adult cardiopulmonary resuscitation (CPR) which shall be taught by certified American Red Cross instructors;

(b) Information on the environmental impacts of timber harvesting operations and the use of best management practices to reduce or eliminate potential adverse effects of timber harvesting operations on water quality; and

(c) Professional logger safety education.

(2) A person who successfully completes the first aid and adult CPR portions of the course shall be certified in first aid and CPR.

(3) A person who holds current first aid and adult CPR certifications is not required to attend the first aid and CPR portions of the course, and shall present copies of current certifications with the registration form required in Section 2 of this administrative regulation.

Section 2. Registration Form and Fee. A person wishing to attend the master logging program training course shall complete and file a registration form accompanied by a fee of fifty (50) dollars.

Section 3. Designation as Master Logger. A person who successfully completes the Master Logger Program training course shall be designated a master logger. This designation shall be for a period of three (3) years from the date of completion of the course.

Section 4. Designation Card. (1) The Division of Forestry shall issue a wallet-sized master logger designation card to a person who successfully completes the Master Logger Program training course.

(2) The division shall issue a designation card to a person who has previously completed the Master Logger Program in accordance with KRS 149.342(5).

(3) The master logger in charge of a timber harvesting operation shall maintain a current master logger designation card, along with a photo identification card such as a driver's license, on his person at all times when he is on the timber harvesting operation site.

Section 5. Reciprocity. A person who has successfully completed a program in another state which is equivalent to the Master Logger Program training course under Section 1 of this administrative regulation may apply for the issuance of a designation card under Section 4 of this administrative regulation by filing an application and paying a fee of fifty (50) dollars. The division shall determine that the program is equivalent and that the person successfully completed the program prior to issuing a designation card under Section 4 of this administrative regulation.

Section 6. Continuing Education Requirements. (1) A person who has successfully completed the Master Logger Program training course and who wishes to renew his master logger designation card, shall complete six (6) hours of continuing master logger education every three (3) years. Continuing master logger education shall consist of one (1) or more of the following subjects: forest management, silviculture, forest health, ecosystem management, timber harvesting, laws and regulations relating to timber harvesting and water quality, logging safety, or advanced best management practices.

(2) A person who meets the requirements of KRS 149.342(5) shall satisfy the continuing education requirements of subsection (1) of this section by July 15, 2003.

(3) Application for renewal and fee. A person wishing to renew a master logger designation and receive a current card shall complete the continuing education requirements in subsections (1) or (2) of this section, file an application, and pay a fee of twenty-five (25) [fifty (50)] dollars prior to expiration of his designation card.

Section 7. Revocation of Designation as Master Logger. The cabinet shall revoke the designation card of a master logger who fails to timely apply for renewal, or to comply with the continuing education requirements in Section 6 of this administrative regulation. The cabinet shall remove the name of the master logger from the list maintained by the division pursuant to KRS 149.342(4).

Section 8. Reinstatement of Designation. A person whose master logger designation has been revoked shall be required to attend and successfully complete the master logger training course under Sections 1 and 2 of this administrative regulation in order to have his designation as a master logger reinstated.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky Master Logger Registration Form (November

1998)";

(b) "Kentucky Master Logger Reciprocity Application Form (November 1998)"; and

(c) "Kentucky Master Logger Renewal Form (March 1999 [November 1998])."

(2) This material may be inspected, copied or obtained at the Division of Forestry, 627 Comanche Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: March 10, 1999

FILED WITH LRC: March 10, 1999 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Larry Lowe

(1) Type and number of entities affected: This administrative regulation will affect all logging operations which engage in commercial timber harvesting. The number of companies is estimated at 1500 to 2000.

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

(a) Effect on the cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments were received on this subject. The administrative regulation is not expected to have an effect on the cost of living or employment.

(b) Effect on the cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments were received on this subject. The administrative regulation is not expected to affect the cost of doing business in the geographical area.

(c) Effect on the compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition), to the extent available from the public comments received:

1. First year following implementation: No comments were received on this subject. The logging operator will incur the following costs of doing business: \$50 registration fee, \$25 renewal fee per master logger, and possible registration fees for the continuing education courses. There will also be a \$50 reciprocity application fee for out-of-state loggers who have received similar training from other states, who also conduct operations in Kentucky. Indirectly, logging operators may also lose 3 work days to complete the requirements of the master logger training course requirements of this administrative regulation and 1 day of work every 3 years thereafter, to meet the continuing education requirements of this administrative regulation. A 1 page form must be completed to attend the Master Logger Program, to apply for reciprocity, or to apply for renewal of a master logger designation.

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. There will be costs associated with the administrative regulation. It will be necessary for the Division of Forestry (DOF) to train 12 CPR/first aid instructors at the rate of \$75 per person plus hotel rooms and per diem. The DOF will also need to train 12 instructors in Best Management Practices (BMPs). The costs associated with these trainings are likely to be hotel rooms and per diem. There will also be costs associated with the establishment of regional BMP demonstration sites, which will include instructional equipment, materials, and labor. There will also be costs associated with maintaining these regional sites.

2. Continuing costs or savings: It will be necessary for the DOF to train personnel as CPR/First Aid and BMP instructors as replacements are needed.

3. Additional factors increasing or decreasing costs: The University of Kentucky is currently the primary facilitator of the Master Logger Program and operates this program with registration fees and grant funds. If the program costs were to exceed the University of Kentucky's funding, then the DOF would absorb these costs.

(b) Reporting and paperwork requirements: The DOF will need

to maintain a master logger database. From this database it is the intention of the DOF to make a listing of current master loggers in good standing available to the public on hardcopy and electronically. The DOF will also be required to handle renewal applications, reciprocity applications, and continuing education requirements of the administrative regulation.

(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: No additional revenue is provided.

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

(a) Geographical area in which administrative regulation will be implemented: No comments on economic impact were received. No economic impact is expected.

(b) Kentucky: No comments on economic impact were received. No statewide economic impact is expected.

(7) Assessment of alternative methods; reasons why alternatives were rejected: There is not a feasible alternative to the adoption of this regulation, since the cabinet's administrative regulation must be consistent with the Kentucky Forest Conservation Act, KRS 149.342.

(8) Assessment of expected benefits of the administrative regulation: The expected benefit of this administrative regulation is the reduction of sedimentation and pollutants in the waters of the Commonwealth. The requirements of this administrative regulation will ensure that every commercial timber harvesting operation will have a logger in charge that has been trained in harvesting techniques that reduce sedimentation through the Master Logger Program or an equivalent program in another state.

(9)(a) Identify effects on public health and environmental welfare of the geographical area in which implemented, and Kentucky: There will be a positive effect on public health and the environment with improved water quality.

(b) State whether a detrimental effect on the environment and public health would result if not implemented: It is possible that if this administrative regulation were not implemented there could be detrimental effects on public health and the environment.

(c) If detrimental effect would result, explain detrimental effect: The Kentucky Master Logger Program and equivalent programs in other states ensure that loggers can identify where BMPs are necessary, and how to properly utilize BMPs to reduce sedimentation. Without the implementation of this administrative regulation, there could be an increase in sedimentation due to the lack of BMPs or BMPs improperly utilized.

(10) Identify any statute, administrative regulation, or government policy which may be in conflict, overlapping, or duplication: There is no conflict, overlap, or duplication.

(a) Necessity of proposed regulation if in conflict: No conflict.

(b) If in conflict, was the effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(11) Any additional information or comments: None

(12) TIERING: Is tiering applied? No. Tiering was not used because it is necessary for these requirements to apply equally to all entities with commercial timber harvesting operations.

TRANSPORTATION CABINET Department of Highways Division of Professional Services (Amended After Hearing)

600 KAR 6:065. Pooling of professional engineering or related services.

RELATES TO: KRS 45A.800 through 45A.835, 45A.838, 23 CFR 172, 48 CFR, 49 CFR 18, 23 USC

STATUTORY AUTHORITY: KRS 13A.100(1), 45A.800 through 45A.835, 45A.838, 23 CFR 172, 48 CFR, 49 CFR 18, 23 USC

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation sets forth the procedure to be used by the Trans-

portation Cabinet when pooling firms as it relates to professional engineering or related services.

Section 1. Project Types Utilizing Pooling of Engineering and Related Services. (1) Roadway design;

- (2) Transportation planning;
- (3) Structure design;
- (4) Aeronautics;
- (5) Traffic engineering;
- (6) Environmental services;
- (7) Geotechnical services;
- (8) Bridge maintenance services;
- (9) Construction engineering services;
- (10) Multimodal; and
- (11) Other highway related services as determined by the Transportation Cabinet.

Section 2. Procedures and Criteria for Qualifying and Selecting Pooled Firms. (1) The cabinet shall notify the prequalified firms of the establishment of individual pools by posting a procurement bulletin on the cabinet's web page.

(2) Firms shall submit a completed TC Form 40-15 "Response to Announcement for Engineering and Related Services" to be considered for selection in the pool. This form must be received by the date listed on the advertised procurement bulletin.

(3) The remainder of the selection process shall proceed according to KRS 45A.800 through 45A.835.

Section 3. **Project Assignment for Pool Firms [Engineering and Related Services Selection Process:]** (1) All selected firms shall be placed in the pool. Firm names shall be randomly drawn and listed in consecutive order. This order shall determine the order in which projects shall be offered to firms on a rotating basis. No firm shall be offered an additional project until the remaining firms on the list have been offered a project.

(2) If a firm declines to accept a project, that firm shall not be eligible to accept another project until the remaining firms on the list have been offered a project.

(3) If a firm declines a project or does not respond to an invitation to perform services for a project within seven (7) working days of the dated notification letter, documentation shall be placed in the project files and the next firm on the list shall be offered the project.

Section 4. **Projects Grouped by Geographic Area. (1) The selection committee shall assign projects which are grouped based on geographical areas. [Pooled Project Assignment. (1) Firms shall be assigned projects based on geographical areas listed below:**

- (a) Highway district(s);
- (b) County(ies); or
- (c) State region(s);

(2) The geographical areas shall be defined by the cabinet [user division] and included in the advertisement for services.

(3) The selection committee shall assign the selected firm(s) to the geographical area(s).

Section 5. Material Incorporated by Reference. The following material is incorporated by reference: "Response to Announcement for Engineering and Related Services as Prime Consultant", Form TC 40-15, June 1993.

J.M. YOWELL, P.E., State Highway Engineer
JAMES C. CODELL, III, Secretary
GERI GRIGSBY, General Counsel

APPROVED BY AGENCY: March 12, 1999
FILED WITH LRC: March 12, 1999 at noon

REGULATORY IMPACT ANALYSIS

Contact person: Charles Harman

(1) Type and number of entities affected: There are 160 firms prequalified to perform professional engineering or related services each year. These are the same firms which provide proposals on

projects and ultimately negotiate contracts.

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

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

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

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

1. First year following implementation: None. We will utilize similar advertising, soliciting, negotiating, and contract preparation processes.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: This regulation will assist in reducing the time required to procure engineering or related services. It allows the cabinet to meet project schedules that become critical as a result of factors outside the cabinet's control.

(a) Direct and indirect costs or savings:

1. First year: This proposal will result in reduced incremental project costs.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Review and evaluation of all proposals submitted on projects.

(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 Road Fund as authorized in the Transportation Cabinet 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: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Pooling of firms was authorized in HB 391. This administrative regulation sets guidelines to be used by the Transportation Cabinet.

(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: None

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering is not applied to the pooling of firms. All firms in the pool shall be subject to the same criteria.

TRANSPORTATION CABINET Department of Highways Division of Professional Services (Amended After Hearing)

600 KAR 6:070. Contracting for professional engineering or related services.

RELATES TO: KRS 45A.800 through 45A.835, 45A.838, 23 CFR 172, 48 CFR, 49 CFR 18, 23 USC

STATUTORY AUTHORITY: KRS 13A.100(1), 45A.800 through 45A.835, 45A.838, 23 CFR 172, 48 CFR, 49 CFR 18, 23 USC

NECESSITY, FUNCTION, AND CONFORMITY: This administra-

tive regulation sets forth the procedure to be used by the Transportation Cabinet when selecting professional engineering or related services while implementing the provisions of KRS 45A.800 to 45A.835.

Section 1. Methods of Contracting with Consultants. (1) The following methods of contracting with consultants shall be acceptable:

- (a) Lump sum;
- (b) Cost plus a fixed fee;
- (c) Specific rates of compensation; or
- (d) Cost per unit of work.

(2)(a) When the cabinet chooses the lump sum method of contracting, the consultant shall present a statement to the Division of Professional Services showing the probable cost for the elements of work and the expected operating margin.

(b) This statement shall include a supported breakdown of the direct and indirect costs and subconsultant costs which the consultant expects to incur.

(c) The method of dividing the project into work units and the calculation of related time units shall be devised so that the estimate can be easily reviewed.

(d) The Division of Professional Services and the user division shall verify the following supporting documentation before recommending the contract for approval:

1. Reasonableness of the amount proposed and consideration of the degrees of risk and responsibility to be assumed by the consultant;
2. The extent, scope, complexity, character and duration of the required services;
3. Professional and financial investments to be required of the consultant;
4. The consultant's normally-expected return for such services;
5. Conditions under which the consultant is expected to perform;
6. The cabinet's estimate of the appropriate amount for the services required; and
7. The cabinet's findings on the basis of experience and knowledge.

(3)(a) When the cabinet chooses the cost plus a fixed fee method of contracting, an upper limit of payment of actual cost shall be established which cannot be exceeded without obtaining cabinet approval.

(b) During negotiations, the Division of Professional Services or other negotiation unit shall be responsible for establishing the upper limit along with the fixed fee to be paid to the consultant for the services required.

(c) The Division of Professional Services or other negotiation unit shall establish the fixed fee and an upper limit based on past experience gained from negotiations of similar projects, judgment regarding scheduling and complexity of work and the user division's estimates.

(4)(a) When the cabinet chooses the specific rate of compensation method of contracting, the Division of Professional Services or other negotiation unit shall document the basis on which the amount specified as the upper limit or upset limit was established.

(b) The agreement shall contain provisions which permit adjustment to this upper limit when the consultant establishes, and the user division agrees, that there has been or is to be a significant change in the:

1. Scope, complexity or character of the services to be performed;
2. Conditions under which the work is required to be performed; or
3. Duration of the work if the change from the time period specified in the agreement for completion of the work warrants such adjustment.

(c) In the case of statewide agreements under which there is to be subsequent individual authorizations, the establishment of a maximum amount for the overall contract shall be submitted to the LRC's Government [Personal Service] Contract Review Committee [Subcommittee]. A maximum amount shall be established for each of the individual authorizations which shall not exceed the maximum amount for the overall contract.

(5)(a) When the cabinet is using the cost per unit of work method of compensation, the consultant shall be paid on the basis of units completed.

(b) This method of contracting is appropriate when the extent of the work cannot be definitely defined but when cost of the work per unit may be determined in advance with reasonable accuracy.

(c) A proposal using this method of contracting shall be supported

in the same manner as that indicated for the lump sum method used for consultants.

(6)(a) For an individual acting as a consultant, the specific rates of compensation shall include the direct salary costs, salary additives, indirect costs and the net fee. The agreement of supporting data shall specifically identify these costs.

(b) Other direct costs may be included as an element of a specific rate or as independent cost items.

Section 2. Prenegotiation Procedures. (1)(a) A consultant selected pursuant to 600 KAR 6:060 shall meet with cabinet representatives in accordance with the schedule identified in the procurement bulletin issued pursuant to 600 KAR 6:050 to discuss in detail the scope of services to be provided by the consultant for the project.

(b) The Transportation Cabinet may require a consultant to obtain project-specific professional liability insurance for an unusual project.

(c) If project-specific professional liability insurance is required:

1. A firm's audit may be reexamined to determine if a change in the overhead rate is needed; or
2. And there is more than one (1) consultant involved in the project, the consultants may jointly purchase the insurance.

(2) After this prenegotiation meeting, the consultant shall submit the following to the cabinet:

(a) Official minutes of the prenegotiation meeting; and

(b) All required tasks and work units. (For roadway design, work units which quantify the tasks to be performed to achieve the roadway design services that appeared in the advertisement or procurement bulletin and an identification of the assignment of the work units to the prime consultant or a subconsultant.)

1. The cabinet has the following options regarding the submittal:
 - a. Concur;
 - b. Modify and return the modification to the consultant; or
 - c. Reject and ask the consultant to evaluate and resubmit the work units.

2. After an agreement on the work units between the cabinet and the consultant, each shall independently develop production rates to be applied to the work units to determine person-hours for each task.

~~((b) For structure work, work units include a description of the structure to be designed including but not limited to type, length, span arrangement, curves, skew, pilings based on preliminary geotechnical information, an identification of the assignment of the work units to the prime consultant or a subconsultant, and any other pertinent considerations:~~

1. The cabinet has the following options regarding the submittal:
 - a. Concur;
 - b. Modify and return the modification to the consultant; or
 - c. Reject and ask the consultant to evaluate and resubmit the work units.

2. After an agreement on the work units between the cabinet and the consultant, each shall independently develop production rates to be applied to the work units to determine person-hours for each task.

~~(c) For environmental services, a scope of work for each task and corresponding person-hours to achieve each task and an identification of the assignment of the work units to the prime consultant or a subconsultant:~~

~~(d) For geotechnical assessments, a copy of the work units and corresponding cost derivatives to achieve each task which qualifies and quantifies the tasks to be performed to achieve the geotechnical services that appear in the announcement and an identification of the assignment of the work units to the prime consultant or a subconsultant:~~

1. The cabinet has the following options regarding the submittal:
 - a. Concur;
 - b. Modify and return the modification to the consultant; or
 - c. Reject and ask the consultant to evaluate and resubmit the work units.

2. After an agreement on the work units between the cabinet and the consultant, each shall independently develop production rates to be applied to the work units to determine person-hours for each task.

~~(e) For bridge maintenance inspection, a copy of work units and proposed equipment usage to achieve the inspection services that appeared in the announcement and an identification of the assignment of the work units to the prime consultant or a subconsultant:~~

1. The cabinet has the following options regarding the submittal:

- a. Concur;
- b. Modify and return the modification to the consultant; or
- c. Reject and ask the consultant to evaluate and resubmit the work units.

2. After an agreement on the work units between the cabinet and the consultant, each shall independently develop production rates to be applied to the work units to determine person-hours for each task.

(f) For planning studies, work units which qualify the tasks to be performed to achieve the planning study services that appeared in the announcement and an identification of the assignment of the work units to the prime consultant or a subconsultant:

1. The cabinet has the following options regarding the submittal:

- a. Concur;
- b. Modify and return the modification to the consultant; or
- c. Reject and ask the consultant to evaluate and resubmit the work units.

2. After an agreement on the work units between the cabinet and the consultant, each shall independently develop production rates to be applied to the work units to determine person-hours for each task.

(3) The consultant shall submit to the Division of Professional Services a fair and reasonable fee proposal which shall be prepared using the following:

(a) Personnel classifications and average wage rates for each classification as they appear in the audit and adjusted for work in the future years;

(b) Distribution of work by the personnel classifications;

(c) Overhead rates as determined by an audit;

(d) Subconsultants and fee proposals for each;

(e) Direct expenses not included in the overhead and subject to the limitations of subsections (5), (6), (7), and (8) of this section; and

(f) Person-hours to achieve the agreed upon task to achieve the scope of services that appear in the advertisement or procurement bulletin.

(4) After the Division of Professional Services requests a proposal and fee estimate from the consultant, the user division shall:

(a) Prepare an estimate of resources required to complete the project;

(b) Discuss the project with other divisions and request resource estimates from them as necessary; and

(c) Coordinate all of the resource estimates from other divisions to be used by the Division of Professional Services in negotiation of the contract.

(5)(a) Except as set forth in subparagraph (b) of this subsection, for contract negotiation purposes, the maximum allowable overhead rate shall be 150 percent;

(b) For contract negotiation purposes, if a consultant or subconsultant offers special expertise in engineering or related services which is outside normal project development activities, the limitations in 600 KAR 6:080, Section 2, may be suspended and the allowable overhead rate may exceed 150 percent if:

1. The director of the Division of Professional Services recommends approval;

2. The State Highway Engineer recommends approval;

3. The Secretary of the Transportation Cabinet approves; and

4. The approved overhead rate does not exceed the actual overhead rate established pursuant to 48 CFR Part 31.

(6) For contract negotiation purposes, travel expenses for consultant employees or survey crews shall be limited to those incurred from an office in Kentucky or the border of Kentucky nearest the consultant's office;

(7) For contract negotiation purposes, direct expenses shall be limited to the following items and limits:

(a) Passenger car - twenty-seven (27) cents per mile;

(b) Truck or four (4) - wheel drive vehicle - thirty-five (35) cents per mile;

(c) Lodging:

1. Professional staff - fifty-five (55) dollars per night per person; and

2. Survey field personnel - seventy (70) dollars per night for two (2) persons in one (1) room;

(d) Meals:

1. Breakfast - six (6) dollars per day per person;

2. Lunch - seven (7) dollars per day per person; or

3. Dinner - fourteen (14) dollars per day per person;

(e) Printing of reports for distribution external to the Transportation Cabinet - estimated cost from the printer per document;

(f) Travel time for a survey crew - travel time to and from a job site in hours multiplied by the survey crew wage rate multiplied by one and three-tenths (1.3) for salary additives;

(g) Special equipment which is project-specific;

(h) Capital cost of money; and

(i) Computer time, if accounted for as a direct charge, shall not exceed fifteen (15) dollars per hour.

(8) For contract negotiation purposes, the maximum direct salary per year shall be:

(a) \$90,000 for a nonprincipal or nonpartner of a firm; and

(b) \$100,000 for a principal or partner of a firm.

Section 3. Contract Negotiations. (1)(a) The Division of Professional Services shall be the designated negotiating agent for the Department of Highways in the Cabinet.

(b) If professional engineering or related services are requested by user divisions within the cabinet but not in the Department of Highways, that user division shall be responsible for negotiating the fee.

(2)(a) The Division of Professional Services or other designated negotiation unit shall receive the proposal and fee estimate from the consultant. The proposal submitted by the consultant shall include either a statement that the payment shall be based on the percentage of work completed or the proposed project milestones and corresponding maximum percentage payments and a breakdown of the estimated fee for performing the work including the following:

1. Direct salaries;

2. Overhead;

3. Other direct costs including cost of materials which are not included in the overhead;

4. Subconsultant costs;

5. Operating margin; and

6. Use of DBE firms.

(b) The Division of Professional Services or other designated negotiation unit shall analyze the proposal and may confer with others regarding the proposal as necessary. The proposal shall be used as a basis for further negotiation of the professional services agreement.

(c) Unreasonable or deliberately inflated proposals shall be rejected and may be cause for terminating negotiations in accordance with KRS 45A.825(9).

(3) If the contract which is being negotiated uses a method of compensation other than lump sum, the consultant shall use an accounting system which segregates and accumulates reasonable, allocable and allowable costs to be charged to a contract for an audit by the External Audit Branch.

(4)(a) If a consultant intends to utilize the services of a subconsultant to perform any part of the work, at the time of negotiations the consultant shall submit a fee proposal for the amount of work to be subcontracted.

(b) The fee proposal shall be based on the audited overhead and wage rates for the subconsultant.

(c) A subconsultant shall be prequalified with the cabinet to perform the services to be subcontracted to it if the services are required to be prequalified.

(d) Prior approval from the Division of Professional Services or other negotiation unit shall be necessary.

(e) If a consultant desires to utilize a subconsultant to perform part of the work after a contract has been approved and notice has been given to begin work, the procedures set forth in Section 6 of this administrative regulation shall be followed.

(5) A consultant which is awarded a contract for professional engineering or related services with the cabinet shall perform at least fifty (50) percent of the dollar value of the work for the project unless otherwise approved by the Director of the Division of Professional Services.

(6)(a) The operating margin allowed a professional engineering or related services consultant shall be allowed only on the negotiated direct labor and overhead costs regardless of the type of contract and shall not exceed the following:

1. Lump sum contract - ~~up to~~ [a.] fifteen (15) percent of the total

direct labor cost plus overhead costs for a contract, including all contract modifications up to and including [~~less than~~] \$2,000,000 and ten (10) percent of the total direct labor cost plus overhead costs for a contract, including all contract modifications, for the amount in excess of \$2,000,000. [~~or~~

b. ~~Ten (10) percent of the total direct labor cost plus overhead costs for a contract, including all contract modifications, equal to or in excess of \$3,000,000; or~~

c. ~~For a contract with the total direct labor cost, plus overhead cost of \$2,000,000 to \$3,000,000, the operating margin shall be fourteen (14) percent to ten (10) percent with a one (1) percent reduction for each \$200,000 increase in fee.]~~

2. Unit price contract - up to fifteen (15) percent of the estimated unit cost at the time of execution of the contract.

(b) A cost plus fixed fee contract shall have a lump sum fee equal to ten (10) percent of the estimated cost at the time of the execution of the agreement.

(7) The Division of Professional Services or other negotiation unit shall compare the consultant's established fee with the cabinet's estimate to determine both the reasonableness of the fee and areas of substantial differences which may require further negotiation.

(8) The Division of Professional Services or other negotiation unit shall negotiate with the consultant to establish a reasonable fee and basis of payment, including incremental payments for completed work where appropriate, for the services to be performed under the contract.

(9)(a) The consultant shall keep written documentation of each negotiation meeting and shall submit to the Division of Professional Services or other negotiation unit the following:

1. Minutes of negotiations;
2. As-negotiated fee;
3. As-negotiated person-hours;
4. Classification percentage distribution; and
5. Direct cost breakdowns.

(b) The public shall not be denied access to the items set forth in paragraph (a) of this subsection.

(10) After the Division of Professional Services or other negotiation unit has negotiated a contract, the head of the unit shall comply with the provisions of KRS 45A.825(10).

Section 4. Contract Preparation and Execution. (1) The Division of Professional Services or other negotiation unit shall prepare an agreement or contract to cover [over] the services to be provided, method and amount of payment, the time of completion and necessary special provisions.

(a) The agreement shall also include by reference the General Provisions Attachment as revised July 1994 unless the project is for a consultant structure inspection. The General Provisions Attachment is incorporated by reference as a part of this administrative regulation.

(b) If the project is for a consultant structure inspection, the agreement shall also include by reference the Division of Operations, Consultant Structure Inspection Provisions as revised in May 1993. The Division of Operations, Consultant Structure Inspection Provisions Form is incorporated by reference as a part of this administrative regulation.

(2) The contract and negotiation minutes shall be sent to the consultant for the signature of an authorized representative. All original documents shall be returned to the Division of Professional Services or other negotiation unit.

(3) The contract shall be reviewed and approved by the secretary of the cabinet.

(4) When the project is subject to approval from the FHWA and after the contract has received final approval from the cabinet, the Division of Professional Services shall send to the FHWA the following requesting their approval:

- (a) A copy of the contract;
- (b) The negotiated fee and person-hours;
- (c) The consultant's fee and person-hour proposal;
- (d) The cabinet's person-hour estimate;
- (e) The minutes of the negotiation;
- (f) The minutes of the predesign conference;
- (g) A copy of the advertisement and announcement;
- (h) The list of firms that responded to the announcement in a

timely manner;

(i) The written approval from the secretary of the cabinet to engage a professional firm;

(j) The minutes of the Professional Engineering Services Selection Committee;

(k) The memorandum from the Chairman of the Selection Committee stating the ranking of the three best-qualified firms by the Professional Engineering Services Selection Committee; and

(l) The audit report of overhead and wage rates which was used to establish the fee.

(6) If FHWA does not approve the contract, the secretary of the cabinet, after discussion with the State Highway Engineer and staff, may decide to modify the contract, redefine the project, terminate the project or ask for reconsideration by the FHWA.

Section 5. Notice to Proceed and Payments. (1)(a) Before a notice of approval for payment can be issued, funds shall be encumbered by the cabinet.

(b) The funds for statewide contracts shall be encumbered on a project by project basis.

(2) After the Division of Professional Services or other negotiation unit receives notification indicating that the LRC Government [~~Personal Service~~] Contract Review Committee [~~Subcommittee~~] has received the contract and project information for review, a notice to proceed shall be transmitted to the consultant indicating that it may commence work but it shall not bill for services until specifically authorized to do so. For projects requiring approval of a unit of the federal government, notice to proceed shall not be issued until the federal approval is obtained.

(3) When the LRC Government [~~Personal Service~~] Contract Review Committee [~~Subcommittee~~] issues a notification of acceptance on a contract, the Division of Professional Services or other negotiation unit shall issue a letter to the consultant informing it that it may bill the cabinet for charges incurred while working on the project.

(4)(a) If the LRC Government [~~Personal Service~~] Contract Review Committee [~~Subcommittee~~] objects to the contract and the cabinet determines that the contract is to be canceled, the Division of Professional Services or other negotiation unit shall notify the consultant of the cancellation and shall take necessary steps to close the contract.

(b) If the cabinet determines that the contract is to be modified to comply with the concerns of the LRC Government [~~Personal Service~~] Contract Review Committee [~~Subcommittee~~], the Division of Professional Services or other negotiation unit shall notify the consultant of the necessary modifications and shall follow the contract modification [~~and change order~~] procedures specified in Section 7 of this administrative regulation.

(c) If the cabinet determines that the contract is to be executed as submitted to the LRC Government [~~Personal Service~~] Contract Review Committee [~~Subcommittee~~], the Division of Professional Services or other negotiation unit shall issue a letter to the consultant informing it that it may bill the cabinet for charges incurred while working on the project.

Section 6. Contract Administration. All work performed under a professional services contract shall be subject to general supervision, direction, review and approval by the cabinet.

(1)(a) A project manager shall be assigned to the project by the director or office head of the user division.

(b) The division director or office head may serve as the project manager.

(c) The project manager shall be responsible for coordinating all cabinet activities with the consultant and for providing necessary supervision through the duration of the contract. This coordination shall include the following:

1. Scheduling, monitoring and controlling the consultant's activities;
2. Reporting the status of these activities to the appropriate authority;
3. Periodically reviewing the work to determine if the work:
 - a. Is acceptable;
 - b. Is in accordance with the agreement for the particular project; and
 - c. Scope has changed to the point that it may require a supple-

mental agreement and increased or decreased compensation; and

4. Completing and processing the Consultant Monthly Report Form incorporated by reference in Section 9 of this administrative regulation.

(2)(a) During the project, the consultant may subcontract with other firms to perform specialized services in a manner similar to Section 1(4) of this administrative regulation. The subconsultant shall be prequalified by the cabinet in accordance with the provisions of 600 KAR 6:040 if the services that are subcontracted are required to be prequalified.

(b) If the services to be performed by the subconsultant are subject to prequalification by the cabinet and were not previously identified in the original negotiation or subsequent contract modifications [change-orders], the consultant shall submit a request for a fee adjustment for the person-hours to be performed by the subconsultant.

(c) If the subconsultant services are not subject to prequalification procedures and exceed \$25,000, they shall be reviewed by the External Audit Branch for reasonableness of cost. For subcontracts equal to or less than \$25,000, the Director of the Division of Professional Services or other negotiation unit, upon recommendation of the negotiator, may accept the rates and costs if they are reasonable and in line with past costs incurred for similar work.

Section 7. Contract Modifications. (1) When it is determined by either the consultant or the cabinet that one (1) or more of the following conditions are acceptable and necessary, a contract modification for a fee or schedule adjustment may be requested:

(a) Change in termini or section;

(b) Addition of major phases of work to the negotiated scope of work;

(c) Modification of previously approved work resulting from factors beyond the control of the consultant;

(d) Modification of a major item, if in the original contract, the item is designated as a basis of the original negotiations and the conditions for a contract modification [change-order] consideration are identified in the original contract;

(e) Delay by the cabinet as outlined in each contract;

(f) Use of a subconsultant for services previously identified to be done by the consultant or other subconsultant; or

(g) Availability of current audit established in accordance with 600 KAR 6:080.

(2) The request for a contract modification may be originated by the Division of Professional Services, user division, highway district office or the consultant.

(3) When the director or office head of the user division determines the change is appropriate, the user division shall advise the consultant in writing of the contemplated change in the scope, complexity, extent, character or duration of the original agreement.

(a) When additional or reduced compensation is justified, the user division shall request a revised proposal from the consultant.

(4) The contract modification shall be negotiated using the procedures set forth in Sections 1, 2, and 3 of this administrative regulation.

(5) The Division of Professional Services or other negotiation unit shall send the Contract Modification [Change Order] form TC 40-17 as revised December 1998 [June 1992] or the Construction Consultant Change Order form, TC 63-53 revised June 1992, to the consultant for its approval. These forms are incorporated by reference in Section 11 of this administrative regulation.

(6) After approval by the cabinet, the contract modification [change-order], LRC's proof of necessity form and other supporting documentation shall be submitted to the LRC Government [Personal Service] Contract Review Committee [Subcommittee].

(7) For projects requiring FHWA oversight, the approved contract modification [change-order] shall be sent to the Federal Highway Administration for approval in accordance with Section 4(4) of this administrative regulation.

(8) Funds shall be encumbered by the cabinet sufficient to pay for the approved contract modification [change-order].

(9) If a contract modification [change-order] results in a fee negotiated for the contract modification [change-order] in other than lump sum as a method of compensation, the consultant shall use an accounting system which segregates and accumulates allocable and allowable costs which are to be charged to the contract modification

[change-order].

Section 8. Completion of Contract. (1) Upon completion of the contract, the cabinet shall review the work performed to determine that it meets the terms and conditions of the contract and shall evaluate the consultant for future reference.

(2) The project manager or the director of the user division shall review the work performed by the consultant, including any progress and final reports, to determine that all terms and conditions of the contract have been met before processing the final voucher for payment or releasing the consultant.

(3) Before approving the final invoice for payment, the director of the user division or the project supervisor shall evaluate the consultant and prepare written documentation of the consultant's performance on the project.

(4) The user division shall send the consultant written documentation of the consultant's performance for the project. Copies of the documentation shall be placed in the contract file maintained by the Division of Professional Services and in the consultant's experience record file.

(5)(a) The consultant may appeal in writing a below average rating to the user division director within thirty (30) days of written documentation of the consultant's performance for the project.

(b) The appeal shall specifically set forth the reasons why the consultant believes the below average rating is in error.

(c) The user division director shall notify the consultant within thirty (30) days from the consultant's appeal of the director's decision of whether or not to revise the performance rating.

(d) The consultant may appeal in writing the user division director's decision to the Chairman of the Consultant Prequalification Committee within thirty (30) days.

(e) The Consultant Prequalification Committee shall review all documentation relating to the consultant's performance for the project. The committee may discuss the performance rating with the project supervisor or the consultant.

(f) The committee shall notify the consultant and the user division of its decision within ninety (90) days from the consultant's appeal.

(g) If the consultant's appeal is denied by the Consultant Prequalification Committee, it may appeal the decision to the State Highway Engineer within thirty (30) days of written notice of denial of its appeal by the Consultant Prequalification Committee.

(h) The State Highway Engineer shall notify the consultant of his decision within thirty (30) days.

(i) The decision of the State Highway Engineer shall be final.

(j) If the performance evaluation documentation is revised, the initial documentation shall be removed from all files and replaced with the revised performance document.

(6) The Director of the Division of Professional Services or head of other negotiation unit shall request the External Audit Branch to perform a final audit if appropriate. The audit shall determine the total allowable contract costs and the total dollars to be paid to the consultant. All contracts utilizing a cost plus fixed rate method of payment shall be audited.

(7) The user division shall forward the Federal Highway Administration a copy of all progress and final reports for federal-aid projects if required or requested by the FHWA.

Section 9. Cancellation of Contract. (1) Each professional service contract shall include a provision for the termination of the agreement and shall allow for the cancellation of the contract by the cabinet with proper notice to the consultant.

(2) When the cabinet decides to cancel a professional services contract, the Division of Professional Services or other negotiation unit shall notify the consultant of the cancellation and of the reasons for the cancellation.

(3) The cabinet shall be liable only for payment of services up to the effective date of cancellation of the contract as specified by the terms of the contract.

(4) The cabinet shall be liable for a demobilization fee equal to ten (10) percent of the remaining balance of the contract not to exceed \$25,000.

Section 10. Payments to Consultants. Before payment of a partial

or final request for payment, the cabinet shall review the work of the consultant, including any progress or final reports, to ensure that the work for which the payment is to be made has been completed and that the terms and conditions of agreement have been satisfactorily followed.

(1) During the course of the project, progress billings shall be submitted by the consultant as agreed upon in the contract. The consultant shall submit an Engineer's Pay Estimate, TC 61-408 revised July 1998 [~~March 1988~~] and a Consultant Monthly Report, TC 61-2 revised March 1996 [~~October 1995~~] as an invoice to the chief district engineer or director of the user division or to their designees.

(2) The chief district engineer or director of the user division or his designee shall review the Engineer's Pay Estimate and Consultant Monthly Report, verify that the work has been completed as described in the document, and sign both forms.

(3) If an Engineer's Pay Estimate is not needed to be submitted to the chief district engineer or director of the user division within a given month, the Consultant Monthly Report shall still be submitted.

(4) Final invoices and requests for payment shall be authorized only after all work has been reviewed and accepted or approved, including any final reports prepared by the consultant. All terms and conditions of the contract shall be satisfactorily met and the final audit shall be performed prior to processing the final payment.

Section 11. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "Contract Modification [~~Change Order~~]", Form TC 40-17, December 1998 [~~June 1992~~] edition;

(b) "Construction Consultant Change Order", Form TC 63-53, June 1992 edition;

(c) "Engineer's Pay Estimate", Form TC 61-408, July 1998 [~~March 1988~~] edition;

(d) "Consultant Monthly Report", Form TC 61-2, March 1996 [~~October 1995~~] edition;

(e) "General Provisions Attachment (Exhibit 15-07)", July 1994 edition; and

(f) "Consultant Structure Inspection Provisions (Exhibit 15-07A)", May 1993 edition.

(2) All material incorporated by reference as a part of this administrative regulation may be obtained, viewed or copied at the Division of Professional Services, 6th Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622. Its telephone number is (502) 564-4555. Its office hours are 8 a.m. to 4:30 p.m. eastern time on weekdays.

JAMES C. CODELL, III, Secretary
J.M. YOWELL, State Highway Engineer
GERI GRIGSBY, General Counsel

APPROVED BY AGENCY: March 12, 1999

FILED WITH LRC: March 12, 1999 at noon

REGULATORY IMPACT ANALYSIS

Contact person: Charles Harman

(1) Type and number of entities affected: There are 160 firms prequalified to perform professional engineering or related services each year. These are the same firms which provide proposals on projects and includes the 60 or so which ultimately negotiate contracts each year.

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

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

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

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: The staff of the Division of Professional Services is constantly involved in the

contract negotiation process. There are approximately 60 original contracts negotiated each year. Approximately 100 contract modifications are issued on these contracts each year. It is almost as time-consuming to negotiate a contract modification as the original contract.

(a) Direct and indirect costs or savings:

1. First year: This change will provide reduced incremental project costs.

2. Continuing costs or savings: Same each year.

3. Additional factors increasing or decreasing costs: This process assures the public of getting quality product.

(b) Reporting and paperwork requirements: Documentation of the entire negotiation process. Preparation of the contracts.

(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 Road Fund as authorized in the Transportation Cabinet 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: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: This change will reduce the number of interpretations which are considered in applying the regulation to lump sum contracts. Other methods are unclear and difficult to apply to contract modifications.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

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

(c) If detrimental effect would result, explain detrimental effect:

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Yes. Tiering is applied by establishing two levels at which direct labor and overhead costs are negotiated.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Title 23 of the United States Code and 23 CFR 172.

2. State compliance standards. The state has promulgated this administrative regulation setting forth negotiating criteria for the contracting of professional engineering or related services.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate specifies that the contracting agency shall prepare written procedures for each method of procurement it proposes to utilize. These procedures are required to set forth each step used in the method of negotiating of the reimbursement to be paid to the selected consultant.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The method for negotiating of the reimbursement to be paid to the selected consultant is extended to all projects regardless of the source of funding for a particular project.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This is not a conflict with the federal regulation, just a way of simplifying all negotiations with the Transportation Cabinet.

TRANSPORTATION CABINET
Department of Highways
Division of Traffic
(Amended After Hearing)

603 KAR 4:050. Limited supplemental guide signs.

RELATES TO: KRS 177.076, 177.077, 177.078, 177.079, 177.0734, 177.0736, 1998 Ky. Acts ch. 526

STATUTORY AUTHORITY: KRS 177.077

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.077 requires the Transportation Cabinet to prescribe by administrative regulations standards and procedures relating to limited supplemental guide signs. This administrative regulation sets forth the standards to be used in the erection and maintenance of limited supplemental guide signs.

Section 1. Definitions. (1) "Activity" means either an historical site or a tourist area or attraction.

(2) "Cabinet" means the Transportation Cabinet.

(3) "Clear zone" means the area between the edge of the driving-lane of a public road and an imaginary line running parallel to the road a certain distance from the edge of the traveled way as specified by the American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide (current edition).

(4) "Department" means the Kentucky Department of Highways.

(5) "Eligibility distance" means the distance from the at-grade intersection of the state highway at the point where the directional sign is located to the entrance driveway to the activity.

(6) "Interagency Committee" means the Transportation and Tourism Interagency Committee established by KRS 177.107.

(7) "MUTCD" means the Federal Highway Administration's "Manual on Uniform Traffic Control Devices" incorporated by reference in 603 KAR 5:050.

(8) "Ramp" means the on- or off-access road from an interstate highway or parkway to or from the first public road.

(9) "Spacing" means the distance between the limited supplemental sign and all other traffic control devices or signs located within the right of way. This spacing shall [will] be controlled by the MUTCD.

(10) "TODS" means Tourist Oriented Directional Signing as used in the MUTCD.

Section 2. General Provisions. The Transportation Cabinet shall control the erection and maintenance of Limited Supplemental Guide Signs in accordance with the "Manual on Uniform Traffic Control Devices" (MUTCD) as incorporated by reference in 603 KAR 5:050 and with the provisions of this administrative regulation.

Section 3. Application for Limited Supplemental Guide Signs. (1) An application from an historical site or tourist area or attraction for the erection of a limited supplemental guide sign shall be made to the Transportation Cabinet. The cabinet shall process the application through the Division of Traffic and the Interagency Committee. The Division of Traffic shall [will] review proposed signing for compliance and review the proposed location to determine if there is an appropriate location for the erection of the sign. [The Interagency Committee shall place the request on the agenda for the next committee meeting, if the application is received at least five (5) working days before the next scheduled meeting.]

(2) Upon receipt of an application, the Transportation Cabinet shall, within thirty (30) days, notify the applicant in writing of the date and time for any hearings or discussion of the application by the Interagency Committee. The cabinet shall [will] consider [the] recommendations from [of] the Division of Traffic, [and] the Interagency Committee, local and regional comments, and approve or disapprove the erection of the limited supplemental guide sign within ninety (90) days after the receipt of an application, and shall provide written notification to the applicant of the decision.

(3) Upon approval of the application the applicant shall enter into a contractual agreement with the cabinet.

(4) Any fees shall be paid by check made payable to the Kentucky State Treasurer.

(5) If multiple applications are received for the same location, the cabinet may consider the following criteria [the following priority will be used] to determine the favorable eligibility for the erection of a limited supplemental guide sign:

(a) Activities between one (1) mile and fifteen (15) miles from the interchange with consideration given to number of visitors;

(b) Activities between sixteen (16) miles and fifty (50) miles from the interchange with considerations;

(c) Federal parks and recreation areas;

(d) Historical sites;

(e) Local and regional support; and

(f) State parks and recreation areas. [State parks and recreation areas:

(b) Federal parks and recreation areas:

(c) Historical sites:

(d) Activities between one (1) mile and fifteen (15) miles from the interchange with consideration given to number of visitors:

(e) Activities between sixteen (16) miles and fifty (50) miles from the interchange with consideration given to number of visitors:

(f) Local support.]

Section 4. Limited Supplemental Guide Signs. (1) General requirements for limited supplemental guide signs:

(a) The limited supplemental guide signs shall be located to:

1. Take advantage of natural terrain;

2. Have the least impact on the scenic environment; and

3. Avoid visual conflict with the other signs within the highway right of way.

(b) Limited supplemental guide signs shall not be erected where there is insufficient space to locate both traffic control devices and the limited supplemental guide sign.

(c) Unprotected limited supplemental guide sign supports located within the clear zone shall be of a breakaway design.

(d) A limited supplemental guide sign may be located laterally outside the normal longitudinal alignment of other traffic control signs, but shall be erected within the highway right of way as long as the spacing requirements of the MUTCD are met.

(e) The location of any other traffic control device shall at all times take precedence over the location of a limited supplemental guide sign.

(2) Before a limited supplemental guide sign may [can] be erected for an activity that is not visible from the interchange ramp, legal trailblazing signs must be erected at each location where a turn is required to arrive at the activity site. This may [can] be in the form of TODS, cultural or recreational signing or billboard advertising.

Section 5. Limited Supplemental Guide Signs Eligibility. An historical site or a tourist area or attraction shall meet the following requirements to qualify for limited supplemental signing. A limited supplemental guide sign shall not be erected until the activity or site has been approved in accordance with this administrative regulation.

(1) All tourist areas or attractions shall be of significant interest to the traveling public with at least one-third (1/3) of the income or one-third (1/3) of the visitors at the activity derived during the normal business season from visitors not residing within twenty (20) miles of the activity.

(2) Each activity shall be open to the general public during regular and reasonable hours, and not by appointment or reservation only.

(3) Each activity shall comply with all applicable local, state, and federal statutes and regulations including those prohibiting discrimination based on race, religion, color, sex, age, disability, or national origin.

(4) Each activity identified on a limited supplemental sign shall provide assurance of its conformance with all applicable federal, state or local laws and regulations and have necessary and proper licenses.

(5) If an activity is in noncompliance of any of these laws or regulations, it may be considered ineligible for participation in this program and its signs may be removed.

(6) The activity shall be conducted in an appropriate building or area.

(7) The activity shall not be conducted in a building principally used as a residence unless there is a convenient, separate, and well-marked entrance. The building or area shall be maintained in a manner consistent with standards generally accepted for that type of business or activity.

(8) Any activity which operates on a seasonal basis shall make provisions with the cabinet for the removal of the activity's sign during the off season. The activity shall, in writing, notify the cabinet at least thirty (30) days before the opening or closing occurs.

(9) The cabinet shall have no responsibility for business lost due to signs or limited supplemental panels becoming temporarily out of service.

(10) The display of the activity sign on the limited supplemental structure shall not be considered an endorsement or recommendation by the Commonwealth of Kentucky on behalf of the activity.

Section 6. Review of Eligibility. The Transportation Cabinet may review the status of individual sign eligibility for continuance in the program.

Section 7. Measurements. Measurements taken to determine the qualifications of activities shall be from the juncture of the center line of the highway, measured between the center edges of the main traveled way of the route or routes on which travel is necessary to locate the activity.

Section 8. [7-] Material Incorporated by Reference. The following material is incorporated by reference as part of the administrative regulation: Transportation Cabinet form TC 99-200, "Limited Supplemental Guide Signs Application", November 1998 edition.

J.M. YOWELL, P.E., State Highway Engineer
JAMES C. CODELL, III, Secretary
E. JEFFREY MOSLEY, Office of General Counsel
APPROVED BY AGENCY: March 12, 1999
FILED WITH LRC: March 12, 1999 at noon

REGULATORY IMPACT ANALYSIS

Contact person: Charles Harman, Staff Assistant

(1) Type and number of entities affected: All travelers using Kentucky's noninterstate highway system, as well as businesses which are eligible and choose to participate in the Limited Supplemental Guide Signs Program.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Nonpublic comments were received, and the cabinet believes that the cost of living will not be affected as a result of this administrative regulation. Any employment impact would be a slight increase in employment in those areas where signs may increase tourist travel to hard to locate attractions.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The increased cost of doing business will be limited to those businesses that choose to participate in the program.

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

1. First year following implementation: An application process will be used to determine eligible participants.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: Not applicable.

2. Continuing costs or savings: Not applicable.

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

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: Some tourism spending may increase in local communities.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Road Fund.

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

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative of no regulation was discarded in the interest of clarity to the tourism industry.

(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: 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: None

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Yes. Tiering was applied by setting criteria for eligibility in the program.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no true federal mandate. However, the Federal Highway Administration through its regulation 23 CFR Part 655 requires that the traffic control devices on all public highways or streets be in substantial conformance with the Manual on Uniform Traffic Control Devices.

2. State compliance standards. The state compliance standards set forth in this administrative regulation meet the federal requirements, but do not exceed them. They are no more stringent.

3. Minimum or uniform standards contained in the federal mandate. Same as adopted in the state administrative regulation.

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

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

TRANSPORTATION CABINET Department of Highways Division of Transportation Planning (Amended After Hearing)

603 KAR 4:055. Scenic highways and byways.

RELATES TO: 177.571, 177.572, 177.573, 177.574, 177.575, 177.576, 1998 Ky. Acts ch. 566

STATUTORY AUTHORITY: 177.573

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.573 requires the Transportation Cabinet to prescribe by administrative regulation, criteria for scenic highways and byways designation and a process for the nomination, review, designation and removal of a road as a scenic highway and byway.

Section 1. "Kentucky Scenic Highways and Byways Guidelines and Application" **Form TC 52-200** shall govern the Transportation Cabinet's Scenic Highways and Byways Program.

Section 2. **Redesignation of Scenic Highways and Byways. If an existing scenic highway or byway fails to meet the recommended criteria contained in the Scenic Highways and Byways Guidelines and Application TC 52-200 the road or road segment shall be removed from the scenic highways and byways system.**

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference in this administrative regulation: **Form TC 52-200** "Scenic Highways and Byways Guidelines and Application," **February, 1999** [~~October 17, 1994~~].

(2) Copies of "Scenic Highways and Byways Guidelines and Application" may be viewed or copied at the Transportation Cabinet, Department of Highways, Division of Transportation Planning, 501 High Street, Frankfort, Kentucky 40622.

J.M. YOWELL, P.E., State Highway Engineer
JAMES C. CODELL, III, Secretary
E. JEFFREY MOSLEY, Office of General Counsel
APPROVED BY AGENCY: March 12, 1999
FILED WITH LRC: March 12, 1999 at noon

REGULATORY IMPACT ANALYSIS

Contact person: Charles Harman, Staff Assistant

(1) Type and number of entities affected: The Transportation Cabinet currently has 433 miles of scenic highways and byways. We do not anticipate a significant increase in applications or interest.

(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: The Transportation Cabinet does not anticipate any changes in the cost of living or employment as a result of this new 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: The Transportation Cabinet does not anticipate any changes in the cost of doing business as a result of this new regulation.

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

1. First year following implementation: An application process will be implemented as a result of this regulation. Competition is not a contributing factor.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The application and signing process will result in a slight cost increase to the Transportation Cabinet.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The application process will be administered by the Division of Transportation Planning.

(4) Assessment of anticipated effect on state and local revenues: Possible increase in tourism to local communities.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Road Fund.

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

(a) Geographical area in which administrative regulation will be implemented: The Scenic Highways and Byways Program will promote travel to areas of the Commonwealth with natural beauty. The increased travel should result in an increase in tourist spending.

(b) Kentucky: Same

(7) Assessment of alternative methods; reasons why alternatives were rejected: This is an expansion of a successful existing program. There is significant public support for the Scenic Highways and Byways Program.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Scenic highways and byways have to meet strict criteria to be eligible for the program. The criteria is established in KRS 177.572.

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

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

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

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

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

(10) Any additional information or comments: This regulation has been developed in coordination with the Transportation Tourism Interagency Committee.

(11) TIERING: Is tiering applied? No. All applicants are required to go through the same application process.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, MARCH 15, 1999

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(Amendment)

201 KAR 9:084. Fee schedule.

RELATES TO: KRS 311.530 to 311.620, 311.990

STATUTORY AUTHORITY: KRS 311.565(9), (20), (22)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565(22) authorizes the State Board of Medical Licensure to exercise all the administrative functions of the state in regard to the administrative regulation of physician assistants. The purpose of this administrative regulation is to establish a schedule of fees for services rendered by the board in performing its administrative functions.

Section 1. Fee Schedule. The board shall charge the following fees:

- (1) Application for a certificate, \$100.
- (2) Application for a temporary certificate, fifty (50) dollars.
- (3) Conversion from a temporary certificate to a certificate, fifty (50) dollars.
- (4) Fee for biennial renewal of certificate, \$100 [fifty (50) dollars].
- (5) Penalty fee for late renewal of certificate, fifty (50) [twenty-five (25)] dollars.
- (6) Issuance of a duplicate certificate, ten (10) dollars.
- (7) Application by a physician for approval to employ a physician assistant, \$100.
- (8) Application to transfer the responsibility of the supervising physician to an approved supervising physician agent, fifty (50) dollars.
- (9) Fee for emergency permit, fifteen (15) dollars.
- (10) Fee for supervising physician of physician assistant holding an emergency permit, fifteen (15) dollars.

DANNY M. CLARK, President

C. LLOYD VEST, II, General Counsel

APPROVED BY AGENCY: March 15, 1999

FILED WITH LRC: March 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on the proposed amendment, Reg. No. 201 KAR 9:084, to current administrative statutes and regulations will be held on the 28th day of April, 1999, at 11 a.m. eastern time, at the offices of the Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Those interested in attending this hearing shall notify C. Lloyd Vest, II, General Counsel, Kentucky Board of Medical Licensure, in writing by April 21, 1999, 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 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 hearing will not be made unless a written request for a transcript is made. If you do not wish to attend this hearing, you may submit written comments on the proposed administrative regulation. Send notification of intent to attend the hearing or written comments to: C. Lloyd Vest, II, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, (502) 429-8046, Fax: (502) 429-9923.

REGULATORY IMPACT ANALYSIS

Contact Person: C. Lloyd Vest, II

- (1) Type and number of entities affected: All physician assistants who are certified to practice in the Commonwealth of Kentucky.
- (2) Direct and indirect costs or savings on the:
 - (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Comments not available due to first public hearing being canceled. Hearing canceled due to public lack of interest.

(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: Comments not available due to first public hearing being canceled. Hearing canceled due to public lack of interest.

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

1. First year following implementation: Not applicable.
2. Second and subsequent years: Not applicable.
- (3) Effects on the promulgating administrative body: Not applicable.
- (a) Direct and indirect costs or savings:
 1. First year: Not applicable.
 2. Continuing costs or savings: Not applicable.
 3. Additional factors increasing or decreasing costs: None anticipated.
- (b) Reporting and paperwork requirements: Minimal increase in paperwork by agency employees.
- (4) Assessment of anticipated effect on state and local revenues: No changes anticipated.
- (5) Source of revenue to be used for implementation and enforcement of administrative regulation: Comments not available due to first public hearing being canceled. Hearing canceled due to lack of public interest.

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

(a) Geographical area in which administrative regulation will be implemented: Commonwealth of Kentucky.

(b) Kentucky: Yes

(7) Assessment of alternative methods: reasons why alternatives were rejected: Comments not available due to first public hearing being canceled. Hearing canceled due to lack of public interest.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Comments not available due to first public hearing being canceled. Hearing canceled due to lack of public interest.

(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. None

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

(a) Necessity of proposed regulation if in conflict: Board is not aware of any statute, regulation or government policy which is in conflict or is duplicated by this proposed regulation.

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

(10) Any additional information or comments: The board feels that this regulation will assure the public of continued competency of physician assistants certified in Kentucky.

(11) TIERING: Is tiering applied? No. This regulation shall pertain to all physician assistants certified by the board. There is no reason to impose varying requirements.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No
2. State what unit, part or division of local government this administrative regulation affects. Not applicable.
3. State the aspect of service of local government to which this administrative regulation relates: Not applicable.
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. Not applicable.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(Amendment)**

201 KAR 9:175. Physician assistants; certification and supervision.

RELATES TO: KRS 311.565

STATUTORY AUTHORITY: KRS 311.565(22)

NECESSITY, FUNCTION, AND CONFORMITY: It is the purpose of this administrative regulation to promote the efficient and effective utilization of the skills of physicians by allowing them to delegate health care tasks to qualified physician assistants and in so doing, promote, sustain and enhance the health and welfare of the people of the Commonwealth.

Section 1. Definitions. As used in this administrative regulation:

(1) ~~["Physician assistant" means a person who successfully completes an approved program and an approved examination, and who is certified by the board to assist a registered physician in the provision of medical care under the physician's supervision. The physician assistant is not an independent practitioner of the healing arts but only an adjunct to the supervising physician;~~

(2) "Anesthesia (or anesthesiology) assistant" means a physician assistant who assists in the provision of general or regional anesthesia;

(2) "Board" means the Kentucky Board of Medical Licensure;

(3) "Supervising physician" means a physician currently licensed to practice medicine in the Commonwealth who has been approved by the board to supervise physician assistants for whom the supervising physician takes responsibility;

~~[(5) "Advisory committee" means the committee appointed by the board to advise the board on all matters related to physician assistants;~~

~~(6) "Approved program" means a program for the education and training of physician assistants which meets standards acceptable to the board;~~

~~(7) "Supervision" means oversight and direction of the services of physician assistants by their supervising physicians;~~

~~(8) "Approved examination" means an examination to test the knowledge and skills of physician assistants which meets standards acceptable to the board;~~

(4) "Certificate" means the board's official documentary authorization allowing a physician assistant to practice in the Commonwealth for the time specified; and

~~[(10) "Trainee" means a person who is currently enrolled in an approved program for the training of physician assistants].~~

Section 2. Certification of Physician Assistants. (1) To be certified by the board as a physician assistant, a person must:

- (a) Submit a completed application with the required fee;
- (b) Be of good character and reputation;
- (c) Be a graduate of an approved program; and

(d) Have passed an examination approved by the board within three (3) attempts.

(2) If grounds for denial of certification do not exist, a temporary certificate may be issued by the board's executive director to a physician assistant after graduation from an approved program and prior to taking the first available approved examination after graduation. This temporary certificate shall enable the holder to practice as a certified physician assistant pursuant to 201 KAR 9:175 only under the direct supervision of a supervising physician at the same practice location. The holder of this temporary certificate shall take the first available approved examination after graduation. If the holder receives a passing score on this examination, the temporary certificate shall be effective until the board approves the holder for permanent certification. If the holder receives a failing score, or fails to take the first available approved examination after graduation, the temporary certificate shall

automatically expire. This temporary certificate shall not be renewed or reissued subsequent to expiration or cancellation. The executive director may also issue a temporary certificate to an applicant who otherwise meets all requirements of 201 KAR 9:175, Section 2(1). The temporary certificate shall remain in effect until the board approves the holder for permanent certification. This temporary certificate shall allow the applicant to practice as a physician assistant pursuant to 201 KAR 9:175, Section 6. However, under no circumstances shall this temporary certificate remain in effect for longer than six (6) months and the temporary certificate shall not be renewable. Any temporary certificate may be cancelled at any time, without a hearing, for reasons deemed sufficient to the executive director, and who shall cancel it immediately upon direction by the board or the board's physician assistant advisory committee or upon the board's denial of the holder's application for permanent certification. When canceling a temporary certificate, the executive director shall promptly notify, by certified United States mail, the holder of the temporary certificate, at the last known address as reflected by the files of the board, and the temporary certificate shall become terminated and of no further force and effect upon receipt of the notice.

(3) Physician assistants duly authorized to practice in other states and in good standing may apply for certification by endorsement from the state of their original credentialing if the endorsing state has standards substantially equivalent to those of the Commonwealth.

(4) Certification shall be renewed on or before July 1, 1989, and thereafter biennially according to the procedure established by the executive director. In conjunction with the renewal of his/her certification, the physician assistant shall provide evidence of having completed in the previous two (2) years a minimum of 100 hours of continuing education accepted by the National Commission on Certification of Physician Assistants or the American Medical Association. In addition, all physician assistants shall renew every six (6) years as required by the NCCPA, unless they are not eligible because they hold physician assistant certification approved by the board pursuant to 201 KAR 9:175, Section 6.

(5) In conjunction with the renewal process the physician assistant shall provide evidence of having completed in the previous two (2) years an education course on the human immunodeficiency virus and acquired immunodeficiency syndrome which meets the requirements of the Cabinet for Human Resources as described in KRS 214.610.

Section 3. Trainees in [Approved Examination. The following examinations are approved by the board:

~~(1) The examination of the National Commission on Certification of Physician Assistants;~~

~~(2) The official competency examination of any state if the board determines the examination to be an adequate measure of physician assistant competency; or~~

~~(3) Any other formally administered examination if the board determines, upon review of proof provided by the applicant, that the examination is substantially equivalent to the examination of the National Commission on Certification of Physician Assistants.~~

Section 4. Approved Programs. [(1) The following programs are approved by the board:

~~(a) Physician assistant programs that are accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or Committee on Allied Health Education and Accreditation of the American Medical Association (CAHEA);~~

~~(b) Any other training program if the board determines, upon review of proof submitted by the applicant, that the training received was substantially equivalent to that received in a program as described in paragraph (a) of this subsection.~~

~~(2) Programs specifically designed to train the individual to assist in the provision of general or regional anesthesia shall have been accredited by CAAHEP or CAHEA.~~

~~(3) Trainees enrolled in approved programs shall be under the supervision of the program which, is responsible for their services. Trainees shall be bound by the same practice limitations imposed upon physician assistants generally, but will not be considered to be practicing without authorization while enrolled in the program.~~

Section 4. [5.] Physician Assistant Scope of Practice. (1) A physi-

cian assistant may perform any medical services that are within his or her scope of training and experience and which are also within the scope of the supervising physician's practice. A physician assistant who has a permanent, unrestricted certificate, may distribute professional samples and/or prescribe nonscheduled legend drugs as delegated by the supervising physician. Documentation of drugs prescribed or distributed by the physician assistant shall be included in the record of services rendered by the physician assistant. Prescriptions signed by the physician assistant shall include the physician assistant's certificate number. [A physician assistant may perform any medical services that are within the scope of training received in an approved program and which are also within the scope of the supervising physician's practice. Physician assistants may perform those duties and responsibilities that are delegated by their supervising physicians. Physician assistants shall be considered the agents of their supervising physician in the performance of all practice-related activities including but not limited to the performance of or ordering of diagnostic, therapeutic and other medical services. The physician assistant shall not make a definitive diagnosis or prescribe or employ any treatment modality that has not been delegated by the supervising physician. A physician assistant may, without specific approval, initiate evaluation and treatment in emergency situations.]

(2) A physician assistant shall not administer or monitor general or regional anesthesia without satisfying the applicable requirements of Section 6 of this administrative regulation. However, a physician assistant may render local, infiltrative anesthesia pursuant to subsection (1) of this section.

(3) A physician assistant may render services in the offices or clinics of the supervising physician, or in hospitals and other licensed health care facilities. However, physician assistants shall not render services in these facilities without the express written permission of the respective facility's governing body. The facility may restrict the physician assistant's scope of practice within the facility as the facility deems appropriate.

(4) Neither the physician assistant nor the supervising physician shall require any individual or entity to perform any act relative to the provision of services by the physician assistant that the individual or entity is specifically forbidden to perform pursuant to law.

Section 5. [6:] Physician Assistants Practicing as Anesthesia (or Anesthesiology) Assistants. (1) Any physician assistant practicing as an anesthesia (or anesthesiology) assistant in Kentucky prior to July 15, 1986 may continue to practice if:

(a) The physician assistant has complied with all the practice requirements and conditions of Sections 2, 3, 4(2), and 5 of this administrative regulation;

(b) The physician assistant is a graduate of a program specifically designed to train the individual to administer general or regional anesthesia which is accredited by CAHEA;

(c) The physician assistant is only employed by a supervising physician who has postgraduate training in anesthesiology from an anesthesiology program accredited by the Accreditation Council for Graduate Medical Education (ACGME); and

(d) Notwithstanding Section 9 of this administrative regulation, the physician assistant shall not administer or monitor general or regional anesthesia unless the supervising physician is physically present in the operating room during induction, and thereafter physically present in the operating suite and not concurrently performing any other anesthesia procedure which would prevent the supervising physician's immediate physical presence in the operating room where the anesthesia procedure is being performed.

(2) Any physician assistant not already practicing as an anesthesia (or anesthesiology) assistant in Kentucky prior to July 15, 1986 must meet the following requirements:

(a) The physician assistant shall be a graduate of an approved program as defined in Section 4(1)(a) of this administrative regulation which is of four (4) years duration, and, in addition to this training, be a graduate of a two (2) year program specifically designed to train the individual to assist in the provision of general and regional anesthesia, which consists of specialized academic and clinical training in anesthesia, and which is accredited by CAAHEP or CAHEA;

(b) The physician assistant shall have complied with all of the practice requirements and conditions of Sections 2, 3, 4, and 5 of this

administrative regulation;

(c) The physician assistant shall only be employed by a supervising physician who is a board certified anesthesiologist; and

(d) Notwithstanding Section 9 of this administrative regulation, the physician assistant shall not administer or monitor general or regional anesthesia unless the supervising physician, who must be a board certified anesthesiologist, is physically present in the operating room during induction and emergence, and thereafter physically present in the operating suite and not concurrently performing any other clinical procedure.

Section 6. [7:] Approval of Supervising Physicians. (1) To seek approval by the board as a supervising physician, a physician must:

(a) Be currently licensed in good standing and primarily practicing in the Commonwealth;

(b) Submit a completed application with the required fee.

(2) In addition to other information the board's executive director may deem appropriate, the supervising physician shall, briefly, on the face of the application:

(a) Describe the nature of the practice;

(b) Describe the responsibilities the physician wishes the physician assistant to assume;

(c) Describe the means by which the physician will maintain a line of communication with the physician assistant when they are not in the same location; and

(d) Denote the name, address and area of practice of one (1) or more alternate physicians who agree in writing to accept the responsibility of supervising the physician assistant in the supervising physician's absence.

(3) A physician shall not supervise a physician assistant without being approved by the board. The board may impose restrictions on the scope of practice of a particular physician assistant or on the methods of supervision employed by the supervising physician. Physicians must obtain specific approval for each physician assistant they wish to supervise and the board will not approve any physician to supervise more than two (2) physician assistants at any one (1) time.

Section 7. [8:] Duties of Supervising Physicians. A supervising physician shall:

(1) Restrict the services of the physician assistant to those services within the limitations of the physician assistant's scope of practice as set forth in Section 5 of this administrative regulation and, as applicable, Section 6 of this administrative regulation, and as may be specifically limited by the board;

(2) List specific drugs or classes of drugs that the physician assistant is prohibited from prescribing and/or distributing. This list shall be regularly reviewed and revised as necessary; dated and signed by both the supervising physician and physician assistant; maintained on file at the main practice locations of the supervising physician and physician assistant; and made available to the board upon request; [Prohibit physician assistants from prescribing or dispensing controlled substances or other drugs;]

(3) [Inform all patients with whom the physician assistant comes in contact of the status of the physician assistant;

~~(4)~~ Post a notice in all offices or clinics where the physician assistant may practice stating that a physician assistant practices on the premises;

~~(4)~~ ~~(5)~~ Require physician assistants to wear a name tag or other identification clearly stating that the physician assistant is a "physician assistant";

~~(5)~~ ~~(6)~~ Prohibit the physician assistant from independently billing any patient or other payor for services rendered by the physician assistant;

~~(7)~~ ~~Negotiate with the medical staff or governing body of any hospital, long-term care facility or institution to establish the scope of practice of the physician assistant;~~

~~(6)~~ ~~(8)~~ Not require a physician assistant to perform services or other acts that the physician assistant feels incapable of carrying out safely and properly;

~~(7)~~ ~~(9)~~ Reevaluate every two (2) years the physician assistant's reliability, accountability, and fund of medical knowledge. Recommend the approval or disapproval of the physician assistant's certification to the committee. This reevaluation process shall be performed by the

supervising physician biennially on the date of the physician assistant's original certification in the Commonwealth of Kentucky;

[(10) Submit, in conjunction with the physician assistant's renewal of certification, a statement evidencing the physician assistant's completion of a minimum of 100 hours of continuing education as set forth in Section 2(4) of this administrative regulation;]

(8) [(11)] Maintain adequate, active and continuous supervision of the physician assistant's activities to assure the physician assistant is performing as directed and complying with these administrative regulations. The supervising physician shall timely sign all records of services rendered by the physician assistant as certification that the physician assistant carried out the services as delegated;

(9) [(12)] Notify the board within three (3) business days if the supervising physician ceases to employ or supervise the physician assistant; and

(10) [(13)] Notify the board within twenty (20) days if the supervising physician believes in good faith that the physician assistant violated any disciplinary rule set forth in this administrative regulation.

Section 8. [9:] Supervision and Satellite Clinics. (1) The supervising physician need not be physically present at all times when the physician assistant is providing services in the physician's office or clinic if the physician assistant has a reliable means of having direct communication with the supervising physician at all times. Except as may be provided by this administrative regulation or the board, the supervising physician need not be present in a hospital or other licensed health care facility while the physician assistant is providing services if the physician assistant has a reliable means of direct communication with the supervising physician at all times, and the facility has given specific approval for the provision of the services by the physician assistant without the presence of the supervising physician.

(2) Any supervising physician utilizing the services of a physician assistant in an office or clinic separate from the physician's primary office shall submit to the board a specific written request delineating the services to be provided by the physician assistant, the distance between the primary office, the setting in which the physician assistant will practice, and the mechanism by which the physician assistant shall have access, at all times, to direct communication with the supervising physician. The board may approve or disapprove the requests and may approve a request with specified limitations. A physician assistant shall not practice in this setting without first having two (2) continuous years of experience in a nonsatellite setting.

Section 9. [10:] Discipline of Physician Assistants. The board may revoke, suspend, deny, decline to renew, limit or restrict the certificate of a physician assistant, or may reprimand or place a physician assistant on probation for no more than five (5) years under conditions the board deems appropriate, upon proof that the physician assistant has:

(1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other document in connection with an application for certification;

(2) Practiced, or aided or abetted in the practice, of fraud, forgery, deception, collusion or conspiracy in connection with an examination for certification;

(3) Been convicted, by any court within or without the Commonwealth of Kentucky, of an act which is, or would be, a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of a misdemeanor crime involving moral turpitude;

(4) Become addicted to or an abuser of alcohol, drugs or any illegal substance;

(5) Developed a physical or mental disability or other condition which renders a danger in continued practice to patients, the public or other health care personnel;

(6) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of the profession;

(7) Practiced as a physician assistant outside the practice of the designated supervising physician;

(8) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any other healing art, including the unlawful practice of physician assistants;

(9) Willfully violated a confidential communication;

(10) Had a physician assistant credential by another state, territory, or foreign nation revoked, suspended, restricted, limited or subjected to other disciplinary action;

(11) Performed the services of a physician assistant in an unprofessional, incompetent, grossly negligent or chronically negligent manner;

(12) Exceeded the authority delegated by the supervising physician;

(13) Exceeded the scope of practice duly established by the governing authority of any hospital or other licensed health care facility;

(14) Been removed, suspended, expelled or placed on probation by any health care facility or professional society for unprofessional conduct, incompetence, negligence or violation of any provision of this administrative regulation;

(15) Violated any applicable provision of administrative regulations regarding physician assistant practice;

(16) Violated any term of probation or other discipline imposed by the board;

(17) Failed to complete the required number of hours of approved continuing education; or

(18) Performed any act as a physician assistant without having a designated supervising physician.

(19) The committee shall review all grievances relating to physician assistants. The board's investigational powers relating to physicians shall apply equally to physician assistants. Upon review of any grievance, the committee shall make a recommendation to the appropriate inquiry panel. Disciplinary proceedings against physician assistants shall be conducted in the same manner as proceedings against physicians and physician assistants shall have the same right to judicial review enjoyed by physicians. The board may temporarily suspend or restrict a physician assistant's certification during the pendency of a proceeding and may order a physician assistant to undergo physical or mental examination in accordance with the procedures set forth in KRS 311.592 and 311.599, respectively.

Section 10. [11:] Discipline of Supervising Physicians. Failure of a physician to obtain approval as a supervising physician, or failure of a supervising physician to observe applicable responsibilities established by administrative regulations promulgated by the board regarding physician assistants, shall be unprofessional conduct subject to disciplinary action pursuant to the board's rules regarding physician discipline. In addition to other discipline, the board may revoke, suspend, restrict, or place on probation the supervising physician's right to supervise a physician assistant.

~~[Section 12. Physician Assistant Advisory Committee. (1) The board shall establish a physician assistant advisory committee consisting of nine (9) members, four (4) of whom shall be physician assistants from (as practicable) different regions of the Commonwealth; two (2) supervising physicians, one (1) resident of the Commonwealth who is not associated with or financially interested in the health care business, one (1) advanced registered nurse practitioner who shall be selected from a list of three (3) nominees submitted by the Kentucky Board of Nursing and who shall be licensed in good standing in the Commonwealth; and one (1) member of the board. The members of the committee shall hold office for terms of three (3) years and until their successors are appointed and qualified. The terms of all members of the committee shall expire on August 31st of the last year of their respective terms.~~

~~(2) The committee shall hold meetings at least semiannually, and more often as necessary, to review and make recommendations to the board regarding:~~

~~(a) Applications of physician assistants and supervising physicians;~~

~~(b) Statutes and administrative regulations; and~~

~~(c) Any other matter relating to the practice of physician assistants.~~

~~(3) The committee shall review all grievances relating to physician assistants. The board's investigational powers relating to physicians shall apply equally to physician assistants. Upon review of any grievance, the committee shall make a recommendation to the appropriate inquiry panel. Disciplinary proceedings against physician assistants shall be conducted in the same manner as proceedings against physi-~~

~~cians and physician assistants shall have the same right to judicial review enjoyed by physicians. The board may temporarily suspend or restrict a physician assistant's certification during the pendency of a proceeding and may order a physician assistant to undergo physical or mental examination in accordance with the procedures set forth in KRS 311.592 and 311.599, respectively.]~~

Section 11. [43:] Emergency Permits. (1) Upon satisfactory completion of all forms, a physician assistant credentialed in good standing in another state or Canadian province may obtain an emergency permit to practice as a physician assistant in the Commonwealth for a period not to exceed thirty (30) days when in the executive director's opinion, based on verifiable information, the physician assistant satisfies the requirements for regular certification pursuant to 201 KAR 9:175, Section 2, and an actual medical emergency exists. A medical emergency shall be considered to exist if, in the executive director's opinion, a real and substantial threat to public health or the health of an individual exists which cannot be cured except upon the issuance of the emergency permit. The emergency permit may not be renewed or reissued and shall be immediately cancelled if the medical emergency ceases to exist prior to the passage of thirty (30) days from issuance. An emergency permit may be cancelled by the executive director without a prior hearing when in the executive director's opinion, based upon reasonable cause, the continuance of the permit would not be in the best interest of the Commonwealth. An emergency permit does not enable a physician assistant to practice beyond the geographical area, the scope of practice encompassed by the medical emergency, or without the supervision of a supervising physician.

(2) Upon satisfactory completion of all forms, a physician assistant certified in good standing to practice ~~as~~ [and] a physician assistant in the Commonwealth of Kentucky may obtain an emergency permit to practice under an additional supervising physician for a period not to exceed thirty (30) days when in the executive director's opinion, based on verifiable information, the physician assistant satisfies the requirements for regular certification pursuant to 201 KAR 9:175, Section 2, and an actual medical emergency exists. A medical emergency shall be considered to exist if, in the executive director's opinion, a real and substantial threat to public health or the health of an individual exists which cannot be cured except upon the issuance of the emergency permit. The emergency permit may not be renewed or reissued and shall be immediately cancelled if the medical emergency ceases to exist prior to the passage of thirty (30) days from issuance. An emergency permit may be cancelled by the executive director without a prior hearing when in the executive director's opinion, based upon reasonable cause, the continuance of the permit would not be in the best interest of the Commonwealth. An emergency permit does not enable a physician assistant to practice beyond the geographical area, the scope of practice encompassed by the medical emergency, or without the supervision of a supervising physician.

DANNY M. CLARK, President

C. LLOYD VEST, II, General Counsel

APPROVED BY AGENCY: March 15, 1999

FILED WITH LRC: March 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on the proposed amendment, Reg. No. 201 KAR 9:175, to current administrative statutes and regulations will be held on the 28th day of April, 1999, at 11:30 a.m. eastern time, at the offices of the Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Those interested in attending this hearing shall notify C. Lloyd Vest, II, General Counsel, Kentucky Board of Medical Licensure, in writing by April 21, 1999, 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 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 hearing will not be made unless a written request for a transcript is made. If you do not wish to attend this hearing, you may submit written comments on the proposed administrative regulation. Send notification of intent to attend the hearing or written comments to: C. Lloyd Vest, II, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, (502) 429-8046, Fax: (502)

429-9923.

REGULATORY IMPACT ANALYSIS

Contact Person: C. Lloyd Vest, II

(1) Type and number of entities affected: All physician assistants who are certified to practice in the Commonwealth of Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Comments not available due to first public hearing being canceled. Hearing canceled due to public lack of interest.

(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: Comments not available due to first public hearing being canceled. Hearing canceled due to public lack of interest.

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

1. First year following implementation: Not applicable.

2. Second and subsequent years: Not applicable.

(3) Effects on the promulgating administrative body: Not applicable.

(a) Direct and indirect costs or savings:

1. First year: Not applicable.

2. Continuing costs or savings: Not applicable.

3. Additional factors increasing or decreasing costs: None anticipated.

(b) Reporting and paperwork requirements: Minimal increase in paperwork by agency employees.

(4) Assessment of anticipated effect on state and local revenues: No changes anticipated.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Comments not available due to first public hearing being canceled. Hearing canceled due to lack of public interest.

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

(a) Geographical area in which administrative regulation will be implemented: Commonwealth of Kentucky.

(b) Kentucky: Yes

(7) Assessment of alternative methods: reasons why alternatives were rejected: Comments not available due to first public hearing being canceled. Hearing canceled due to lack of public interest.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Comments not available due to first public hearing being canceled. Hearing canceled due to lack of public interest.

(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. None

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

(a) Necessity of proposed regulation if in conflict: Board is not aware of any statute, regulation or government policy which is in conflict or is duplicated by this proposed regulation.

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

(10) Any additional information or comments: The board feels that this regulation will assure the public of continued competency of physician assistants certified in Kentucky.

(11) TIERING: Is tiering applied? No. This regulation shall pertain to all physician assistants certified by the board. There is no reason to impose varying requirements.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No
2. State what unit, part or division of local government this administrative regulation affects. Not applicable.
3. State the aspect of service of local government to which this administration regulation relates: Not applicable.
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. Not applicable.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(Amendment)**

201 KAR 9:310. Continuing medical education.

RELATES TO: KRS 311.565(1)(b), 311.601

STATUTORY AUTHORITY: KRS 311.565(1)(a), (b), 311.601(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the administrative regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this administrative regulation is to establish continuing medical education requirements.

Section 1. Continuing Medical Education. After January 1, 1994, a licensee shall submit, with his annual licensure renewal form, verification of satisfactory completion of a program of continuing medical education.

Section 2. The continuing medical education requirements shall be as follows:

- (1) Thirty (30) of the sixty (60) hours shall have been certified in Category I by an organization accredited by the:
 - (a) Accreditation Council on Continuing Medical Education; or
 - (b) The American Osteopathic Association.
- (2)(a) Submit evidence that the licensee has received the American Medical Association's "physician recognition award", or the American Osteopathic Association's "osteopathic physicians' recognition award"; and
- (b) Award is in effect at the time a license is renewed.
- (3) Submit verification that the:
 - (a) Licensee has completed continuing medical education requirements of any specialty organization which are recognized by the AMA or AOA as at least equivalent to their recognition awards; and
 - (b) Certification is in effect at the time a license is renewed.
- (4)(a) Submit verification that the licensee is in, or has been in, an approved postgraduate training program.
- (b) Each year of postgraduate training shall be equivalent to fifty (50) hours of continuing medical education.

Section 3. Required Hours of Continuing Education. (1) For each three (3) year continuing education cycle, a licensee shall complete:

- (a) A total of sixty (60) hours of continuing medical education, if his license has been renewed for each year of a continuing medical education cycle;
- (b) If his license has not been renewed for each year of a continuing medical education cycle, a licensee shall complete twenty (20) hours of continuing medical education for each year for which his license has been renewed.
- (c) A licensee whose initial licensure was granted the first year of the continuing education cycle for which verification is submitted: completion of sixty (60) hours of continuing medical education before the end of the cycle;
- (d) A licensee whose initial licensure was granted the second year

of the continuing education cycle for which verification is submitted: completion of forty (40) hours of continuing medical education before the end of the cycle;

(e) A licensee whose initial licensure was granted the third year of the continuing education cycle for which verification is submitted: completion of twenty (20) hours of continuing medical education before the end of the cycle.

(2) Upon renewal of licensure following the end of a three (3) year continuing education cycle, a licensee shall certify that he has met the continuing medical education requirements for the cycle as provided by this section.

(3) Verification of completion of continuing medical education requirements shall be submitted upon request by the board.

Section 4. The board may grant an extension of time to a physician who for sufficient cause has not yet received continuing medical education certification.

Section 5. A minimum of two (2) of the continuing medical education hours shall be in HIV/AIDS courses approved by the Cabinet for Human Resources pursuant to 201 KAR 2:160.

Section 6. (1) All licensed physicians who practice primary care (family/general practice, general pediatrics, general internal medicine, emergency medicine, general obstetrics and gynecology, and preventive medicine/public health) must complete a three (3) hour training course which meets the requirements of KRS 194.540(2) relating to domestic violence. Completion of this training course shall be considered part of the continuing medical education requirements for the reporting period in which completion of the course must be reported.

(2) All physicians licensed by the board on July 15, 1996 shall successfully complete this training course no later than June 30, 1999.

(3) All physicians licensed by the board after July 15, 1996 shall successfully complete this training course within three (3) years of the date of initial licensure.

(4) Successful completion of this training course must be reported during the first applicable reporting cycle following the required date of completion. [The board may randomly require physicians submitting certification of continuing medical education to demonstrate satisfactory completion of the continuing medical education requirements stated in his certification.]

Section 7. (1) A licensee shall be fined a minimum of \$200 dollars, if he fails to:

- (a) Timely complete the continuing medical education requirements; and
 - (b) Obtain an extension of time for completion of the continuing medical education requirements.
- (2)(a) A licensee subject to subsection (1) of this section shall be granted a period of six (6) months to come into compliance.
- (b) If a licensee has not completed the continuing medical education requirements within the six (6) month period established by this subsection, his license shall:
1. Be immediately suspended; and
 2. Remain suspended until he has submitted verifiable evidence that he has completed the continuing education requirements.

Section 8. (1) The board may randomly require physicians submitting certification of continuing medical education to demonstrate satisfactory completion of the continuing medical education requirements stated in his certification.

(2) If a licensee fails to respond to a request(s) by the board to submit such certification or fails to provide the requested certification of continuing medical education claimed, that physician's license shall:

- (a) Be immediately suspended; and
- (b) Shall remain suspended until such time the licensee has provided complete certification of the continuing medical education claimed.

Section 9. (1) A licensee shall be fined a minimum of \$200 if the

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licensee has claimed that the licensee has timely completed the continuing medical education requirements, but a review of the certification materials provided to the board reveals that the licensee has not, in fact, completed the necessary continuing medical education requirements in a timely manner.

(2)(a) A licensee subject to subsection (1) of this section shall be granted a period of sixty (60) days to come into compliance.

(b) If a licensee has not completed the continuing medical education requirements within the sixty (60) day period established by this subsection, that physician's license shall:

1. Be immediately suspended; and
2. Remain suspended until the licensee has submitted verifiable evidence that the licensee has completed the continuing education requirements for the applicable reporting period.

Section 10. A waiver of the requirements established by the provisions of this administrative regulation shall not be granted.

Section 11. [9:] Incorporation by Reference. (1) "Continuing Medical Education Certification Form" 12/98 [3/97] is incorporated by reference.

(2) This form may be inspected, copied, or obtained at the Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, 8 a.m. to 4:30 p.m., Monday through Friday.

DANNY M. CLARK, President

C. LLOYD VEST, II, General Counsel

APPROVED BY AGENCY: March 15, 1999

FILED WITH LRC: March 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on the proposed amendment, 201 KAR 9:310, to current administrative statutes and regulations will be held on the 28th day of April, 1999, at 10 a.m. eastern time, at the offices of the Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Those interested in attending this hearing shall notify C. Lloyd Vest, II, General Counsel, Kentucky Board of Medical Licensure, in writing by April 21, 1999, 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 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 hearing will not be made unless a written request for a transcript is made. If you do not wish to attend this hearing, you may submit written comments on the proposed administrative regulation. Send notification of intent to attend the hearing or written comments to: C. Lloyd Vest, II, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, (502) 429-8046, Fax: (502) 429-9923.

REGULATORY IMPACT ANALYSIS

Contact Person: C. Lloyd Vest, II

(1) Type and number of entities affected: All physicians who are licensed to practice in the Commonwealth of Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Comments not available due to first public hearing being canceled. Hearing canceled due to public lack of interest.

(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: Comments not available due to first public hearing being canceled. Hearing canceled due to public lack of interest.

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

1. First year following implementation: No effect.
2. Second and subsequent years: No effect.
- (3) Effects on the promulgating administrative body: Paperwork and staff workload will increase.
- (a) Direct and indirect costs or savings: None

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None anticipated.

(b) Reporting and paperwork requirements: Do not anticipate paperwork and reporting requirements to increase.

(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: Comments not available due to first public hearing being canceled. Hearing canceled due to lack of public interest.

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

(a) Geographical area in which administrative regulation will be implemented: Commonwealth of Kentucky.

(b) Kentucky: Yes

(7) Assessment of alternative methods: reasons why alternatives were rejected: Comments not available due to first public hearing being canceled. Hearing canceled due to lack of public interest.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Comments not available due to first public hearing being canceled. Hearing canceled due to public lack of interest.

(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. None

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

(a) Necessity of proposed regulation if in conflict: KRS 194.540(2)

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

(10) Any additional information or comments: The board feels that this regulation will assure the public of continued competency of physicians licensed in Kentucky.

(11) TIERING: Is tiering applied? No. This regulation shall pertain to all physicians licensed by the Board. There is no reason to impose varying requirements.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation affects. Not applicable.

3. State the aspect of service of local government to which this administration regulation relates: Not applicable.

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. Not applicable.

GENERAL GOVERNMENT CABINET Kentucky Board of Barbering (Amendment)

201 KAR 14:040. Inspection of shops and schools.

RELATES TO: KRS 317.440, 317.450

STATUTORY AUTHORITY: KRS 317.440

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation gives the board and their employees the right to inspect and correct any barber shop and school. It sets up rules and administrative regulations for displaying licenses and pictures of personnel of the barber shop. It also provides for the board to provide the public

with a number to contact for a complaint.

Section 1. Any board member or any of its authorized agents shall be privileged to enter and inspect any barber shop or manicuring establishment located therein, or any barber college, at any reasonable hour for the purpose of determining whether the operators are complying with the laws and administrative regulations of the board.

Section 2. The license and picture of all barbers engaged in the practice of barbering, along with the barber shop license and inspection sheets, shall be displayed conspicuously so the public could easily examine the credentials and inspections of the establishment.

Section 3. Every barber shop shall display the most recent inspection sheet [a-card] furnished by the board that has the telephone number and address of the barber board so the consumer would know who to contact in case of a complaint.

C. IVAN PAYNE, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: March 1, 1999

FILED WITH LRC: March 10, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 26, 1999, at 10 a.m., at the State Board's office, 9114 Leesgate Road, Suite 6, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 19, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Bill Maggard, Jr., Administrator, Kentucky Board of Barbering, 9114 Leesgate Road, Suite 6, Louisville, Kentucky 40222-5055, Phone: (502) 429-8841, Fax: (502) 429-5223.

REGULATORY IMPACT ANALYSIS

Contact person: Bill Maggard, Jr.

(1) Type and number of entities affected: Approximately 3,210 barbers in Kentucky.

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

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

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

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect cost or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect cost or savings for the first year.

2. Continuing costs or savings: No continuing cost or savings.

(b) Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(c) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) 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 economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

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

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

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: Regulation is not in conflict.

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

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because there was no need for it in this regulation.

GENERAL GOVERNMENT CABINET Kentucky Board of Barbering (Amendment)

201 KAR 14:055. Permanent license after apprenticeship.

RELATES TO: KRS 317.450

STATUTORY AUTHORITY: KRS 317.440

NECESSITY, FUNCTION, AND CONFORMITY: Time for obtaining license following apprenticeship.

Section 1. A licensed apprentice, applying for a license to practice barbering under KRS 317.450(1)(c), shall apply for and obtain said license within twelve (12) months of completion of his nine (9) [eighteen-(18)] months of apprenticeship. Any extension of this period of time may be granted at the discretion of the board.

C. IVAN PAYNE, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: March 1, 1999

FILED WITH LRC: March 10, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 26, 1999, at 10 a.m., at the State Board's office, 9114 Leesgate Road, Suite 6, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 19, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Bill Maggard, Jr., Administrator, Kentucky Board of

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Barbering, 9114 Leesgate Road, Suite 6, Louisville, Kentucky 40222-5055, Phone: (502) 429-8841, Fax: (502) 429-5223.

REGULATORY IMPACT ANALYSIS

Contact person: Bill Maggard, Jr.

(1) Type and number of entities affected: Approximately 3,210 barbers in Kentucky.

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

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

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

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect cost or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect cost or savings for the first year.

2. Continuing costs or savings: No continuing cost or savings.

(b) Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(c) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) 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 economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate. 1998 Ky. Acts ch. 193, sec. 1 requires that the Kentucky Board of Barbering require a nine month apprenticeship instead of an eighteen month apprenticeship.

(8) Assessment of expected benefits:

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

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

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: Regulation is not in conflict.

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

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because there was no need for it in this regulation.

GENERAL GOVERNMENT CABINET Kentucky Board of Barbering (Amendment)

201 KAR 14:090. School curriculum.

RELATES TO: KRS 317.410, 317.440

STATUTORY AUTHORITY: KRS 317.440

NECESSITY, FUNCTION, AND CONFORMITY: Sets up curriculum for barber schools and establishes the number of hours in each subject.

Section 1. Students shall be given instructions concerning the matters outlined in Section 2 and 18 of this administrative regulation.

Section 2. Instruments - Thirty (30) Hours. (1) Razors.

(2) Shears.

(3) Clippers.

(4) Hones and strops.

(5) Combs, brushes, hair dryers and curling irons.

Section 3. Shaving Instructions - 100 Hours. (1) Purpose of lather.

(2) How to apply lather properly to the face.

(3) How to sterilize razor before shaving.

(4) How to stretch the skin while shaving.

(5) Proper method for wiping the razor.

(6) How to shave a patron once over.

(7) How to shave a patron second time over.

(8) Method of removing soap and cleaning face with hot towels after shaving.

(9) How to apply various after shave creams and lotions.

(10) How to trim a mustache.

(11) In addition to the above itemized lessons on shaving, demonstrations and lectures should be given to show the various positions in which the razor should be held in shaving all parts of the face while standing only on one side of the barber chair. Each stroke should be thoroughly explained and great care should be taken by the instructor to see that the student holds and handles the razor so that he will have professional technique when performing the various shaving strokes. Special instructions should be given pertaining to personal hygiene, the necessity of using clean linens and the sterilizing of all instruments used on the patron. He should be advised to give attention to the comfort of his customers at all times while in the chair. Lessons should be given as to different textures of beards and the direction of the grain.

Section 4. Haircutting for Men, Women and Children - 935 Hours. (1) How to apply hair cloth, towel and neck strip.

(2) How and why to comb hair before cutting.

(3) Method of tapering hair.

(4) Method of thinning hair.

(5) Method of finger work.

(6) Method of cutting hair on top of head.

(7) Method of cutting hair with a razor.

(8) How to use a neck duster or tissue.

(9) Method of shaving sides and neck after removing hair cloth.

(10) Method of combing, drying and dressing the hair.

(11) In addition to the above lessons the student should have a full explanation of various methods of haircutting and hair styling.

Section 5. Shampooing. Forty (40) hours. (1) Purpose and how to give a proper shampoo.

(2) How to prepare customer for shampoo.

(3) Different materials to be used.

(4) Difference in various kinds of shampoo.

Section 6. Permanent Waving - Forty (40) Hours. (1) Explain chemical and physical actions in permanent waving.

(2) Necessity of scalp and hair analysis.

(3) Basic requirements, blocking sections, curling rods and

processing time.

- (4) Safety and protection for patrons.

Section 7. Hair Coloring - Forty (40) Hours. (1) Safety measures.

- (2) Chemicals involved.
- (3) How to apply.

Section 8. Hair Straightening and Relaxing - forty (40) hours. (1) Patron protection.

- (2) Hair and scalp analysis.
- (3) Methods of application.

Section 9. Massaging - Thirty-five (35) Hours. (1) Theory and different types of massaging.

- (2) Application, demonstration of various creams and lotions in facial.
- (3) Effect light therapy on tissues.
- (4) Results produced by massage on the skin, muscles, cells, glands and circulation.
- (5) When, and when not, to recommend massage.
- (6) All modern, electrical equipment used in barber shops with demonstrations.

Section 10. Scalp and Skin Diseases - Twenty (20) Hours. (1) Various kinds of scalp treatment.

- (2) When to suggest that patron consult a physician.
- (3) The danger of giving a scalp treatment to a scalp afflicted with an unknown disease.
- (4) Explain causes of dandruff and treatment of same.
- (5) Give causes of dry and oily scalps and treatment.
- (6) Explain various forms of alopecia and treatment.
- (7) Explain causes of seborrhea, acne, psoriasis, impetigo and eczema in their various forms.
- (8) Explain advisability of cooperating with physician in treating scalp in barber shop.

Section 11. Physiology and Anatomy of the Head, Face and Neck - 100 Hours. (1) Give descriptions of skin, hair, glands, and their various functions.

- (2) Shedding and regrowth of hair.
- (3) Sweat glands and their functions.
- (4) Hair follicle, hair bulb and papilla.
- (5) Sympathetic and cerebrospinal nervous system.
- (6) Blood supply to the face and scalp.
- (7) Preservation and beautification of the hair and skin.
- (8) Microscopic studies of the hair.
- (9) Benefits derived from relaxation from fatigue while in barber chair.

Section 12. Sterilization and Sanitation - Forty (40) Hours. (1) Definition of sterilization, disinfectants, antiseptics and their uses.

- (2) Chemicals to be used in sterilization.
- (3) Methods of sterilization.
- (4) Difference between contagion and infection.
- (5) Taking precautions to prevent infection.
- (6) Importance of sterilization of all instruments used in the barber shop.

Section 13. Hygiene - Ten (10) Hours. (1) Theory and importance of personal hygiene.

- (2) Hygiene as it applies to the practice of barbering.

Section 14. Bacteriology - Twenty (20) Hours. (1) Discovery of existence of bacteria.

- (2) Production, growth and destruction of bacteria.
- (3) Necessity of elementary knowledge of bacteria.
- (4) Possibility of barber shop infection.
- (5) Various agents that may carry bacteria in barber shop service.
- (6) Difference in bacteria that are [is] helpful and needed and that which is harmful.
- (7) Advise absolute cleanliness and sanitation in all practices of barbering because of harmful bacteria.

Section 15. Electricity - Ten (10) Hours. Explain various electrical equipment and appliances that can be used in barber science treatments.

Section 16. Pharmacology - Twenty (20) Hours. Explain the value of medicinal and nonmedicinal ingredients found in barber shop preparations, hair dyes, face lotions, shampoos, permanent, tints, bleaches and specially prepared face and scalp remedies designated for local action only.

Section 17. Psychology - Ten (10) Hours. Explain:

- (1) Necessity of organization.
- (2) High ideals in the barber business.
- (3) Emphasize development of personality and skill to inspire confidence in the public.

Section 18. History, Professional Ethics [Ethnics] and Other Information. Ten (10) hours. (1) History of the barber profession.

- (2) Importance of barbering and its relation to civilization.
- (3) Give lectures on business management, bookkeeping, shop management, and advertising.

Section 19. (1) All students shall receive not less than 1,500 hours in practice work and scientific lectures.

- (2) All students must be given a complete course in barbering as provided for in curriculum.

(3) All students shall receive not less than two (2) hours of lectures and demonstrations each day with the exception of Saturday.

- (4) One (1) hour per week should be devoted to the teaching and explanation of the Kentucky Barber Law.

Section 20. (1) An efficient microscope must be part of the school's equipment. With it the structure of the hair and scalp may be brought out and studied. Such an instrument contributes greatly to the interest and educational features of the curriculum.

- (2) There shall be a reference library including a medical dictionary, books on anatomy and physiology and other books dealing with the functions of the human body which are applicable to the proper practice of the barber profession.

C. IVAN PAYNE, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: March 1, 1999

FILED WITH LRC: March 10, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 26, 1999, at 10 a.m., at the State Board's office, 9114 Leesgate Road, Suite 6, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 19, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Bill Maggard, Jr., Administrator, Kentucky Board of Barbering, 9114 Leesgate Road, Suite 6, Louisville, Kentucky 40222-5055, Phone: (502) 429-8841, Fax: (502) 429-5223.

REGULATORY IMPACT ANALYSIS

Contact person: Bill Maggard, Jr.

- (1) Type and number of entities affected: Approximately 3,210 barbers in Kentucky.

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

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

- (b) Cost of doing business in the geographical area in which the

administrative regulation will be implemented, to the extent available from the public comments received: No direct or indirect costs or savings on the cost of doing business.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect cost or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect cost or savings for the first year.

2. Continuing costs or savings: No continuing cost or savings.

(b) Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(c) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) 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 economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

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

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

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: Regulation is not in conflict.

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

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because there was no need for it in this regulation.

**GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(Amendment)**

201 KAR 22:135. Fees.

RELATES TO: KRS 327.040(12), 327.050

STATUTORY AUTHORITY: KRS 327.040

NECESSITY, FUNCTION, AND CONFORMITY: The purpose of this administrative regulation is to establish fees required to apply for physical therapist (PT) licensure or physical therapist's assistant (PTA) certification, for examination, reinstatement, renewal or reexamination.

Section 1. Payment of Fees. (1) A renewal application may be paid by personal check.

(2) Other application fees shall be:

(a) Paid by:

1. Cashier's check; or

2. Certified check; or

3. Money order; and

(b) Made payable to the Kentucky State Board of Physical Therapy (Treasurer); and

(3) Application fees shall not be refundable.

Section 2. Fees. The fee for:

(1) Physical therapist licensure and for physical therapist's assistant certification application shall be \$170 [440];

(2) Reinstatement application shall be \$125;

(3) Renewal application shall be \$100;

(4) Physical therapist examination shall be \$245; and

(5) Physical therapist's assistant examination shall be \$230;

(6) Physical therapist reexamination shall be \$255; and

(7) Physical therapist's assistant reexamination shall be \$240.

JOAN S. DALTON, Chairman

MARK BRENGELMAN, Assistant Attorney General

APPROVED BY AGENCY: February 18, 1999

FILED WITH LRC: March 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulations shall be held on April 23, 1999 at 9 a.m. at 9110 Leesgate Road, Suite , Louisville, Kentucky 40222-5159. Individuals interested in being heard at this hearing shall notify this agency in writing by April 16, 1999, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nancy Brinly, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222-5159. (502) 327-8497. Fax: (502) 423-0934.

REGULATORY IMPACT ANALYSIS

Contact Person: Nancy Brinly

(1) Type and number of entities affected: Approximately 450 applicants per year.

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

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

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. None 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: Will be required to complete criminal background search authorization paper for certain jurisdictions at time of application.

2. Second and subsequent years: Ongoing for each new applicant.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Anticipate approximately \$13,500 additional revenue to offset the cost of the criminal background search.

2. Continuing costs or savings: Revenue and costs will continue.

3. Additional factors increasing or decreasing costs: none anticipated.

(b) Reporting and paperwork requirements: One step is added to application process.

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

Not applicable

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: \$30/application fee.

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

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None recognized.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented on Kentucky: No environmental effects. Re: "public health"; our citizens & health care facilities will have reasonable assurance that new physical therapists and physical therapist's assistants do not have convictions which could indicate they should not be practicing on the public.

(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: Not applicable.

(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: These amendments are required to provide funding to pay for the cost of securing criminal background checks on each applicant.

(11) TIERING: Is tiering applied? No. All physical therapists and physical therapist's assistants are treated uniformly by the Board of Physical Therapy.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET**
Department for Environmental Protection
Division of Waste Management
(Amendment)

401 KAR 47:110. Registered permit-by-rule.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.70, 224.99

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-100, 224.40-120, 224.40-305

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 requires the cabinet to adopt [rules and] administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in [Section 1 of] 401 KAR 47:080. This administrative regulation establishes requirements for registered permits-by-rule.

Section 1. Issuance of Registered Permit-by-rule. (1) Before beginning operation, the [Any] owner or operator of a solid waste site or facility specified in 401 KAR 47:080, Section 2(6) [of 401 KAR 47:080 in existence as of the effective date of this administrative regulation] shall notify the cabinet by submitting a registration [before October 1, 1990 on a form prescribed by the cabinet]. The registration shall become effective five (5) business days after the cabinet receives it unless the cabinet denies the registration within that time. The owner or operator of [Then the facility shall be deemed to have] a registered permit-by-rule facility shall comply [if the owner or operator complies] with the environmental performance standards in 401 KAR 30:031 in order for the registered permit-by-rule to remain effective [47:030].

(2) If [When] the cabinet determines that a [upon examination or reexamination of the] registration [that it] fails to include all of the [re-

quired] information required by Section 4 of this administrative regulation, the cabinet shall notify the operator that the registration is deficient, [and that] The operator shall submit the requested information within ten (10) business days of the receipt of the notice. [The owner or operator shall be subject to enforcement procedures for not submitting the requested information in a timely fashion. Failure to complete the form in a timely fashion is not grounds to revoke a registered permit-by-rule.]

(3) A registered permit-by-rule is not available [Subsection (1) of this section shall not apply] to a [any] facility which has been previously denied a permit or to a [any] facility whose authority to operate under 401 KAR Chapters 47 through 48 and KRS Chapter 224 has been previously terminated.

Section 2. Operation Under [During] a Registered Permit-by-rule.

(1) The owner or operator of a facility operating under a registered permit-by-rule, except as provided in Section 3 of this administrative regulation, shall not:

(a) Store, treat or dispose of solid waste not specified in the registration [form]; or

(b) Exceed the design capacities specified in the registration [form].

(2) The owner or operator of a facility operating under a registered permit-by-rule shall comply with the environmental performance standards in 401 KAR 30:031 [47:030].

(3) The owner or operator shall keep records of the amount, sources and types of [municipal] solid waste received and other information as required by the cabinet. The owner or operator of a less-than-one (1) acre construction/demolition debris landfill or solid waste incinerator [and] shall submit a [quarterly] summary of this information to the cabinet annually and upon closure. The summary must be submitted no later than January 31 for the preceding calendar year. [The quarterly report shall be on a form approved by the cabinet.]

(4) The owner or operator of a [Convenience centers, transfer stations, solid waste incinerators, and commercial recyclers shall additionally submit a report to the cabinet annually, no later than January 31st for the previous year. The report shall identify the sources and quantities of waste handled. Additionally,] solid waste incinerator [incinerators] shall conduct the Toxicity Characteristic Leaching Procedure test described in 401 KAR 31:030, Section 5, before the initial disposal of any ash and whenever the characteristics of the waste accepted by the incinerator significantly change. The owner or operator of a solid waste incinerator shall report the volume of ash generated to the cabinet annually and upon closure. The report shall be submitted no later than January 31 for the preceding calendar year. [report volume of ash and the results of weekly extraction procedure tests on the ash.]

Section 3. Changes to a Registered Permit-by-rule. (1) Solid wastes not previously identified in the registration may be stored, treated, or disposed at a facility operating under a registered permit-by-rule if the owner or operator submits a revised registration to the cabinet prior to that [such a] change.

(2) The owner or operator of a facility operating under a registered permit-by-rule shall submit a revised registration to the cabinet prior to increasing [increases in] the design capacity of processes used at a facility.

(3) The owner or operator of a facility operating under a registered permit-by-rule shall submit a revised registration to the cabinet at least five (5) business days prior to changing [changes in] the processes for the storage, treatment or disposal of solid waste, using [or use of] additional processes, or changing the owner or operator. The revised registration shall become effective five (5) business days after the cabinet receives it, unless the cabinet denies the registration within that time.

(4) The owner or operator shall submit a revised registration prior to changes in owners or operators.

(5) Changes listed in subsections (1) through (4) of this section may be implemented prior to cabinet acknowledgment of receipt of the revised registration.]

Section 4. The cabinet may revoke a registered permit-by-rule for the following causes:

- (1) Noncompliance by the owner or operator with a condition of the registration;
- (2) The owners, operator's, or key personnel's failure during the registration process to disclose all information required by the cabinet;
- (3) The owner's, operator's, or key personnel's misrepresentation of any information required by the cabinet at any time;
- (4) The cabinet's determination that the endangers human health, safety, or the environment;
- (5) The facility's violation of any requirement of KRS Chapter 224 or the administrative regulations promulgated pursuant thereto; or
- (6) A change to the registered-permit-by-rule that was made without complying with Section 3 of this administrative regulation.

Section 5. Contents of the Registration [Form] for a Registered Permit-by-rule. The registration [contents of a form prescribed by the cabinet] for a registered permit-by-rule shall contain:

- (1) A description of the management, processing, or disposal activities;
- (2) The name and mailing address of the facility;
- (3) The location of the waste site or facility; [and]
- (4) The type of waste managed at the facility, with an estimate of the quantity, measured in tons, and sources of the [such] wastes to be managed annually;
- (5) [; and] A general description of the methods of management for each waste;
- (6) The disclosure statement required by KRS 224.40-330(2); and
- (7) for a less-than-one (1) acre construction/demolition debris landfill, the bond required by KRS 224.40-120.

JAMES E. BICKFORD, Secretary
 BARBARA A. FOSTER, General Counsel
 APPROVED BY AGENCY: March 12, 1999
 FILED WITH LRC: March 12, 1999 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for April 27, 1999, at 10 a.m. EST at the Capital Plaza Tower, Ground Floor Auditorium, Mero Street, Frankfort, Kentucky 40601. Individuals who intend to be heard at this hearing shall notify this agency, in writing, by April 20, 1999, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend 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 administrative regulation. A transcript of the hearing will not be made unless a written request for a transcript is made. If you request a transcript, you may be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing, or by 4:30 p.m. on April 27, 1999, if the hearing is not held. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Mark Ritter, Supervisor, Program Planning and Administration, Division of Waste Management, 14 Reilly Road, Frankfort Kentucky 40601, Telephone: (502) 564-6716 fax: (502) 564-4049.

REGULATORY IMPACT ANALYSIS

Contact person: Mark Ritter

(1) Type and number of entities affected: The administrative regulation affects persons with a registered permit-by-rule for the following types of facilities: commercial recycling centers, transfer stations, solid waste incinerators, construction demolition debris landfills of less-than-one-acre, solid waste landfarming facilities, recycling convenience centers, sludge give-away programs, and septic tank pumpings, and convenience centers. The total number of such entities existing in Kentucky, as of March 11, 1999, is 495.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Based on the comments received the cost of living and employment will not be affected by the proposed 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: Based on the comments received the cost of doing business will not change appreciably in the geographical area.

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

1. First year following implementation: There will now be a five-day waiting period prior to beginning operation for all registered permit-by-rule facilities. Reporting requirements for registered permit-by-rule facilities will be reduced from submitting a quarterly report to submitting an annual report. The owner of a solid waste incinerator shall conduct a Toxicity Characteristic Leaching Procedure test before initial disposal of any ash and whenever the characteristics of the waste significantly change instead of conducting a weekly extraction procedure test on the ash. Competition is not expected to be adversely affected.

2. Second and subsequent years: The requirements will remain the same for the second year and subsequent years.

(3) Effects on the promulgating administrative body: Less time will be spent by staff recording the reports submitted by the registered permit-by-rule facilities since the reports will be submitted once per year instead of four (4) times per year.

(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: Reporting shall be required annually instead of quarterly.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Existing agency funds will be used. No increase will be necessary.

(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: Based on the comments received, none.

(b) Kentucky: Based on the comments received, none.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods are not available.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The five (5) business day period after the submittal of a registered permit-by-rule application before operations may begin at the facility allows the cabinet to review the registration before operation begins, and to deny a registration if justified. A registered permit-by-rule is not available to a facility that has been previously denied a permit or a facility whose authority to operate has been previously revoked.

(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on the environment and public health may result if the cabinet approves a defective registered permit-by-rule.

(c) If detrimental effect would result, explain detrimental effect: The detrimental effects are varied. Serious effects could be contamination of groundwater, air pollution, and litter.

(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: No conflict exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict exist

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is applied. Only less-

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than-one acre construction/demolition debris landfills and solid waste incinerators must submit annual reports to the cabinet. The cabinet believes the records of those two types of facilities should be reviewed annually, while the records of other registered permit-by-rule facilities may be kept on site for the cabinet's inspectors to review when conducting an inspection.

JUSTICE CABINET Kentucky Department of Corrections (Amendment)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, 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 Department of Corrections.

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

(a) "Department of Corrections Policies and Procedures, Volume I, March 15, 1999 [December 15, 1998]":

- 1.1 Legal Assistance for Corrections Staff
- 1.2 News Media
- 01-04-01 The operation of Contracted Adult Correctional Facilities
- 1.6 Extraordinary Occurrence Reports
- 1.9 Institutional Duty Officer
- 1.11 Population Counts and Reporting Procedures
- 1.12 Operation of Motor Vehicles by Department of Corrections Employees
- 2.1 Inmate Canteen
- 2.2 Warden's Fund
- 2.10 Surplus Property
- 3.1 Code of Ethics
- 3.3 Holding of Second Jobs by Corrections' Employees
- 3.5 Sexual Harassment
- 3.6 Criminal History Checks on All Personnel and the Employment of Exoffenders
- 3.7 Shifts, Posts and Days Off Assignment (Added 3/15/99)
- 3.12 Institutional Staff Housing
- 3.20 Communication and Recording Devices [(Added 12/15/98)]
- 4.2 Staff Training and Development
- 4.3 Firearms and Chemical Agents Training
- 4.7 Uniformed Employee Dress Code
- 6.1 Open Records Law
- 6.5 E-mail
- 7.2 Asbestos Abatement
- 8.1 Occupational Exposure to Bloodborne Pathogens
- 8.2 Fire Safety
- 9.4 Transportation of Inmates to Funerals or Bedside Visits
- 9.5 Execution
- 9.6 Contraband
- 9.8 Search Policy
- 9.18 Informants
- 9.19 Found Lost or Abandoned Property
- 10.2 Special Management Inmates
- 10.3 Safekeepers
- 10.4 Special Needs Inmates
- 11.2 Nutritional Adequacy of the Diet for Inmates
- 11.3 Special Diet Procedures
- 11.4 Alternative Diet
- 13.1 Pharmacy Policy and Formulary

- 13.2 Health Maintenance Services
- 13.3 Medical Alert System
- 13.4 Health Program Audits
- [13.5 ~~Acquired Immune Deficiency Syndrome (Deleted 3/15/99)~~
- 13.6 Sex Offender Treatment Program
- 13.7 Involuntary Psychotropic Medication Policy
- 13.8 Substance Abuse Treatment Program
- 13.9 Dental Services
- 13.10 Serious Infectious Disease (Added 3/15/99)
- 13.11 Employee Tuberculosis Program (Added 3/15/99)
- 14.1 Investigation of Missing Inmate Property
- 14.2 Personal Hygiene Items
- 14.3 Marriage of Inmates
- 14.4 Legal Services Program
- 14.6 Inmate Grievance Procedures
- 15.1 Hair and Grooming Standards
- 15.2 Offenses and Penalties
- 15.3 Meritorious Good Time
- 15-05-01 Restoration of Forfeited Good Time
- 15.6 Adjustment Procedures and Programs
- 15.7 Inmate Account Restriction
- 15.8 Unauthorized Substance Abuse Testing
- 16.1 Inmate Visits
- 16.2 Inmate Correspondence
- 16.3 Telephone Calls
- 16.4 Inmate Packages
- 17.1 Inmate Personal Property
- 17.2 Assessment Center Operations
- 17.3 Controlled Intake of Inmates

(b) "Department of Corrections Policies and Procedures, Volume II, July 13, 1998":

- 18.1 Classification of the Inmate
- 18.5 Custody and Security Guidelines
- 18.7 Transfers
- 18.9 Out-of-state Transfers
- 18-10-01 Parole Progress Reports
- 18.11 Kentucky Correctional Psychiatric Center Transfer Procedures
- 18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill
- 18.13 Population Categories
- 18.15 Protective Custody
- 18.17 Interstate Agreement on Transfers
- 18.18 International Transfer of Inmates
- 19.1 Government Services Projects
- 19.2 Community Services Projects
- 19.3 Inmate Wage Program
- 20.1 Educational Programs and Educational Good Time
- 21.1 Staffing Pattern for the First Incarceration Shock Treatment Program (FIST)
- 21.2 Phase I: Program Selection Assessment Criteria
- 21.3 Program Schedule - Phase II and Phase III
- 21.4 Platoon Size and Composition
- 21.5 Physical Conditions Program Component
- 21.6 Group and Individual Counseling
- 21.7 Drug and Alcohol Abuse Counseling and Treatment
- 21.8 Work Programs Component
- 21.9 Education and Life Management
- 21.10 Auxiliary Services
- 21.11 Offenses and Penalties
- 22.1 Privilege Trips
- 23.1 Religious Programs
- 25.1 Gratuities
- 25.2 Public Official Notification of Release of an Inmate
- 25.3 Pre-release Program
- 25.4 Inmate Furloughs
- 25.6 Community Center Program
- 25.7 Expedient Release
- 25.8 Extended Furloughs
- 25.10 Administrative Release of Inmates

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25.11 Victim Notification

(c) "Department of Corrections Policies and Procedures, Volume III, July 13, 1998":

- 27-01-01 Probation and Parole Procedures
- 27-02-01 Duties of Probation and Parole Officers
- 27-03-01 Workload Formula Supervisor/Staff Ratio
- 27-05-01 Testimony, Court Demeanor and Availability of Legal Services
- 27-06-01 Availability of Supervision Services
- 27-06-02 Equal Access to Services
- 27-07-01 Cooperation with Law Enforcement Agencies
- 27-08-01 Use of Force
- 27-09-01 Kentucky Community Resources Directory
- 27-10-01 Pretrial Diversion
- 27-11-01 Intensive Supervision
- 27-11-02 Prerelease Probation (Amended 3/15/99)
- 27-12-01 Supervision: Case Classification
- 27-12-02 Risk Assessment
- 27-12-03 Initial Interview
- 27-12-04 Conditions of Regular Supervision/Request for Modification
- 27-12-05 Releasee's Report
- 27-12-06 Grievance Procedures for Offenders
- 27-12-07 Employment, Education/Vocational Referral
- 27-12-08 Supervision Plan
- 27-12-09 Casebook
- 27-12-10 Guidelines for Monitoring Supervision Fee
- 27-12-11 Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority
- 27-12-12 Other Financial Obligations (Not Ordered by Releasing Authority)
- 27-12-13 Community Service Work
- 27-12-14 Client Travel Restrictions
- 27-13-01 Drug and Alcohol Testing of Offenders
- 27-13-02 Alcohol Detection
- 27-14-01 Interstate Compact Transfers
- 27-14-02 Interstate Compact Out-of-state Probation and Parole Violation
- 27-15-01 Supervision Report; Violations, Unusual Incidents
- 27-15-02 Community Confinement Program Subject: Electronic Monitoring
- 27-16-01 Search; Seizure; Chain of Custody; Disposal of Evidence
- 27-17-01 Absconder Procedures
- 27-18-01 Probation and Parole Issuance of Detainer/Warrant
- 27-19-01 Preliminary Revocation Hearing
- 27-20-01 Division of Probation and Parole Controlled Intake Program
- 27-20-02 Prisoner Intake Notification
- 27-20-03 Prisoner Status Change
- 27-21-01 Apprehension and Transportation of Probation and Parole Violators
- 27-22-01 Fugitive Unit - Apprehensions
- 27-22-02 Fugitive Unit - Transportation of Fugitives
- 27-23-01 In-state Transfer
- 27-24-01 Closing Supervision Report
- 27-24-02 Reinstatement of Clients to Active Supervision
- [27-25-01 ~~Application for Final Discharge from Parole (Deleted 3/15/99)~~
- 27-26-01 Assistance to Former Clients and Dischargees
- 27-27-01 Restoration of Civil Rights
- 27-28-01 Firearms/Explosives: Application for Relief from Disability
- 27-29-01 Parole Review Dates Modification
- 27-30-01 Sex Offender Registration
- 28-01-01 Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments)
- 28-01-02 Probation and Parole Investigation Reports (Administrative Responsibilities)
- 28-01-03 Presentence, Postsentence, Supplemental and Partial Investigations
- 28-01-08 Probation Parole Investigation Reports (Partial Investiga-

- tion Reports and Submission Schedule)
- 28-01-09 Release of Information of Factual Content on Presence/Postsentence Investigation Reports
- 28-02-01 Expedient Release Program
- 28-03-01 Parole Plans/Halfway Houses/Extended Furlough/Sponsorship/Gradual Release
- 28-04-01 Furlough Verifications
- 28-05-01 Out-of-state Investigations

(2) This material may be inspected, copied, or obtained at the Office of General Counsel, Department of Corrections, State Office Building, Frankfort, Kentucky 40601, (502) 564-2024, facsimile (502) 564-6494, Monday through Friday, 8 a.m. to 4:30 p.m.

DOUG SAPP, Commissioner

TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: March 8, 1999

FILED WITH LRC: March 15, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1999, at 9 a.m., in the 5th Floor Conference Room of the State Office Building. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, Telephone (502) 564-2024, Facsimile (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs

(1) Type and number of entities affected: 2,948 employees of the correctional institutions, 11,134 inmates, 14,211 parolees and probationers, 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 1998-2000 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:

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(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.

JUSTICE CABINET Department of Corrections Division of Adult Institutions (Amendment)

501 KAR 6:090. Frankfort Career Development Center.

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.

Section 1. Incorporation by Reference. (1)(a) Frankfort Career Development Center policies and procedures, March 15, 1999 [November 12, 1997], are incorporated by reference.

(b) It may be inspected, copied, or obtained at the Office of the General Counsel, Department of Corrections, State Office Building, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [There will be no public hearing on these policies and procedures as they are secured policies under the provisions of KRS 197.025 which states that such policies shall not be accessible to the public or inmates.]

(2) Frankfort Career Development Center policies and procedures include:

FCDC 01-04-01 Roles of Consultants, Contract Personnel, Volunteers, Employees, and Employees of Other Agencies
FCDC 01-09-01 Organization and Assignment of Responsibilities (Amended 3/15/99)
FCDC 02-02-01 Inventory Control
FCDC 02-09-01 Inmate Account
FCDC 02-10-01 Fiscal Management and Control (Amended 3/15/99)
FCDC 02-11-01 Fiscal Management: Accounting Procedures
FCDC 02-12-01 Fiscal Management: Checking Accounts
FCDC 02-13-01 Purchasing and Receiving
FCDC 06-02-01 Offender Records (Amended 3/15/99)
FCDC 08-01-01 Fire Safety Practices
FCDC 09-06-08 Searches and Contraband Procedures: Disposition of Contraband
FCDC 11-03-01 Food Service; General Guidelines
FCDC 11-04-02 Menu, Nutrition and Special Diets
FCDC 11-06-01 Inspection and Sanitation
FCDC 11-07-01 Purchasing and Storage of Food Products
FCDC 12-03-01 Laundry, Clothing, Hygiene and Grooming Services

FCDC 12-04-01 Safety and Sanitation Practices and Inspections
FCDC 13-01-01 Use of Pharmaceutical Products
FCDC 13-01-02 Medical Emergencies and Medical Psychiatric Transfers (Amended 3/15/99)
FCDC 13-01-03 Informed Consent (Amended 3/15/99)
FCDC 13-02-01 Inmate Medical Screenings and Health Evaluations (Amended 3/15/99)
FCDC 13-03-01 Psychiatric and Psychological Services (Amended 3/15/99)
FCDC 13-03-02 Parental Administration of Medications and Use of Psychotropic Drugs
FCDC 13-05-01 Family Notification: Serious Illness, Injury, Major Surgery or Death
FCDC 13-06-01 Chronic and Convalescent Care (Amended 3/15/99)
FCDC 13-08-01 Sick Call and Physician's Weekly Clinic (Amended 3/15/99)
FCDC 13-09-01 Management of Serious [Clinic] and Infectious Diseases (Amended 3/15/99)
FCDC 13-10-01 Treatment Protocol Regarding First-Aid Procedures, Routine Health Care
FCDC 13-11-01 Health Education: Provision of Special Health Care Needs (Amended 3/15/99)
FCDC 13-13-01 Physicians Referrals (Amended 3/15/99)
FCDC 13-14-01 Health Records (Amended 3/15/99)
FCDC 13-15-01 Routine and Emergency Dental Appointments (Amended 3/15/99)
FCDC 13-16-01 Routine and Emergency Eye Examinations (Amended 3/15/99)
FCDC 14-01-01 Prohibiting Inmate Authority Over Other Inmates
FCDC 14-02-01 Inmate Grievance System
FCDC 14-03-01 Inmate Rights and Responsibilities
FCDC 14-04-01 Legal Services Program
FCDC 15-01-01 Good Time Credits (Amended 3/15/99)
FCDC 15-01-02 Restoration of Forfeited Good Time (Amended 3/15/99)
FCDC 15-03-01 Due Process and Disciplinary Procedure
FCDC 15-04-01 Detention Orders and Protective Custody Requests
FCDC 16-01-01 Visiting
FCDC 16-02-01 Inmate Correspondence (Amended 3/15/99)
FCDC 16-03-01 Inmate Access to Telephones
FCDC 16-04-01 Inmate Packages (Amended 3/15/99)
FCDC 17-01-01 Inmate Property Control
FCDC 17-01-02 Authorized Inmate Personal Property
FCDC 17-02-01 Assessment and Orientation
FCDC 18-01-01 Inmate Classification and Review
FCDC 19-01-01 Security and Operation of the Governmental Services Program (Amended 3/15/99)
FCDC 19-02-01 Inmate Work Programs
FCDC 20-01-01 Academic and Vocational Education
FCDC 22-01-01 Privilege Trips
FCDC 22-01-03 Shopping Trips
FCDC 22-02-01 Recreation and Inmate Activities
FCDC 23-01-01 Religious Services
FCDC 24-01-01 Social Services Program
FCDC 24-02-01 Substance Abuse Programs
FCDC 25-01-01 Escorted Leaves
FCDC 25-03-01 Release Preparation Program

DOUG SAPP, Commissioner

TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: March 8, 1999

FILED WITH LRC: March 15, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1999, at 9 a.m., in the 5th Floor Conference Room of the State Office Building. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public

hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, Telephone (502) 564-2024, Facsimile (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs

(1) Type and number of entities affected: 45 employees of the correctional institutions, 205 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 1998-2000 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

JUSTICE CABINET Department of Corrections Division of Adult Institutions (Amendment)

501 KAR 6:110. Roederer Correctional Complex.

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 authorizes 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.

Section 1. Incorporation by Reference. (1)(a) Roederer Correctional Complex policies and procedures, March 15, 1999 [June 12, 1998], 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) Roederer Correctional Complex policies and procedures include:

RCC 01-06-01 Inmate Access to and Communication with [RCC] Staff (Amended 3/15/99)

RCC 01-08-01 Public Information and News Media Access (Amended 3/15/99)

RCC 01-10-01 [RCC] Cooperation with Outside Bodies; Including Courts, ACA, Governmental Legislative, Executive, and Community Agencies (Amended 3/15/99)

RCC 02-01-01 Fiscal Management: Organization

RCC 02-01-02 Fiscal Management: Accounting Procedures [Amended 6/12/98]

RCC 02-01-03 Fiscal Management: Agency Funds [Amended 6/12/98]

RCC 02-01-04 Fiscal Management: Insurance [Amended 6/12/98]

RCC 02-02-01 Fiscal Management: Budget [Amended 6/12/98]

RCC 02-02-02 Inmate Control of Personal Funds

RCC 02-02-03 Storage and Disposition of Monies received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays (Amended 3/15/99)

RCC 02-02-05 Inmate Canteen Services

RCC 02-03-01 Fiscal Management: Audits

RCC 02-04-01 Purchase Orders (Amended 3/15/99)

RCC 02-04-02 Processing of Invoices (Amended 3/15/99)

RCC 02-06-01 Property Inventory (Amended 3/15/99)

RCC 04-01-01 Employee Training and Development [Amended 6/12/98]

RCC 04-01-02 First Aid and CPR Training [Amended 6/12/98]

RCC 06-01-01 Offender Records

RCC 06-03-01 Records Release of Information

RCC 06-03-02 Storage of Expunged Records

RCC 06-04-01 Court Trips

RCC 06-04-02 Receipt of Order of Appearance

RCC 08-01-01 Fire Prevention

RCC 09-04-03 Duties and Responsibilities of the Fire and Safety Officer

RCC 11-01-01 Food Services: General Guidelines

RCC 11-02-01 Food Service: Security

RCC 11-03-01 Dining Room Guidelines

RCC 11-04-01 Food Service: Meals

RCC 11-04-02 Food Service: Menu, Nutrition and Special Diets

RCC 11-05-02 Health Requirements of Food Handlers

RCC 11-06-01 Food Service: Inspections and Sanitation

RCC 11-07-01 Food Service: Purchasing, Storage and Farm Products

RCC 12-01-01 Sanitation, Living Conditions Standards, Clothing Issues

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RCC 12-01-02 Bed Areas (Amended 3/15/99) [~~Amended 6/12/98~~]
RCC 12-01-03 General Guidelines for Living Units
RCC 12-02-01 Issuance of Clean Laundry and Receiving of Dirty Laundry
RCC 12-03-01 Personal Hygiene Items: Issuance and Placement Schedule [~~Amended 6/12/98~~]
RCC 12-03-02 Barber Shop Services and Equipment Control
RCC 12-04-01 Institutional Inspections
RCC 12-05-02 Use of Noncombustible Receptacle
RCC 12-06-01 Insect and Vermin Control
RCC 13-01-01 Organization of Health Services [~~Amended 6/12/98~~]
RCC 13-02-01 Health Maintenance Services: Sick Call and Pill Call
RCC 13-03-01 Dental Procedures and Sick Call [~~Amended 6/12/98~~]
RCC 13-04-01 Preliminary Health Evaluation and Establishment of Inmate Medical Records [~~Amended 6/12/98~~]
RCC 13-04-02 Medical Intake Processing for Inmates in Hold Status
RCC 13-05-02 Licensure and Training Standards for Medical Department
RCC 13-06-01 Suicide Prevention and Intervention Program
RCC 13-06-03 Emergency Medical and Dental Care Services
RCC 13-07-01 Health Records
RCC 13-07-03 Use of Pharmaceutical Products
RCC 13-07-04 Self-administered Medication Program
RCC 13-09-01 Notification of Inmate Family in the Event of Serious Illness, Surgery, or Inmate Death
RCC 13-10-01 Health Education and Special Health Programs
RCC 13-11-01 Informed Consent
RCC 13-12-01 Mental Health/Provision of Psychiatric Services by KPCPC
RCC 13-12-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center
RCC 13-13-01 Identification of Special Needs Inmates
RCC 13-15-01 Medical Restraints
RCC 13-16-01 Specialized Health Services
RCC 13-17-01 Vision Care and Optometry Services
RCC 13-18-01 Infection Control
RCC 14-01-01 Inmate Rights and Responsibilities (Amended 3/15/99)
RCC 16-01-01 Inmate Visiting (Amended 3/15/99)
RCC 16-01-03 Extended and Special Visits
RCC 16-02-01 Telephone Communications
RCC 16-03-01 Mail Regulations
RCC 17-01-01 Assessment/Orientation Procedure for Intrasystem Transfers
RCC 17-03-01 Inmate Personal Property and Property Control
RCC 17-05-02 Housing Unit Assignment Assessment/Classification Center
RCC 17-05-03 Notifying Inmate's Families of Admission and Procedures for Mail and Visiting
RCC 17-05-04 Assessment Unit [Center] Operations Rules and Regulations (Amended 3/15/99)
RCC 17-05-05 Assessment Center Operations and Reception Programs
RCC 18-01-01 Institutional Classification Committee
RCC 19-01-01 Job and Program Assignments (Amended 3/15/99)
RCC 20-01-01 [Academic] Education Program (Amended 3/15/99)
RCC 20-01-03 Vocational Horticulture Program (Amended 3/15/99)
RCC 21-01-01 Library Services (Amended 3/15/99) [~~Amended 6/12/98~~]
RCC 22-01-01 Recreation and Inmate Activities (Amended 3/15/99) [~~Amended 6/12/98~~]
RCC 22-03-01 Inmate Clubs and Organizations (Amended 3/15/99) [~~Amended 6/12/98~~]
RCC 23-01-01 Religious Services (Amended 3/15/99)
RCC 24-01-01 Social Services and Counseling
RCC 25-04-02 Parole Eligibility Dates (~~Deleted 3/15/99~~)
RCC 25-05-01 Inmate Discharge Procedures

DOUG SAPP, Commissioner
TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: March 8, 1999

FILED WITH LRC: March 15, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1999, at 9 a.m., in the Fifth Floor Conference Room of the State Office Building. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 1999, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, Telephone Number (502) 564-2024, Facsimile Number (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs, Staff Attorney

(1) Type and number of entities affected: 180 employees of the correctional institutions, 682 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 1998-2000 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

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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.

JUSTICE CABINET Department of Corrections Division of Adult Institutions (Amendment)

501 KAR 6:140. Bell County Forestry Camp.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590 and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

Section 1. (1)(a) "Bell County Forestry Camp Policies and Procedures", March 15 [January 14], 1999, is incorporated by reference.

(b) It may be inspected, copied, or obtained at the Office of the General Counsel, Department of Corrections, State Office Building, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(2) Bell County Forestry Camp Policies and Procedures:

BCFC 01-02-01	Organization and Assignment of Responsibility	BCFC 11-04-02	Food Service: Menu, Nutrition and Special Diets
BCFC 01-05-01	Monitoring of Operations, Policies and Procedures	BCFC 11-05-02	Health Requirements of Food Handlers
BCFC 01-08-01	Public Information and News Media Access	BCFC 11-06-01	Food Service: Inspection and Sanitation
BCFC 01-11-01	Institutional Duty Officer	BCFC 11-07-01	Food Service: Purchasing, Storage and Farm Products
BCFC 01-13-01	Annual Planning Document	BCFC 12-01-01	Sanitation, Living Conditions Standards, and Clothing Issues
BCFC 02-01-01	Inmate Canteen <u>[(Added 1/14/99)]</u>	BCFC 12-01-02	Bed Areas and Bed Assignments
BCFC 02-02-01	Inmate Accounts	BCFC 12-02-01	Issuance of Clean Laundry and Receiving of Dirty Laundry
BCFC 02-03-01	Purchase Orders	BCFC 12-03-01	Personal Hygiene Items: Issuance and Placement Schedule
BCFC 02-04-01	Processing of Invoices	BCFC 12-03-02	Barbershop Services and Equipment Control <u>(Amended 3/15/99)</u>
BCFC 02-05-01	BCFC Materials Receiving Procedure	BCFC 12-04-01	Institutional Inspections
BCFC 02-06-01	Property Inventory	BCFC 12-05-01	Fire Safety and Use of Noncombustible Receptacles
BCFC 02-06-02	Materials Receiving and Control	BCFC 12-06-01	Insect and Vermin Control <u>(Amended 3/15/99)</u>
BCFC 02-07-01	Imprest Cash Fund	BCFC 12-07-01	<u>BCFC Recycling Project (Added 3/15/99)</u>
BCFC 02-08-01	Prisoners Fund <u>[(Amended 1/14/99)]</u>	BCFC 13-01-01	Organization of Health Services <u>(Amended 3/15/99)</u>
BCFC 03-07-01	<u>Hours of Work, Inclement Weather, Leave Request and Sick Time (Added 3/15/99)</u>	BCFC 13-02-01	Sick Call and Physician's Weekly Clinic <u>(Amended 3/15/99)</u>
BCFC 04-01-01	Employee Training and Development <u>[(Amended 1/14/99)]</u>	BCFC 13-03-01	Routine and Emergency Dental Appointments
BCFC 05-01-01	Information System	BCFC 13-04-01	Inmate Medical Screenings and Health Evaluations <u>(Amended 3/15/99)</u>
BCFC 06-01-01	Offender Records <u>[(Amended 1/14/99)]</u>	BCFC 13-05-01	Medical Emergencies and Medical or Psychiatric Transfers <u>(Amended 3/15/99)</u>
BCFC 06-02-01	Storage of Expunged Records	BCFC 13-06-01	Physician's Referrals
BCFC 06-03-01	Court Trips	BCFC 13-07-01	Health Records
BCFC 06-03-02	Receipt of Order of Appearance	BCFC 13-08-01	Routine and Emergency Eye Examinations
BCFC 07-04-01	Smoking Control <u>[(Amended 1/14/99)]</u>	BCFC 13-09-01	Family Notification: Serious Illness, Injury, Major Surgery or Death
BCFC 07-05-01	Permit Required Confined Space	BCFC 13-10-01	Health Education: Special Health Care Needs
BCFC 07-06-01	Control of Hazardous Energy (Lockout or Tagout)	BCFC 13-11-01	Informed Consent
BCFC 08-02-01	Fire Prevention	BCFC 13-12-01	Psychiatric and Psychological Services
BCFC 08-03-01	Fire Procedures <u>(Amended 3/15/99)</u>	BCFC 13-13-01	Chronic and Convalescent Care
BCFC 08-03-02	Fire Extinguishers and Their Use	BCFC 13-14-01	Use of Pharmaceutical Products <u>(Amended 3/15/99)</u>
BCFC 08-09-01	Guidelines for the Control and Use of Flammable, Toxic, and Caustic Substances	BCFC 13-15-01	Parenteral Administration of Medications and Use of Psychotropic Drugs <u>(Amended 3/15/99)</u>
BCFC 08-09-02	OSHA Hazard Communication Program	BCFC 13-16-01	Elective Services
BCFC 08-10-01	Bell County Forestry Camp Emergency Response Team	BCFC 13-18-01	Management of Serious and Infectious Diseases
BCFC 09-06-01	Search Policy, Disposition of Contraband	BCFC 13-19-01	Bloodborne Pathogens Exposure Control Plan <u>(Amended 3/15/99)</u>
BCFC 09-14-01	Bell County Forestry Camp - Restricted Area	BCFC 14-01-01	Inmate Rights and Responsibilities
BCFC 10-01-01	<u>Temporary Segregation Holding Area (Amended 3/15/99) [Special Management Inmates]</u>	BCFC 14-02-01	Legal Services Program
BCFC 11-01-01	Food Services: General Guidelines	BCFC 14-03-01	Inmate Grievance Procedure
BCFC 11-02-01	Food Service Security <u>(Amended 3/15/99)</u>	BCFC 15-01-01	Due Process/Disciplinary Procedures
BCFC 11-03-01	Dining Room Guidelines	BCFC 16-01-01	Inmate Visiting <u>(Amended 3/15/99)</u>
BCFC 11-04-01	Food Service: Meals	BCFC 16-02-01	Telephone Communications
		BCFC 16-03-01	<u>Inmate Mail Regulations (Amended 3/15/99)</u>
		BCFC 16-03-02	<u>Inmate Packages (Amended 3/15/99)</u>
		BCFC 17-01-01	BCFC Inmate Receiving and Orientation Process
		BCFC 17-03-01	Inmate Personal Property
		BCFC 17-04-01	BCFC Inmate Property Control
		BCFC 17-05-01	Inmate Canteen
		BCFC 18-01-01	Institutional Classification Committee <u>(Amended 3/15/99)</u>
		BCFC 19-01-01	Work Assignments
		BCFC 19-02-01	Government Service Detail
		BCFC 20-01-01	Academic School
		BCFC 20-02-01	Educational Program Planning
		BCFC 20-03-01	Academic Curriculum
		BCFC 21-01-01	Library Services
		BCFC 22-01-01	Recreation and Inmate Activities <u>(Amended 3/15/99)</u>
		BCFC 22-02-01	Inmate Clubs and Organizations
		BCFC 22-03-01	Privilege Trips
		BCFC 23-01-01	Religious Service
		BCFC 24-01-01	Social Services and Counseling Program
		BCFC 24-01-02	Casework Services <u>(Amended 3/15/99)</u>
		BCFC 25-01-01	Pre-release Program

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BCFC 25-02-01 Community Center Program
BCFC 25-02-02 Inmate Furloughs
BCFC 25-04-01 Inmate Discharge Procedure
BCFC 26-01-01 Citizen Involvement and Volunteer Services Program

DOUG SAPP, Commissioner

TAMELA BIGGS, General Counsel

APPROVED BY AGENCY: March 8, 1999

FILED WITH LRC: March 15, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1999, at 9 a.m., in the Fifth Floor Conference Room of the State Office Building. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 1999, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Kentucky Department of Corrections, Office of General Counsel, 2nd Floor, State Office Building, Frankfort, KY. 40601, Telephone Number (502) 564-2024, Facsimile Number (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact Person: Tamela Biggs, Staff Attorney

(1) Type and number of entities affected: 42 employees of the correctional institution, 230 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, to the extent available from the public comments received: None

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

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: 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: Funds budgeted for this 1998 - 2000 biennium.

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

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: N/A

(9) Identify any statute, 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. 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.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and

Health Education and Training

(Amendment)

803 KAR 2:307. Hazardous materials.

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards is also given to the board. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions Applicable to this Part. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) "Employee" means any person employed except those employees excluded in KRS 338.021.

(4) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(5) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(6) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(7) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(8) "U.S. Department of Labor" means Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601, or the U.S. Department of Labor.

Section 2. Automotive Service Station (Service Station). (1) The language relating to automotive service stations (service stations) in subsection (2) of this section shall apply in lieu of 29 CFR 1910.106(a)(3).

(2) 29 CFR 1910.106(a)(3) is amended to read: The term automotive service station, or service stations, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks

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of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The material in subparagraphs 1 through 2 of this paragraph, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 1997, is incorporated by reference:

1. 29 CFR 1910.101 through 1910.106(a)(2);
2. 29 CFR 1910.106(a)(4) through 29 CFR 1910.120.

(b) The revisions to 29 CFR 1910.109, "Explosives and Blasting Agents", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference

(c) The revisions to 29 CFR 1910.110, "Storage and Handling of Liquefied Petroleum Gases", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference

(d) The revisions to 29 CFR 1910.111, "Storage and Handling of Anhydrous Ammonia", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(e) The revisions to 29 CFR 1910.111, "Storage and Handling of Anhydrous Ammonia", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(2) The language relating to automotive service stations (service stations) in Section 2(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.106(a)(3).

(3) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in general industry within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of these proposed amendments, as these revisions, as published in the Federal Register, June 18, 1998, eliminate duplicative, inconsistent, and unnecessary provisions in existing standards.

(b) Cost of doing business in the geographic area in which the

administrative regulation will be implemented: There will be no cost effected from these revisions.

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

1. First year following implementation:

2. Second and subsequent years: There are no additional factors regarding these revisions will increase or decrease costs. There will be no effect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these proposed regulations incorporate, by reference, federal regulations published in the Federal Register, eliminating duplicative, inconsistent, and unnecessary provisions.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: These proposed amendments will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of these proposed amendments.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments incorporate federal regulations, eliminating duplicative, inconsistent, and unnecessary provisions in existing standards.

3. Minimum or uniform standards contained in the federal mandate. The amendments adopt revisions, as published in the Federal Register, Volume 63, Number 117 June 18, 1998, to the previously incorporated regulations, 29 CFR 1910.109, "Explosives and Blasting Agents," 29 CFR 1910.110, "Storage and Handling of Liquefied

Petroleum Gases," and 29 CFR 1910.111, "Storage and Handling of Anhydrous Ammonia."

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect local government entities that work that use, handle, or store explosives and blasting agents, liquefied petroleum gases, or anhydrous ammonia.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations affect the safety and health of employees of local government who use, handle, or store explosives and blasting agents, liquefied petroleum gases, or anhydrous ammonia.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

LABOR CABINET

Department of Workplace Standards Division of Occupational Safety and Health Compliance Division of Occupational Safety and Health Education and Training (Amendment)

803 KAR 2:309. General environmental controls.

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may [Express authority to] incorporate by reference established federal standards and national consensus standards is also given to the board. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions Applicable to this Part. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) "Employee" means any person employed except those employees excluded in KRS 338.021.

(4) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(5) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(6) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(7) "Standard" means a standard which requires conditions or the

adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(8) "U.S. Department of Labor" means the Kentucky Labor Cabinet or U.S. Department of Labor. [An employer, required under these standards to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601.]

Section 2. Construction of Water Closets. (1) The language relating to construction of water closets in subsection (2) of this section shall apply in lieu of 29 CFR 1910.141(c)(2)(i).

(2) 29 CFR 1910.141(c)(2)(i) is amended to read: Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy.

Section 3. Lockout. (1) The language relating to utilization of lockout procedures in subsection (2) of this section shall apply in lieu of 29 CFR 1910.147(c)(2)(ii).

(2) 29 CFR 1910.147(c)(2)(ii) is amended to read: If an energy isolating device is capable of being locked out, the employer's energy control program under paragraph (c)1 of this subsection shall utilize lockout.

(3) The language relating to tag location in subsection (4) of this section shall apply in lieu of 29 CFR 1910.147(c)(3).

(4) 29 CFR 1910.147(c)(3)(i) is amended to read: Full employee protection. When a tagout device is used on an energy isolating device which is incapable of being locked out, the tagout device shall be attached at the same location that the lockout device would have been attached, and the employer shall demonstrate that the tagout program will provide a level of safety equivalent to that obtained by using a lockout program. Where tagout devices are used with energy isolating devices designed with the incapability of being locked, the tag attachment will be fastened at the same point at which the lock would have been attached.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The material in subparagraphs 1 through 4 of this paragraph, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 1997 [1995], is incorporated by reference:

1. 29 CFR 1910.141 through 1910.141(c)(1)(iii);
2. 29 CFR 1910.141(d)(1) through 29 CFR 1910.147(c)(2)(i);
3. 29 CFR 1910.147(c)(2)(iii);
4. 29 CFR 1910.147(c)(3)(ii) through 29 CFR 1910.150.

(b) The revisions to 29 CFR 1910.41, "Sanitation", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference. [The revisions to 29 CFR 1910.142, "Temporary Labor Camps", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, are incorporated by reference.]

(c) The revisions to 29 CFR 1910.142, "Temporary Labor Camps", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference. [The revision to 29 CFR 1910.144, "Safety Code for Marking Physical Hazards", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, is incorporated by reference.]

(d) The revisions to 29 CFR 1910.145, "Specifications for Accident Prevention Signs", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, are incorporated by reference.]

(d) [(e)] The language relating to utilization of lockout procedures in Section 3(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.147(c)(2)(ii).

(e) [(f)] The language relating to tag location in Section 3(4) of this administrative regulation shall apply in lieu of 29 CFR 1910.147(c)(3)(i).

[(g)] The removal of 29 CFR 1910.148, "Standards Organizations", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, is incorporated by reference.

[(h)] The removal of 29 CFR 1910.149, "Effective Dates", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, is incorporated by reference.

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(i) The removal of 29 CFR 1910.150, "Standards Organizations", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, is incorporated by reference.

(2) The language relating to the construction of water closets in Section 2(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.141(c)(2)(i).

(2) [(9)] This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William L Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in general industry within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of these proposed amendments, as these revisions change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph and the format of a definition to meet KRS Chapter 13A considerations, update the reference to the current Code of Federal Regulations, and incorporate revisions, as published in the Federal Register, June 18, 1998, which eliminate duplicative, unnecessary, and inconsistent provisions.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from these revisions.

(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: There are no additional factors regarding these revisions will increase or decrease costs. There will be no effect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and en-

forcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these proposed regulations incorporate, by reference, federal regulations published in the Federal Register, change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph and the format of a definition to meet KRS Chapter 13A considerations, and update the reference to the current Code of Federal Regulations.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: These proposed amendments will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of these proposed amendments.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph and the format of a definition to meet KRS Chapter 13A considerations, update the reference to the current Code of Federal Regulations, and incorporate revisions, as published in the Federal Register, June 18, 1998, which update reference material.

3. Minimum or uniform standards contained in the federal mandate. The amendments adopt revisions to the previously adopted regulations, 29 CFR 1910.141, "Sanitation," and 29 CFR 1910.142, "Temporary Labor Camps," as published in the Federal Register, Volume 63, Number 117, June 18, 1998.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government.

These amendments affect local government entities with regard to their sanitation facilities and those that keep temporary labor camps.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations relate to the sanitation facilities and temporary labor camps of local government facilities.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

LABOR CABINET

Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:310. Medical services and first aid. [Adoption of 29 CFR Part 1910.151-.153.]

RELATES TO: KRS [Chapter] 338.051(3), 338.061, 29 CFR 1910 STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910 [Chapter 13A]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health [rules and] administrative regulations[, and standards]. KRS 338.061(2) provides that the board may [Express authority to] incorporate by reference established federal standards and national consensus standards [is also given to the board]. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. [The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.]

Section 1. The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health. [The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910.151-.153 of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions: 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

(1) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health.

(2) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and first aid supplies approved by the consulting physician, along with a signed list of these supplies, shall be readily available. Outside salesmen, truck drivers, seasonal labor, and others who while performing their duties, are away from the premises more than fifty (50) percent of the time are not to be included in determining the number of employees.

(3) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. First aid supplies approved by the consulting physician shall be readily available.

(4) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use. Beginning October 15, 1993, such facilities shall comply with the provisions of the American National Standards Institute (ANSI) Z-358.1-1990, "Standard for Emergency Eyewash and Shower Equipment", which is incorporated by reference,

with the following exceptions:

(a) In remote areas where a person is visibly and audibly separated from coworkers, an audible or visible alarm shall activate to alert appropriate personnel when the unit is in use; or in the alternative, a two (2) way communication device shall be used. The alarm shall continue until the unit is no longer in use.

(b) The requirement that such facilities be tested according to the standard shall be changed from weekly to monthly.]

Section 2. Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and adequate first aid supplies shall be readily available. Outside salesmen, truck drivers, seasonal labor, and others who while performing their duties, are away from the premises more than fifty (50) percent of the time are not to be included in determining the number of employees.

Section 3. All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. Adequate first aid supplies shall be readily available.

Section 4. Where the eyes or body of any person may be exposed to injurious corrosive material, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use. Beginning October 15, 1993, such facilities shall comply with the provisions of the American National Standards Institute (ANSI) Z-358.1-1990, "Standard for Emergency Eyewash and Shower Equipment", which is incorporated by reference, with the following exceptions:

(1) In remote areas where a person is visibly and audibly separated from coworkers, an audible or visible alarm shall activate to alert appropriate personnel when the unit is in use; or in the alternative, a two (2) way communication device shall be used. The alarm shall continue until the unit is no longer in use.

(2) The requirement that such facilities be tested according to the standard shall be changed from weekly to monthly.

Section 5. Incorporation by Reference. (1) The revisions to 29 CFR 1910.151, Medical Services and First Aid", published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(2) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at the Kentucky Labor Cabinet, Division of Education and Training, 1047 U.S. 127 South, Frankfort, Kentucky 40601, during the office hours of 8 a.m. - 4:30 p.m. (ET), Monday through Friday. [Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.]

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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

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the proposed administrative regulation to: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in general industry within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of this proposed amendment, as these revisions change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph and the numbering of the regulation to meet KRS Chapter 13A considerations, and delete sections requiring a physician's certification of first aid supplies, reflecting a revision of 29 CFR 1910.151, as published in the Federal Register, June 18, 1998, and incorporate an appendix published in the same Federal Register, which lists appropriate first aid supplies.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from these revisions.

(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: There are no additional factors regarding these revisions will increase or decrease costs. There will be no effect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this proposed amendment changes the "NECESSITY, FUNCTION AND CONFORMITY" paragraph and the numbering of the regulation to meet KRS Chapter 13A considerations, and deletes sections requiring a physician's certification of first aid supplies reflecting a revision of 29 CFR 1910.151, as published in the Federal Register, June 18, 1998 and incorporates an appendix published in the same Federal Register, which lists appropriate first aid supplies.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: This proposed amendment will enhance worker safety throughout Kentucky.

(b) State whether 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: There is

no conflicting, overlapping, or duplication as a result of adoption of these proposed amendments.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph and the numbering of the regulation to meet KRS Chapter 13A considerations, and delete sections requiring a physician's certification of first aid supplies reflecting a revision of 29 CFR 1910.151, as published in the Federal Register, June 18, 1998 and incorporate an appendix published in the same Federal Register, which lists appropriate first aid supplies.

3. Minimum or uniform standards contained in the federal mandate. The amendment adopts revisions to the rules regulating medical services and first aid, reflecting changes to 29 CFR 1910.151, as published in the Federal Register, Volume 63, Number 117, June 18, 1998.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision reflects the changes to the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect local government entities with regard to medical services and first aid granted their employees.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations relate to medical services and first aid supplied to local government employees.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

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LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and
Health Education and Training
(Amendment)

803 KAR 2:311. Fire protection.

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards is also given to the board. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions Applicable to this Part. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) "Employee" means any person employed except those employees excluded in KRS 338.021.

(4) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(5) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(6) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(7) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(8) "U.S. Department of Labor" means Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601, or the U.S. Department of Labor.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) 29 CFR 1910.155-165, Subpart L, "Fire Protection", published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 1997, is incorporated by reference.

(b) The revisions to 29 CFR 1910.156, "Fire Brigades", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(c) The revision to 29 CFR 1910.156, "Fire Brigades", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, is incorporated by reference.

(2) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of

intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendment to this regulation affects all employers in general industry within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of these proposed amendments, as this amendment incorporates a revision to the fire brigade standard, as published in the Federal Register, June 18, 1998, which eliminates an unnecessary provision.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from this revision.

(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: There are no additional factors regarding these revisions will increase or decrease costs. There will be no affect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these proposed regulations incorporate, by reference, federal regulations, as published in the Federal Register, June 18, 1998, which eliminates an unnecessary provisions.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: This proposed amendment will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of this proposed amendment.

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(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of 3 or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment incorporates a revision to the fire brigade standard, as published in the Federal Register, June 18, 1998, which eliminates an unnecessary provision.

3. Minimum or uniform standards contained in the federal mandate. The amendment adopts a revision to the previously adopted regulation, 29 CFR 1910.156 "Fire Brigades," as published in the Federal Register, Volume 63, Number 117, June 18, 1998.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This revision imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects local government entities that employ professional fire fighters.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulation affects the safety and health of employees of local government who fight fires.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. This proposed amendment will not affect the number of local government employees.

LABOR CABINET

Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and
Health Education and Training
(Amendment)

803 KAR 2:313. Materials handling and storage.

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may [Express authority to] incorporate by reference established

federal standards and national consensus standards [is also given to the board]. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions Applicable to this Part. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) "Employee" means any person employed except those employees excluded in KRS 338.021.

(4) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(5) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(6) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(7) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(8) "U.S. Department of Labor" means the Kentucky Labor Cabinet or the U.S. Department of Labor. [An employer, required under these standards to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601.]

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) 29 CFR 1910.176-.190, Subpart N, "Materials Handling and Storage", revised as of July 1, 1997 [1995], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

(b) The revision to 29 CFR 1910.183, "Helicopters", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, is incorporated by reference. [The revision to Appendix B of 29 CFR 1910.177, "Servicing Multi-Piece and Single Piece Rim Wheels", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, is incorporated by reference.

(c) The revisions to 29 CFR 1910.178, "Powered Industrial Trucks", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, are incorporated by reference.

(d) The revisions to 29 CFR 1910.179, "Overhead and Gantry Cranes", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, are incorporated by reference.

(e) The revisions to 29 CFR 1910.180, "Crawler, Locomotive, and Truck Cranes", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, are incorporated by reference.

(f) The revision to 29 CFR 1910.181, "Derricks", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, is incorporated by reference.

(g) The removal of 29 CFR 1910.182, "Effective Dates", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, is incorporated by reference.

(h) The revision to 29 CFR 1910.184, "Slings", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, is incorporated by reference.

(i) The removal of 29 CFR 1910.189, "Sources of Standards", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, is incorporated by reference.

(j) The removal of 29 CFR 1910.190, "Standards Organizations", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, is incorporated by reference.]

(2) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendment to this regulation affects all employers in general industry within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of these proposed amendments, as this amendment makes changes in the "NECESSITY, FUNCTION AND CONFORMITY" paragraph, formats a definition to meet KRS Chapter 13A considerations, and incorporates a revision to the standard regulating the use of helicopters, as published in the Federal Register, June 18, 1998, which eliminates an unnecessary provision.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from this revision.

(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: There are no additional factors regarding these revisions will increase or decrease costs. There will be no effect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered. This amendment makes changes in the "NECESSITY, FUNCTION AND CONFORMITY" paragraph, formats a definition to meet KRS Chapter 13A considerations, and incorporates a federal revision to the

standard regulating the use of helicopters, as published in the Federal Register, June 18, 1998, which eliminates an unnecessary provision.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: This proposed amendment will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of this proposed amendment.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment makes changes in the "NECESSITY, FUNCTION AND CONFORMITY" paragraph, formats a definition to meet KRS Chapter 13A considerations, and incorporates a federal revision to the standard regulating the use of helicopters, as published in the Federal Register, June 18, 1998, which eliminates an unnecessary provision.

3. Minimum or uniform standards contained in the federal mandate. The amendment adopts a revision to the previously adopted regulation, 29 CFR 1910.183 "Helicopters," as published in the Federal Register, Volume 63, Number 117, June 18, 1998.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This revision imposes no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects local government entities that use helicopters.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulation affects the safety and health of employees of local government who use helicopters.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. This proposed amendment will not affect the number of local government employees.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and
Health Education and Training
(Amendment)

803 KAR 2:317. Special industries.

RELATES TO: KRS 338.051, 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards is also given to the board. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions Applicable to this Part. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) "Employee" means any person employed except those employees excluded in KRS 338.021.

(4) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(5) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(6) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(7) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(8) "U.S. Department of Labor" means Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601, or the U.S. Department of Labor.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) 29 CFR Part 1910.261-.275, Subpart R, "Special Industries", revised as of July 1, 1997, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

(b) The revisions to 29 CFR 1910.261, "Pulp, Paper, and Paperboard Mills", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(c) The revisions to 29 CFR 1910.261, "Pulp, Paper, and Paperboard Mills", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(d) The revisions to 29 CFR 1910.262, "Textiles", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(e) The revisions to 29 CFR 1910.265, "Sawmills", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(f) The revisions to 29 CFR 1910.267, "Agriculture", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(g) The revisions to 29 CFR 1910.268, "Telecommunications", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(2) This material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Mon-

day through Friday.

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William L Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in general industry within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of these proposed amendments, as these revisions incorporate, by reference, a Federal Register publication, dated June 18, 1998, which revises the standards regulating pulp, paper and paperboard mills, textiles, sawmills, agriculture, and telecommunications, removing inconsistent, duplicative and unnecessary provisions.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from this revision.

(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: There are no additional factors regarding these revisions will increase or decrease costs. There will be no affect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these

proposed regulations incorporate, by reference, a Federal Register publication, dated June 18, 1998, which revises the standards regulating pulp, paper and paperboard mills, textiles, sawmills, agriculture, and telecommunications, removing inconsistent, duplicative and unnecessary provisions.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: These proposed amendments will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of these proposed amendments.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments incorporate, by reference, a Federal Register publication, dated June 18, 1998, which revises the standards regulating pulp, paper and paperboard mills, textiles, sawmills, agriculture, and telecommunications, removing inconsistent, duplicative and unnecessary provisions.

3. Minimum or uniform standards contained in the federal mandate. The amendments incorporate, by reference, a Federal Register publication, dated June 18, 1998, which revises the standards regulating pulp, paper and paperboard mills, textiles, sawmills, agriculture, and telecommunications, removing inconsistent, duplicative and unnecessary provisions.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect local government that employ workers involved in manufacturing of pulp, paper and paperboard mills, textiles, sawmills, telecommunications, and agriculture.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations affect the safety and health of employees involved in manufacturing of pulp, paper and paperboard mills, textiles, sawmills, telecommunications, and agriculture

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational

safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

LABOR CABINET Department of Workplace Standards Division of Occupational Safety and Health Compliance Division of Occupational Safety and Health Education and Training (Amendment)

803 KAR 2:320. Air contaminants.

RELATES TO: KRS 338.051, 338.061, 29 CFR 1910.1000-.1500
STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910.1000-.1500

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions. (1) Definitions applicable to this part:

(a) "Act" means KRS Chapter 338.

(b) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(c) "Employee" means any person employed except those employees excluded in KRS 338.021.

(d) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(e) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(f) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(g) "Standard" means the same as regulation or federal rule which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment.

(h) "U.S. Department of Labor" means Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601, or U.S. Department of Labor.

(2) Definitions for Section 2 of this administrative regulation.

(a) "Absolute filter" means a filter capable of retaining 99.97 percent of a mono disperse aerosol of three-tenths (0.3) mu particles.

(b) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

(c) "Clean change room" means a room where employees put on clean clothing and/or protective equipment in an environment free of 4,4'-Methylene bis (2-chloroaniline). The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

(d) "Closed system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) where containment prevents the release of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(e) "Decontamination" means the inactivation of 4,4'-Methylene bis (2-chloroaniline) or its safe disposal.

(f) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary or Health, Education and Welfare to act for the Director.

(g) "Disposal" means the safe removal of 4,4'-Methylene bis (2-chloroaniline) from the work environment.

(h) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis (2-

chloroaniline) which may result in exposure to or contact with 4,4'-Methylene bis (2-chloroaniline).

(i) "External environment" means any environment external to regulated and nonregulated areas.

(j) "Isolated system" means a fully enclosed structure other than the vessel= of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(k) "Laboratory type hood" means a device enclosed on three sides and the top and bottom designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving 4,4'-Methylene bis (2-chloroaniline) within the hood does not require the insertion of any portion of any employee's body other than his hands and arms.

(l) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(m) "Open-vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas or the external environment.

(n) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).

(o) "Regulated area" means an area where entry and exit is restricted and controlled.

(3) Definitions for Section 5 of this administrative regulation.

(a) "Area director" means Director, Division of Occupational Safety and Health, Kentucky Labor Cabinet.

(b) "Assistant secretary" means Secretary of Labor, Kentucky Labor Cabinet.

(c) "U.S. Department of Labor" means Kentucky Labor Cabinet.

Section 2. 4,4'-Methylene bis (2-Chloroaniline). (1) Scope and application.

(a) This section applies to any area in which, 4,4'-Methylene bis (2-chloroaniline), Chemical Abstracts Service Registry Number 101144 is manufactured, processed, repackaged, released, handled, or stored, but shall not apply to trans-shipment in sealed containers, except for the labeling requirements under subsection (5)(b), (c), and (d) of this section.

(b) This section shall not apply to solid or liquid mixtures containing less than 1.0 (one) percent by weight of 4,4'-Methylene bis (2-chloroaniline).

(2) Requirements for areas containing 4,4'-Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4'-Methylene bis (2-chloroaniline) is manufactured, processed, used, repackaged, released, handled, and stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operations involved:

(a) Isolated systems. Employees working with 4,4'-Methylene bis (2-chloroaniline) within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas where 4,4'-Methylene bis (2-chloroaniline) is stored in sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only;

2. Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations as defined in Section 1(1)(m) of this administrative regulation are prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations in-

volving "laboratory type hood," or in locations where 4,4'-Methylene bis (2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charge, or discharged into other normally closed containers, the provisions of this subparagraph shall apply.

1. Access shall be restricted to authorized employees only;

2. Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

4. Employees engaged in 4,4'-Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 1910.134. A respirator affording higher level or protection may be substituted.

5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under subsection (5)(b), (c), and (d) of this section.

6. Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

7. Employees shall be required to shower after the last exit of the day.

8. Drinking fountains are prohibited in the regulated area.

(e) Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4'-Methylene bis (2-chloroaniline) could result, each authorized employee entering that area shall:

1. Be provided with and required to wear clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with 1910.134;

2. Be decontaminated before removing the protective garments and hood;

3. Be required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this subparagraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.

2. Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

3. Surfaces on which 4,4'-Methylene bis (2-chloroaniline) is handled shall be protected from contamination.

4. Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

5. All other forms of 4,4'-Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.

6. Employees engaged in animal support activities shall be:

a. Provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

b. Prior to each exit from a regulated area employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under subsection (5)(b), (c), and (d) of this section.

c. Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities; and

d. Required to shower after the last exit of the day.

7. Employees, other than those engaged in animal support activities, each day shall be:

a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

b. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under paragraphs (e)2, 3, and 4 of this subsection.

c. Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.

8. Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis (2-chloroaniline) is handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding area. Exhaust air shall not be discharged to regulated areas, non-regulated areas or the external environment unless decontaminated.

9. There shall be no connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4'-Methylene bis (2-chloroaniline) shall be maintained.

11. Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification of maintenance operations, by personnel fully qualified to certify correct containment and operation.

(g) Premixed solutions. Where 4,4'-Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area is not required; however,

1. Only authorized employees shall be permitted to handle such materials;

2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;

3. Employees shall be required to remove and leave protective clothing and equipment when leaving the work area at the end of the work day or at any time solution is spilled on such clothing or equipment. Used clothing and equipment shall be placed in impervious containers for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e)2, 3, and 4 of this section.

4. Employees shall be required to wash hand and face after removing such clothing and equipment and before engaging in other activities.

5. Employees assigned to work covered by the subparagraph shall be deemed to be working in regulated areas for the purposes of subsection (4)(a), (b), (c)1 and 2, and (d)3 and 4, 5, 6, and 7 of this section;

6. Work areas where solution may be spilled shall be:

a. Covered daily or after any spill with a clean covering;

b. Cleaned thoroughly daily and after any spill.

(3) General regulated area requirements.

(a) Employee identification. A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters shall be retained for a period of twenty (20) years. The rosters and/or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director. In the event that the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures including, but not limited to the requirements of subparagraphs 1, 2, 3, 4, and 5 of this paragraph shall be implemented.

1. The potentially affected area shall be evacuated as soon as the emergency has been determined.

2. Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

3. Special medical surveillance by a physician shall be instituted within twenty-four (24) hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with subsection (6)(b) of this section.

4. Where an employee has a known contact with 4,4'-Methylene bis (2-chloroaniline) such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

5. An incident report on the emergency shall be reported as provided in subsection (6)(b) of this section.

(c) Hygiene facilities and practices.

1. Storage or consumption of food, storage or use of containers of beverages, storage or application of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

2. Where employees are required by this section to wash, washing facilities shall be provided in accordance with 1910.141.

3. Where employees are required by this section to shower, facilities shall be provided in accordance with 1910.141(d)(3).

4. Where employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with 1910.141(e), for the number of such employees required to change clothes.

5. If toilets are located in regulated areas, the toilets shall be in a separate room.

(d) Contamination control.

1. Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean make-up air in equal volume shall replace air removed.

2. Any equipment, material, or other item taken or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

3. Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis (2-chloroaniline) from the surface of materials, equipment and the decontamination facility.

4. Dry sweeping and dry mopping are prohibited.

(4) Signs, information and training.

(a) Signs.

1. Entrance to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

Authorized Personnel Only

2. Entrances to regulated areas containing operations covered in subsection (3)(e) of this section shall be posted with signs bearing the legend:

Cancer-Suspect Agent Exposed

In this Area

Impervious Suit Including Gloves,

Boots, and Air-Supplied Hood

Required At All Times

Authorized Personnel Only

3. Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(b) Container contents identification.

1. Containers of 4,4'-Methylene bis (2-chloroaniline) and containers required under subsection (2)(d)5 and (f)7b, and (f)7b, and (g)3 of this section which are accessible only to, and handled only by authorized employees, or by other employees trained in accordance with paragraph (e) of this subsection, may have contents identification limited to a generic or proprietary name, or other proprietary identification, or the carcinogen and percent.

2. Containers of 4,4'-Methylene bis (2-chloroaniline) and containers required under subsection (2)(d)5, (f)7b, and (f)7b, and (g)3 of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with subparagraph of this paragraph shall have contents identification which

includes the full chemical name and Chemical Abstracts Service Registry number as listed in subsection (1)(a) of this section.

3. Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

4. Containers which have 4,4'-Methylene bis (2-chloroaniline) contents with corrosive or irritating properties shall have label statements warning of such hazards, noting, if appropriate, particularly sensitive of affected portions of the body.

(c) Lettering. Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two (2) inches. Labels on containers required under this section shall not be less than one-half (1/2) the size of the largest lettering on the package, and not less than eight (8) point type in any instance; provided that no such required lettering need be more than one (1) inch in height.

(d) Prohibited statements. No statement shall appear on or near any required sign, label, or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(e) Training and indoctrination.

1. Each employee prior to being authorized to enter regulated area, shall receive a training and indoctrination program including, but not necessarily limited to:

a. The nature of the carcinogenic hazards of 4,4'-Methylene bis (2-chloroaniline), including local and systemic toxicity;

b. The specific nature of the operation involving 4,4'-Methylene bis (2-chloroaniline) which could result in exposure;

c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

d. The purpose for and application for decontamination practices and purposes;

e. The purpose for and significance of emergency practices and procedures;

f. The employees specific role in emergency procedures;

g. Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of 4,4'-Methylene bis (2-chloroaniline);

h. The purpose for and application of specific first-aid procedures and practices.

(i) A review of this section at the employees first raining and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of assistant secretary and the director.

(5) Reports.

(a) Operations. Not later than March 1, 1974, the information required in subparagraphs 1, 2, 3, and 4 of this paragraph shall be reported in writing to the nearest OSHA Area director. Any changes in such information shall be similarly reported in writing within fifteen (15) calendar days of such change.

1. A brief description and inplant location of the area(s) regulated and the address of each regulated area:

2. The name(s) and other identifying information as to the presence of 4,4'-Methylene bis (2-chloroaniline) in each regulated area.

3. The number of employees in each regulated area, during normal operations including maintenance activities; and

4. The manner in which 4,4'-Methylene bis (2-chloroaniline) is present in each regulated area; e.g., whether it is manufactured, processed, used, repackaged, release, stored, or otherwise handled.

(b) Incidents. Incidents which result in the release of 4,4'-Methylene bis (2-chloroaniline) into any area where employees may be potentially exposed shall be reported in accordance with this subparagraph.

1. A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within twenty-four (24) hours to the nearest OSHA Area Director.

2. A written report shall be filed with the nearest OSHA Area Director within fifteen (15) calendar days thereafter and shall include:

a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in deter-

mining this figure:

b. A description of the area involved, and the extent of known and possible employee and area contamination; and

c. A report of any medical treatment of affected employees and any medical surveillance program implemented; and

d. An analysis of the circumstances to be taken, with specific completions dates, to avoid further similar release.

(6) Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(a) Examinations.

1. Before an employee is assigned to enter a regulated are, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

2. Authorized employees shall be provided periodic physical examination, not less often than annually, following the preassignment examination.

3. In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids of cytotoxic agents, pregnancy and cigarette smoking.

(b) Records.

1. Employers or employees examined pursuant to this paragraph shall cause to be maintained complete and accurate record of all such medical examinations. Records shall be maintained for the duration of the employee' employment. Upon termination of the employee' employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the director.

2. Records required by this paragraph shall be provided upon request to authorized representatives of the assistant secretary or the director: and upon request of an employee or former employee, to a physician designated by the employee or to a new employer.

3. Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employees suitability for employment in the specific exposure.

Section 3. Laboratory Activities. The requirements of this subsection shall apply to research and quality control activities involving the use of chemicals covered by 1910.1003-.1016.

(1) Mechanical pipetting aids shall be used for all pipetting procedures.

(2) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(3) Surfaces on which chemicals covered by .1103-.1016 are handled shall be protected from contamination.

(4) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(5) All other forms of chemicals covered by .1003-.1016 shall be inactivated prior to disposal.

(6) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters.

(7) Employees engaged in animal support activities shall be:

(a) Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(b) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under Section 3(2), (3), and (4) of this administrative regulation.

(c) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(d) Required to shower after the last exit of the day.

(8) Employees, other than those engaged only in animal support activities, each day shall be:

(a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suite, or fully buttoned laboratory coat;

(b) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified under Section 3(2), (3), and (4) of this administrative regulation.

(c) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(9) Air pressure in laboratory areas and animal rooms where chemicals covered by .1003-.1016 are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(10) There shall be no connection between regulated areas and any other areas through the ventilation system.

(11) A current inventory of chemicals covered by .1003-.1016 shall be maintained.

(12) Ventilated apparatus such as laboratory-type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

Section 4. Access to Exposure or Medical Records. (1) The language relating to the access to exposure or medical records in subsection (2) of this section shall apply in lieu of 29 CFR 1910.1020(e)(1)(i);

(2) 29 CFR 1910.1020(e)(1)(i) is amended to read: "Whenever an employee or designated representative requests access to an exposure or medical record, the employer shall assure that access is provided in a reasonable time, place, and manner, but not longer than fifteen (15) days after the request for access is made unless sufficient reason is given why such a time is unreasonable or impractical."

(3) The language relating to the access to exposure or medical records in subsection (4) of this section shall apply in lieu of 29 CFR 1910.1020(e)(1)(iii);

(4) 29 CFR 1910.1020(e)(1)(iii) is amended to read: "Whenever an employee or designated representative requests a copy of a record, the employer shall, except as specified in (v) of this section, within the period of time previously specified assure that either:"

Section 5. The language relating to gloves in paragraph (2) of this subsection shall apply in lieu of 29 CFR 1910.1030(d)(3)(ix);

(2) Gloves shall be worn when it can be reasonably anticipated that the employees may have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin when performing vascular access procedures and when handling or touching contaminated items or surfaces.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The material in subparagraph 1 through 2 of this paragraph, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 1997, is incorporated by reference:

1. 29 CFR 1910.1000 to 29 CFR 1910.1030(d)(3)(viii); and
2. 29 CFR 1910.1030(d)(3)(x) through 29 CFR 1910.1500.

(b) The revisions to 29 CFR 1910.1000, "Air Contaminants", as published in the Federal Register, Volume 62, Number 149, August 4, 1997, are incorporated by reference.

(c) The revisions to 29 CFR 1910.1001, "Asbestos", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(d) The revisions to 29 CFR 1910.1003, "13 Carcinogens (4-Nitrobiphenyl, etc.)", as published in the Federal Register, Volume

63, Number 5, January 8, 1998, are incorporated by reference.

(e) The revisions to 29 CFR 1910.1003, "13 Carcinogens (4-Nitrobiphenyl, etc.)", as published in the Federal Register, Volume 63, Number 78, April 23, 1998, are incorporated by reference.

(f) The revisions to 29 CFR 1910.1017, "Vinyl Chloride", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(g) The revisions to 29 CFR 1910.1017, "Vinyl Chloride", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(h) The revisions to 29 CFR 1910.1018, "Inorganic Arsenic", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(i) The revisions to 29 CFR 1910.1018, "Inorganic Arsenic", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(j) [(h)] The revisions to 29 CFR 1910.1025, "Lead", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(k) [(h)] The revisions to 29 CFR 1910.1025, "Lead", as published in the Federal Register, Volume 63, Number 78, April 23, 1998, are incorporated by reference.

(l) [(j)] The revisions to 29 CFR 1910.1027, "Cadmium", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(m) [(h)] The revisions to 29 CFR 1910.1028, "Benzene", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(n) [(h)] The revisions to 29 CFR 1910.1028, "Benzene", as published in the Federal Register, Volume 63, Number 78, April 23, 1998, are incorporated by reference.

(o) [(m)] The revisions to 29 CFR 1910.1029, "Coke Oven Emissions", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(p) The revisions to 29 CFR 1910.1029, "Coke Oven Emissions", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(q) [(m)] The revisions to 29 CFR 1910.1043, "Cotton Dust", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(r) [(o)] The revisions to 29 CFR 1910.1044, "1,2-Dibromo-3-chloropropane", published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(s) [(p)] The revisions to 29 CFR 1910.1045, "Acrylonitrile", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(t) [(q)] The revisions to 29 CFR 1910.1045, "Acrylonitrile", as published in the Federal Register, Volume 63, Number 78, April 23, 1998, are incorporated by reference.

(u) [(r)] The revisions to 29 CFR 1910.1047, "Ethylene Oxide", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(v) [(s)] The revisions to 29 CFR 1910.1048, "Formaldehyde", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(w) [(t)] The revisions to 29 CFR 1910.1048, "Formaldehyde", as published in the Federal Register, Volume 63, Number 78, April 23, 1998, are incorporated by reference.

(x) [(u)] The revisions to 29 CFR 1910.1050, "Methylenedianiline", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(y) [(v)] The revisions to 29 CFR 1910.1050, "Methylenedianiline", as published in the Federal Register, Volume 63, Number 78, April 23, 1998, are incorporated by reference.

(z) [(w)] The revisions to 29 CFR 1910.1051, "Butadiene", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(aa) [(x)] The revisions to 29 CFR 1910.1052, "Methylene Chloride", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(bb) [(y)] The revisions to 29 CFR 1910.1052, "Methylene Chloride", as published in the Federal Register, Volume 63, Number 78, April 23, 1998, are incorporated by reference.

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(cc) The revisions to 29 CFR 1910.1052, "Methylene Chloride" as published in the Federal Register, Volume 63, Number 183, September 22, 1998, are incorporated by reference.

(2) The language relating to the access of exposure and medical records in Section 4(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.1020(e)(1)(i).

(3) The language relating to the access of exposure and medical records in Section 4(4) of this administrative regulation shall apply in lieu of 29 CFR 1910.1020(e)(1)(iii).

(4) The language relating to gloves in Section 5(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.1030(d)(3)(ix).

(5) This material may be inspected, copied or obtained at Kentucky Labor Cabinet, Division of Education and Training, 1047 U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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: Tim Chancellor, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, T. P. Chancellor

(1) Type and number of entities affected: The amendments to this regulation affect all employers within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of these proposed amendments, as published in the Federal Register, June 18, 1998, as they delete unnecessary, duplicative, or inconsistent requirements in the standards regulating vinyl chloride, inorganic arsenic, and coke oven emissions. OSHA estimates that the methylene chloride changes as published in the Federal Register, June 29, 1998 will have an estimated nationwide cost of approximately \$920,000. The costs are not provided on a state level.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no known effect on the cost of doing business.

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

1. First year following implementation:

2. Second and subsequent years: There are no additional factors regarding these revisions will increase or decrease costs. There will be no effect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these proposed regulations incorporate, by reference, federal regulations, as published in the Federal Register.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: These proposed amendments will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of these proposed amendments.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments adopt federal regulations.

3. Minimum or uniform standards contained in the federal mandate. These revisions, as published in the Federal Register, June 18, 1998, delete unnecessary, duplicative, or inconsistent requirements in the standards regulating vinyl chloride, inorganic arsenic, and coke oven emissions. This proposed regulation also, incorporates, by reference, a Federal Register publication, dated September 22, 1998, which revises the standard for methylene chloride to add medical removal protection benefits for employees and grants extensions of compliance start-up dates for employers in certain industries.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect local government entities that work with vinyl chloride, inorganic arsenic, coke ovens and methylene chloride.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations affect the safety and health of employees of local government who work with vinyl chloride, inorganic arsenic, coke ovens and methylene chloride.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and
Health Education and Training
(Amendment)

803 KAR 2:402. General safety and health provisions.

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1926

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1926

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board [Express authority to] incorporate by reference established federal standards and national consensus standards [is also given to the board]. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

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

(a) 29 CFR 1926.20-.35 revised as of July 1, 1997 [1995] published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

(b) The amendment to 29 CFR 1926.31, "Incorporation by Reference", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, [1926.30, "Shipbuilding and ship repairing", as published in the Federal Register, Volume 61, Number 46, March 7, 1996:

(c) The amendment to 29 CFR 1926.31, "Incorporation by reference" as published in the Federal Register, Volume 61, Number 46, March 7, 1996:

(d) The revision to 29 CFR 1926.33, "Access to Employee Exposure and Medical Records", as published in the Federal Register, Volume 61, Number 120, June 20, 1996, is incorporated by reference.]

(2) This material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

JOE NORSWORTHY, Chairman
KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may

be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of these proposed amendments, as these revisions change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph, update the reference to the current Code of Federal Regulations, and incorporate revisions, as published in the Federal Register, June 18, 1998, which clarifies that only mandatory provisions of national consensus standards are adopted as OSHA standards.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from these revisions.

(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: There are no additional factors regarding these revisions will increase or decrease costs. There will be no effect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these proposed regulations incorporate, by reference, federal regulations published in the Federal Register, change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph to meet KRS Chapter 13A considerations, and update the reference to the current Code of Federal Regulations.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: These proposed amendments will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of these proposed amendments.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph, update the reference to the current Code of Federal Regulations, and incorporate revisions, as published in the Federal Register, June 18, 1998, which clarifies that only mandatory provisions of national consensus standards are adopted as OSHA standards.

3. Minimum or uniform standards contained in the federal mandate. The amendments adopt revisions to the previously adopted regulations, 29 CFR 1926.31, "Incorporation by Reference," as published in the Federal Register, Volume 63, Number 117, June 18, 1998.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect local government entities involved in construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations relate to the local government entities involved in construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

LABOR CABINET

Department of Workplace Standards Division of Occupational Safety and Health Compliance Division of Occupational Safety and Health Education and Training (Amendment)

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

RELATES TO: KRS 338.051, 338.061, 29 CFR 1926.50-.66

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1926.50-.66

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

Section 1. Definitions. As used in the material incorporated by reference in Section 2 of this administrative regulation:

(1) "Area director" means Director, Division of Occupational Safety and Health, Kentucky Labor Cabinet;

(2) "Assistant secretary" means Secretary of Labor, Kentucky Labor Cabinet;

(3) "U.S. Department of Labor" means Kentucky Labor Cabinet or U.S. Department of Labor.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) 29 CFR Part 1926.50-.66, Subpart D, "Environmental Controls", revised as of July 1, 1997, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

(b) Revisions to 29 CFR 1926.50, "Medical Services and First Aid", as published in Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(c) Revisions to 29 CFR 1926.57, "Ventilation", as published in Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(d) [(e)] Revisions to 29 CFR 1926.60, "Methylenedianiline", as published in Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(e) [(d)] Revisions to 29 CFR 1926.62, "Lead", as published in Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(2) This material may be inspected, copied, or obtained at Kentucky Labor Cabinet, Division of Education and Training, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William L. Ralston, Ken-

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tucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of this proposed amendment, as this revision incorporates changes to an existing standard, as published in the Federal Register, June 18, 1998, which clarify provisions for first aid requirements, eliminating posting requirements for emergency numbers where 911 service is available and clarifying what first aid supplies are to be available at the construction site.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from this revision.

(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: There are no additional factors regarding this revision will increase or decrease costs. There will be no effect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: This revision will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as this proposed regulation incorporates, by reference, changes to a federal regulation published in the Federal Register.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: This proposed amendment will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of this proposed amendment.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers

with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. This amendment incorporate revisions, as published in the Federal Register, January 8, 1998, which clarify first aid requirements, eliminating posting requirements for emergency numbers where 911 service is available and clarifying what first aid supplies are to be available at the construction site.

3. Minimum or uniform standards contained in the federal mandate. The amendments adopt revisions to the previously adopted regulation, 29 CFR 1926.50 "Medical Services and First Aid," as published in the Federal Register, Volume 63, Number 117, June 18, 1998.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment affects local government entities that employ workers involved in construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations affect the safety and health of employees involved in construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and

Health Education and Training

(Amendment)

803 KAR 2:405. Fire protection and prevention.

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1926

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may [Express authority to] incorporate by reference established federal standards and national consensus standards is also given to the board. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

VOLUME 25, NUMBER 10 – APRIL 1, 1999

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

(a) 29 CFR Part 1926.150-.159 of the Code of Federal Regulations, revised as of July 1, 1997 [1995], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

(b) The revisions to 29 CFR 1926.152, "Flammable and Combustible Liquids", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference. [The removal of the portions of 29 CFR 1926.150, "Fire Protection", as published in the Federal Register, Volume 61, Number 120, June 20, 1996, is incorporated by reference.

(c) The removal of the undesignated headings preceding 29 CFR 1926.156, 29 CFR 1926.158, and 29 CFR 1926.156 through 29 CFR 1926.159, as published in the Federal Register, Volume 61, Number 120, June 20, 1996, is incorporated by reference.

(2) This material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of these proposed amendments, as these revisions changes the "NECESSITY, FUNCTION AND CONFORMITY" paragraph, and in Section 1(1) updates the reference to the current Code of Federal Regulations and incorporates revisions to an existing standard, as published in the Federal Register, June 18, 1998, which clarifies the type of containers to be used for the storage and handling of flammable and combustible liquids.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from these revisions.

(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: There are no additional factors regarding these revisions will increase or decrease costs. There will be no affect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these proposed regulations incorporate, by reference, federal regulations published in the Federal Register, change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph to meet KRS Chapter 13A considerations, and update the reference to the current Code of Federal Regulations.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: These proposed amendments will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of these proposed amendments.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph, update the reference to the current Code of Federal Regulations, and incorporate revisions, as published in the Federal Register, June 18, 1998, which clarifies the type of containers to be used for the storage and handling of flammable and combustible liquids.

3. Minimum or uniform standards contained in the federal mandate. The amendments adopt revisions to the previously adopted regulations, 29 CFR 1926.152, "Flammable and Combustible Liquids," as published in the Federal Register, Volume 63, Number 117, June 18, 1998.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions

impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect local government entities involved in construction work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations relate to the local government entities involved in construction work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

LABOR CABINET

Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:420. Blasting and use of explosives. [Adoption of 29 CFR Part 1926.900-914:]

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1926 [Chapter 338]

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1926 [Chapter 13A]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health [rules,] administrative regulations[,] and standards. KRS 338.061(2) provides that the board may [Express authority to] incorporate by reference established federal standards and national consensus standards [is also given to the board]. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction. [The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926:]

Section 1. Precautions to be taken to prevent accidental discharge of electric blasting caps from current induced by radar, radio transmitters, lightning, adjacent powerlines, dust storms, or other sources of extraneous electricity.

(1) The language in subsection (2) of this section shall apply in lieu of 29 CFR 1926.900(k)(3)(i). [The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.900-914 of the Code of Federal Regulations, revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby incorporated by reference with the following additions, exceptions, and deletions:

(1) The following paragraphs of 29 CFR 1926, Subpart U, "Blasting and the Use of Explosives," which were previously incorporated by reference, are hereby revised and shall read as follows:]

(a) 1926.900(k)(3)(i). The prominent display of adequate signs warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to this 1,000 foot distance would create an operational handicap, a competent person shall be consulted to evaluate the particular situation, and alternative provisions may be made which are adequately designed to prevent premature firing of electric blasting caps. The competent person may be a blaster certified by the Kentucky Department of Mines

and Minerals with a working knowledge of mobile radio transmission and receiving hazards as related to use of electric blasting cap firing systems and designated by the employer. A description of any alternative shall be in writing describing the unusual conditions at the site and the alternative measure used. The description shall be maintained at the construction site during the duration of the work and shall be available for inspection by representatives of the Commissioner, Kentucky Department of Labor.

(b) 1926.900(k)(4). Ensuring that mobile radio transmitters which are less than 100 feet away from electric blasting caps, in other than original containers, shall be deenergized, and have the radio transmission circuit or vehicle effectively locked against transmitter usage.

[(c) 1926.900(p). The use of black powder shall be prohibited except when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone:

(d) 1926.900(r). All electric blasts shall be fired with an electric blasting machine or properly designed electric power source, and in accordance with the provisions of subsection .906(a) and (r).

(e) The additions to 29 CFR 1926.900, "General Provisions", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, are incorporated by reference.]

(2) 29 CFR 1926.900(k)(3)(i) is amended to read: The prominent display of adequate signs warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to this 1,000 foot distance would create an operational handicap, a competent person shall be consulted to evaluate the particular situation, and alternative provisions may be made which are adequately designed to prevent premature firing of electric blasting caps. The competent person may be a blaster certified by the Kentucky Department of Mines and Minerals with a working knowledge of mobile radio transmission and receiving hazards as related to use of electric blasting cap firing systems and designated by the employer. A description of any alternative shall be in writing describing the unusual conditions at the site and the alternative measure used. The description shall be maintained at the construction site during the duration of the work and shall be available for inspection by representatives of the Commissioner, Kentucky Department of Labor. [The revision to 29 CFR 1926.902, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.]

(3) The language in subsection (4) of this section shall apply in lieu of 29 CFR 1926.900(k)(4). [1926.902(d). Explosives or blasting agents shall be transported in separate vehicles unless the detonators are packaged in specified containers and transported all in compliance with DOT Regulation 49 CFR 177.835(g):]

(4) 29 CFR 1926.900(k)(4) is amended to read: Ensuring that mobile radio transmitters which are less than 100 feet away from electric blasting caps, in other than original containers, shall be deenergized, and have the radio transmission circuit or vehicle effectively locked against transmitter usage. [1926.903(e). Underground Transportation of Explosives, shall be revised as follows: Revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are incorporated by reference. 1926.903(c) deleted.

(5) The revision to 29 CFR 1926.904, "(Amended)", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(6) 1926.905(h). Machines and all tools not used for loading explosives into the boreholes shall be removed from the immediate location of holes before explosives are delivered. Equipment shall not be operated within fifty (50) feet of a loaded hole except that which is required when the containment of the blast is necessary to prevent flyrock. When equipment or machinery is used to place mats, overburden, or protective material on the shot area, a competent person (who may be a blaster certified by the Kentucky Department of Mines and Minerals) shall implement adequate precautions to protect the lead wires or initiating systems such as protecting the components from direct contact with materials which sever, damage, impact, or conduct stray currents to the explosives system. This would include preventing the dragging of blasting mats or running over the holes and systems with the equipment used.

(a) 1926.905(i). No activity of any nature other than that which is required for loading holes with explosives and preparation required for

initiating the blast and containment of flyrock from the blast shall be permitted in a blast area.

(b) 1926.905(k), Holes shall be inspected prior to loading to determine depth and conditions. When necessary to drill a hole in proximity to a charged or misfired hole, the distance between these two holes must be greater than the depth being drilled and precautions taken to ensure the integrity of any adjacent charged hole or misfired hole. This distance must be determined by a competent person (who may be a blaster certified by the Kentucky Department of Mines and Minerals) in order to insure that there is no danger of intersecting the charged or misfired hole.

(c) 1926.905(n), In blasting, explosives in Fume Class I, as set forth by the Institute of the Makers of Explosives, shall be used; however, Fume Class I explosives are not required when adequate ventilation is provided and the workings are abandoned for a period of time sufficient to allow dissipation of all fumes.

(d) The addition to 29 CFR 1926.905, "Loading of Explosives and Blasting Agents", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.

(7) 1926.906(p), The blaster shall be in charge of the blasting machines, and no other person shall connect the leading wires to the machine except under the immediate physical and visual supervision of the blaster.

(a) 1926.906(q), Blasters, when testing circuits to charged holes, shall use only blasting galvanometers equipped with a silver chloride cell especially designed for this purpose or an instrument designed solely for use in blasting, which incorporates a current-limiting device into its circuitry. No instrument capable of producing over fifty (50) milliamps on direct short circuit shall be used.

(b) 1926.906(s), Leading wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

(8) 1926.907(a), The use of a fuse that has been hammered or injured in any way shall be forbidden.

(9) 1926.910(b), Sufficient time shall be allowed, not less than fifteen (15) minutes in tunnels, for the smoke and fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the blaster to determine if all charges have been exploded before employees are allowed to return to the operation.

(10) The additions to 29 CFR 1926.914, "Loading of Explosives and Blasting Agents", as published in the Federal Register, Volume 58, Number 124, June 30, 1993, is incorporated by reference.]

Section 2. Use of Black Powder. (1) The language in subsection (2) of this section shall apply in lieu of 29 CFR 1926.900(p).

(2) 29 CFR 1926.900(p) is amended to read: The use of black powder shall be prohibited except when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone.

Section 3. Electric Blast Initiation. (1) The language in subsection (2) of this section shall apply in lieu of 29 CFR 1926.900(r).

(2) 29 CFR 1926.900(r) is amended to read: All electric blasts shall be fired with an electric blasting machine or properly designed electric power source, and in accordance with the provisions of subsection .906(a) and (r).

Section 4. Transporting of Explosives or Blasting Agents. (1) The language in subsection (2) of this section shall apply in lieu of 29 CFR 1926.902(d).

(2) 29 CFR 1926.902(d) is amended to read: Explosives or blasting agents shall be transported in separate vehicles unless the detonators are packaged in specified containers and transported all in compliance with DOT Regulation 49 CFR 177.835(g.).

Section 5. Underground Transportation of Explosives. (1) The language in subsection (2) of this section shall apply in lieu of 29 CFR 1926.903(o).

(2) 29 CFR 1926.903(o) is deleted.

Section 6. Loading of Explosives or Blasting Agents. (1) The language in subsection (2) of this section shall apply in lieu of 29

CFR 1926.905(h).

(2) 29 CFR 1926.905(h) is amended to read: Machines and all tools not used for loading explosives into the boreholes shall be removed from the immediate location of holes before explosives are delivered. Equipment shall not be operated within fifty (50) feet of a loaded hole except that which is required when the containment of the blast is necessary to prevent flyrock. When equipment or machinery is used to place mats, overburden, or protective material on the shot area, a competent person (who may be a blaster certified by the Kentucky Department of Mines and Minerals) shall implement adequate precautions to protect the lead wires or initiating systems such as protecting the components from direct contact with materials which sever, damage, impact, or conduct stray currents to the explosives system. This would include preventing the dragging of blasting mats or running over the holes and systems with the equipment used.

(3) The language in subsection (4) of this section shall apply in lieu of 29 CFR 1926.905(i).

(4) 1926.905(i) is amended to read: No activity of any nature other than that which is required for loading holes with explosives and preparation required for initiating the blast and containment of flyrock from the blast shall be permitted in a blast area.

(5) The language in subsection (6) of this section shall apply in lieu of 29 CFR 1926.905(k).

(6) 29 CFR 1926.905(k), Holes shall be inspected prior to loading to determine depth and conditions. When necessary to drill a hole in proximity to a charged or misfired hole, the distance between these two (2) holes must be greater than the depth being drilled and precautions taken to ensure the integrity of any adjacent charged hole or misfired hole. This distance must be determined by a competent person (who may be a blaster certified by the Kentucky Department of Mines and Minerals) in order to insure that there is no danger of intersecting the charged or misfired hole.

(7) The language in subsection (8) of this section shall apply in lieu of 29 CFR 1926.905(n).

(8) 29 CFR 1926.905(n) is amended to read: In blasting, explosives in Fume Class I, as set forth by the Institute of the Makers of Explosives, shall be used; however, Fume Class I explosives are not required when adequate ventilation is provided and the workings are abandoned for a period of time sufficient to allow dissipation of all fumes.

Section 7. Initiation of Explosive Charges - Electric Blasting. (1) The language in subsection (2) of this section shall apply in lieu of 29 CFR 1926.906(p).

(2) 29 CFR 1926.906(p) is amended to read: The blaster shall be in charge of the blasting machines, and no other person shall connect the leading wires to the machine except under the immediate physical and visual supervision of the blaster.

(3) The language in subsection (4) of this section shall apply in lieu of 29 CFR 1926.906(q).

(4) 29 CFR 1926.906(q) is amended to read: Blasters, when testing circuits to charged holes, shall use only blasting galvanometers equipped with a silver chloride cell especially designed for this purpose or an instrument designed solely for use in blasting, which incorporates a current-limiting device into its circuitry. No instrument capable of producing over fifty (50) milliamps on direct short circuit shall be used.

(5) The language in subsection (6) of this section shall apply in lieu of 29 CFR 1926.906(s).

(6) 29 CFR 1926.906(s) is amended to read: Leading wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

Section 8. Use of Safety Fuse. (1) The language in subsection (2) of this section shall apply in lieu of 29 CFR 1926.907(a).

(2) 29 CFR 1926.907(a) is amended to read: The use of a fuse that has been hammered or injured in any way shall be forbidden.

Section 9. Inspection After Blasting. (1) The language in subsection (2) of this section shall apply in lieu of 29 CFR 1926.910(o).

(2) 29 CFR 1926.910(b) is amended to read: Sufficient time shall be allowed, not less than fifteen (15) minutes in tunnels, for the

smoke and fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the blaster to determine if all charges have been exploded before employees are allowed to return to the operation.

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

(a) The material in subparagraphs 1 through 14 of this paragraph, the Code of Federal Regulations, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 1997, is incorporated by reference:

1. 29 CFR 1926.900 through 1926.900(k)(2);
2. 29 CFR 1926.900(k)(3)(ii);
3. 29 CFR 1926.900(k)(5) through 1926.900(o);
4. 29 CFR 1926.900(q);
5. 29 CFR 1926.900(s) through 1926.902(c);
6. 29 CFR 1926.902(e) through 1926.903(d);
7. 29 CFR 1926.903(f) through 1926.905(g);
8. 29 CFR 1926.905(i);
9. 29 CFR 1926.905(l) through 1926.905(m);
10. 29 CFR 1926.905(o) through 1926.906(o);
11. 29 CFR 1926.906(r);
12. 29 CFR 1926.906(t);
13. 29 CFR 1926.907(b) through 1926.910(a);
14. 29 CFR 1926.910(c) through 1926.914.

(b) The revision to 29 CFR 1926.906, "Initiation of Explosive Charges - Electric Blasting", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, is incorporated by reference.

(2) This material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday. [Public Notice: (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.]

JOE NORSWORTHY, Chairman
KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: William L. Ralston, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, W. L. Ralston

(1) Type and number of entities affected: The amendments to this regulation affect all employers in the construction industry within the jurisdiction of the Kentucky Occupational Safety and Health Program.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no costs or savings resulting from the promulgation of these pro-

posed amendments, as these revisions change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph, update the reference to the current Code of Federal Regulations, and incorporate revisions, as published in the Federal Register, June 18, 1998, which allows instruments other than galvanometers to be used to test circuits.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from these revisions.

(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: There are no additional factors regarding these revisions will increase or decrease costs. There will be no affect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these proposed regulations incorporate, by reference, federal regulations published in the Federal Register, change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph to meet KRS Chapter 13A considerations, and update the reference to the current Code of Federal Regulations.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: These proposed amendments will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of these proposed amendments.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section

18(c)(2)).

2. State compliance standards. These amendments change the "NECESSITY, FUNCTION AND CONFORMITY" paragraph, update the reference to the current Code of Federal Regulations, and incorporate revisions, as published in the Federal Register, June 18, 1998, which allows instruments other than galvanometers to be used to test circuits.

3. Minimum or uniform standards contained in the federal mandate. The amendments adopt revisions to the previously adopted regulations, 29 CFR 1926.906, "Initiation of Explosive Charges-Electric Blasting Incorporation by Reference," as published in the Federal Register, Volume 63, Number 117, June 18, 1998.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect local government entities involved in construction doing blasting work.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations relate to the local government entities involved in construction doing blasting work.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

LABOR CABINET

Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and
Health Education and Training
(Amendment)

803 KAR 2:425. Toxic and hazardous substances.

RELATES TO: KRS 338.051, 338.061, 29 CFR 1926

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1926

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) authorizes the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

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

(a) 29 CFR 1926.1100-.1148 revised as of July 1, 1997, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

(b) The amendment to 29 CFR 1926.1101, "Occupational Exposure to Asbestos", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, is incorporated by reference.

(c) The amendment to 29 CFR 1926.1101, "Occupational Exposure to

Asbestos", as published in the Federal Register, Volume 63, Number 78, April 23, 1998, is incorporated by reference.

(d) The amendment to 29 CFR 1926.1101, "Occupational Exposure to Asbestos", as published in the Federal Register, Volume 63, Number 124, June 29, 1998, is incorporated by reference.

(e) The amendment to 29 CFR 1926.1127, "Cadmium", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, is incorporated by reference.

(2) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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: Tim Chancellor, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, T. P. Chancellor

(1) Type and number of entities affected: The amendments to this regulation affect all public sector employers in the Commonwealth in public sector shipyard employment.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no known costs or savings resulting from the promulgation of these proposed amendments, as these revisions, published in the Federal Register, June 29, 1998, remove from the scope of coverage of the construction employment standard the following materials: asbestos-containing roof cements, coatings and mastics.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from these revisions.

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

1. First year following implementation:

2. Second and subsequent years: There are no additional factors regarding these revisions will increase or decrease costs. There will be no effect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

- (a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.
- (b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these proposed regulations incorporate, by reference, federal regulations published in the Federal Register, which remove certain roofing materials from the scope of coverage of the construction standard.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: These proposed amendments will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of these proposed amendments.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments incorporate federal regulations, which revise the asbestos standard covering construction employment.

3. Minimum or uniform standards contained in the federal mandate. The amendments adopt revisions, as published in the Federal Register, Volume 63, Number 124, June 29, 1998, which remove asbestos-containing roof cements, coatings and mastics from the scope of coverage of the construction employment asbestos regulation, 29 CFR 1915.1001.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions impose no stricter, additional or different responsibilities than federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect local government entities engaged in construction industry roofing work dealing with asbestos-containing cements coatings and mastics.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations affect the safety and health of employees of local government engaged in

construction industry roofing work dealing with asbestos-containing cements coatings and mastics.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and

Health Education and Training

(Amendment)

803 KAR 2:500. Maritime employment.

RELATES TO: KRS 338.051, 338.061, 29 CFR 1915, 1917, 1918, 1919

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1915, 1917, 1918, 1919

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) authorizes the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of Maritime employment.

Section 1. Definitions. As used in the material incorporated by reference in Section 2 of this administrative regulation:

- (1) "Administration" means the Kentucky Occupational Safety and Health Program, Frankfort, Kentucky;
- (2) "Area director" means Director, Division of Occupational Safety and Health, Kentucky Labor Cabinet;
- (3) "Assistant secretary" means Secretary of Labor, Kentucky Labor Cabinet;
- (4) "U.S. Department of Labor" means Kentucky Labor Cabinet or U.S. Department of Labor.

Section 2. Incorporation by Reference. (1) The following is incorporated by reference:

(a) Chapter 29, Part 1915 of the Code of Federal Regulations, revised as of July 1, 1997, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

(b) The revisions to 29 CFR 1915.1001, "Asbestos", as published in the Federal Register, Volume 63, Number 124, June 29, 1998.

(c) Chapter 29 Part 1917 of the Code of Federal Regulations, revised as of July 1, 1997, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

1. The revisions to 29 CFR 1917.1, "Scope and Applicability", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

2. The revisions to 29 CFR 1917.2, "Definitions", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

3. The revisions to 29 CFR 1917.3, "Incorporation by Reference", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

4. The revisions to 29 CFR 1917.11, "Housekeeping", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

5. The revisions to 29 CFR 1917.13, "Slings", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

6. The revisions to 29 CFR 1917.17, "Railroad Facilities", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

7. The revisions to 29 CFR 1917.20, "Interference with Communications", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

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8. The revisions to 29 CFR 1917.23, "Hazardous Atmospheres and Substances (See also 1917.2(r))", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

9. The revisions to 29 CFR 1917.24, "Carbon Monoxide", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

10. The revisions to 29 CFR 1917.25, "Fumigants, Pesticides, Insecticides, and Hazardous Preservatives (See also 1917.2(p))", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

11. The revisions to 29 CFR 1917.26, "First Aid and Lifesaving Facilities", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

12. The revisions to 29 CFR 1917.27, "Personnel", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

13. The revisions to 29 CFR 1917.28, "Hazard Communication (See also 1917.1(a)(2)(vi))", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

14. The revisions to 29 CFR 1917.30 "Emergency Action Plans", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

15. The revisions to 29 CFR 1917.42, "Miscellaneous Auxiliary Gear", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

16. The revisions to 29 CFR 1917.43, "Powered Industrial Trucks", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

17. The revisions to 29 CFR 1917.44, "General Rules Applicable to Vehicles", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

18. The revisions to 29 CFR 1917.45, "Cranes and Derricks (See also 1917.50)", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

19. The revisions to 29 CFR 1917.46, "Load Indicating Devices", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

20. The revisions to 29 CFR 1917.48, "Conveyors", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

21. The revisions to 29 CFR 1917.50, "Certification of Marine Terminal Material Handling Devices (See also mandatory Appendix IV, Part 1918 of this Chapter)", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

22. The revisions to 29 CFR 1917.71, "Terminals Handling Intermodal Containers or Roll-On Roll-Off Operations", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

23. The revisions to 29 CFR 1917.73, "Terminal Facilities Handling Menhaden and Similar Species of Fish (See also 1917.2, Definition of Hazardous Cargo, Materials, Substance, or Atmosphere)", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

24. The revisions to 29 CFR 1917.91, "Eye and Face Protection", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

25. The revisions to 29 CFR 1917.93, "Head Protection", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

26. The revisions to 29 CFR 1917.94, "Foot Protection", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

27. The revisions to 29 CFR 1917.95, "Other Protective Measures", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

28. The revisions to 29 CFR 1917.112, "Guarding of Edges", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

29. The revisions to 29 CFR 1917.118, "Fixed Ladders", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

30. The revisions to 29 CFR 1917.119, "Portable Ladders", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

31. The revisions to 29 CFR 1917.121, "Spiral Stairways", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

32. The revisions to 29 CFR 1917.124, "Dockboards (Car and Bridge Plates)", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

33. The revisions to 29 CFR 1917.126, "River Banks", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

34. The revisions to 29 CFR 1917.152, "Welding, Cutting and Heating (Hot Work) (See also 1917.2, Definition of Hazardous Cargo, Materials, Substance, or Atmosphere)", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

35. The revisions to 29 CFR 1917.153, "Spray Painting (See also 1917.2, Definitions of Hazardous Cargo, Materials, Substance, or Atmosphere)", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

36. The revisions to 29 CFR 1917.156, "Fuel Handling and Storage", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

37. The revisions to 29 CFR 1917.157, "Battery Charging and Changing", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

(d) [(e)] The revisions to 29 CFR Part 1918, "Safety and Health Regulations for Longshoring", as published in the Federal Register, Volume 62, Number 143, July 25, 1997.

(e) [(d)] Chapter 29 Part 1919 of the Code of Federal Regulations, revised as of July 1, 1997, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

(2) This material may be inspected, copied, or obtained at Kentucky Labor Cabinet, Division of Education and Training, 1047 U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: March 2, 1999

FILED WITH LRC: March 10, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 27, 1999, at 2 p.m. (ET) at the Kentucky Labor Cabinet, 1047 U.S. 127 South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 20, 1999, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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: Tim Chancellor, Kentucky Labor Cabinet, 1047 U.S. 127 South, Suite 4, Frankfort, Kentucky 40601, Telephone: (502) 564-3070, Fax: (502) 564-1682.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kembra Taylor, T. P. Chancellor

(1) Type and number of entities affected: The amendments to this regulation affect all public sector employers in the Commonwealth in shipyard employment.

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

(a) Cost of living and employment in the geographic area in which the administrative regulation will be implemented: There are no known costs or savings resulting from the promulgation of these proposed amendments, as these revisions, published in the Federal Register, June 29, 1998, remove from the scope of coverage of the shipyard employment standard the following materials: asbestos-containing roof cements, coatings and mastics.

(b) Cost of doing business in the geographic area in which the administrative regulation will be implemented: There will be no cost effected from these revisions.

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

1. First year following implementation:

2. Second and subsequent years: There are no additional factors regarding these revisions will increase or decrease costs. There

will be no effect on competition.

(3) Effects on the promulgating administrative body: The promulgating body will not be affected by the adoption of these revisions.

(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: There will be no reporting or paperwork requirements as a result of these changes.

(4) Assessment of anticipated effect on state and local revenues: These revisions will have no anticipated effect on state and local revenues.

5) Source of revenue to be used for implementation and enforcement of administrative regulation: Current state and federal funding.

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

(a) Geographic area in which administrative regulation will be implemented: Undetermined; no public comments were received.

(b) Kentucky: Undetermined; no public comments were received.

(7) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods were not considered as these proposed regulations incorporate, by reference, federal regulations published in the Federal Register, which remove certain roofing materials from the scope of coverage of the cons

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographic area in which implemented and on Kentucky: These proposed amendments will enhance worker safety throughout Kentucky.

(b) State whether 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: There is no conflicting, overlapping, or duplication as a result of adoption of these proposed amendments.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Was tiering applied? No. Kentucky's Occupational Safety and Health Program regulations affect all employers with one or more employees. Inspections are conducted at the facilities of those industries or firms that pose higher risks to worker safety and health, those employers from which the KYOSH Program has received worker complaints or referrals, or where a workplace fatality (or accident resulting in the hospitalization of three or more employees) has occurred.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. PL 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. These amendments incorporate federal regulations, which revise the asbestos standard covering shipyard employment.

3. Minimum or uniform standards contained in the federal mandate. The amendments adopt revisions, as published in the Federal Register, Volume 63, Number 124, June 29, 1998, which remove asbestos-containing roof cements, coatings and mastics from the scope of coverage of the shipyard employment asbestos regulation, 29 CFR 1915.1001.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed amended revision incorporates the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These revisions impose no stricter, additional or different responsibilities than federal

standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. These amendments affect local government entities engaged in shipyard industry roofing work dealing with asbestos-containing cements coatings and mastics.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulations affect the safety and health of employees of local government engaged in shipyard industry roofing work dealing with asbestos-containing cements coatings and mastics.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of these amendments is to comply with federal regulations relating to occupational safety and health. There will be no increase or decrease in local government revenues or significant expenditures. These proposed amendments will not affect the number of local government employees.

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 these] 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;

(b) ~~and~~ [and] 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 November of each year. A special examination [Special examinations] may be conducted at other times as the Department of Housing, Buildings and Construc-

tion 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) Inactive master renewal. The holder of a valid and effective master license may apply for an inactive master plumber license by paying fifty (50) percent of the renewal fee prescribed in this administrative regulation. The holder of an inactive master plumber license shall not secure plumbing permits, advertise or in any way hold themselves out as a qualified master plumber but at any time during the fiscal year may reactivate the license by payment of the additional fifty (50) percent of the original license fee.

(3) 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) Inserting the proper pipe size on a prepared drawing that indicates all stacks, wastes and vents and the plumbing fixtures connected thereto. The proper sizing of main stacks shall be given more importance than other piping. Deductions shall be required for oversized piping and for undersized piping. [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 the total examination for master plumbers shall be eighty (80) percent; however, a minimum of seventy-five (75) percent shall be obtained for each portion of the examination in paragraphs (a) and (b) of this subsection.

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 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) Inserting the proper pipe size on a prepared drawing that indicates all stacks, wastes and vents and the plumbing fixtures connected thereto. The proper sizing of main stacks shall be given more importance than other piping. Deductions shall be required for oversized piping and for undersized piping; and [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.]

(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 the total examination for journeyman plumbers shall be seventy-five (75) percent; however, a minimum of seventy (70) percent shall be obtained for each portion of paragraphs (a), (b) and (c) of this subsection.

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.

FRANK PHIEFFER, Chairman
CHARLES A. COTTON, Commissioner
REDMON LAIR, Deputy Secretary
JUDITH G. WALDEN, General Counsel

APPROVED BY AGENCY: March 5, 1999

FILED WITH LRC: March 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, April 28, 1999, at 10 a.m., EDT, 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 April 21, 1999, (five work days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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: 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:

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(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.

CABINET FOR HEALTH SERVICES Office of Inspector General Division of Licensing and Regulation (Amendment)

902 KAR 20:091. Facilities specifications, operation and services; community mental health-mental retardation center.

RELATES TO: KRS 202A.011(4), 202B.010(6), 210.370 [to 210.480], 216B.010, 216B.015, 216B.030, 216B.105 [to 216B.130], 216B.990, 311.560(4), 314.011(8), 314.042(8), 320.210(2), 645.020(5)

STATUTORY AUTHORITY: KRS 216B.010, 216B.042; 216B.105, 314.011(8), 314.042(8), EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042

and 216B.105 require that the Kentucky Cabinet for Health Services regulate health facilities and health services. This administrative regulation establishes licensure requirements for the operation, services, and facility specifications of a community mental health-mental retardation center. [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) "Center" means a community mental health-mental retardation center.

(2) "Clinical psychologist" means a clinical psychologist certified or licensed pursuant to KRS Chapter 319.

(3) "Crisis stabilization unit" means a community-based facility operated by or under contract with a center to provide emergency services to no more than twelve (12) clients who require overnight stays.

(4) "Designated regional service area" means the geographical area to be served by the community mental health-mental retardation center as approved by the Secretary of the Cabinet for Health Services.

(5) "Independent practitioner" means the following categories of licensed or certified practitioners whose clinical services may be provided independent of clinical supervision.

(a) Physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) Psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) Licensed psychologist who has been granted a license to practice psychology by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.050;

(d) Certified psychologist with autonomous functioning who has been certified to provide service without supervision by the Kentucky Board of Examiners of Psychology in accordance with KRS 319.056;

(e) Licensed clinical social worker licensed for the independent practice of clinical social work by the Kentucky Board of Examiners of Social Work in accordance with KRS 335.100;

(f) Advanced registered nurse practitioner, psychiatric-mental health clinical nursing practice, licensed by the Kentucky Board of Nursing in accordance with KRS 314.042;

(g) Certified marriage and family therapist certified by the Kentucky Board of Certification of Marriage and Family Therapists in accordance with KRS 335.300;

(h) Certified professional art therapist who is certified by the Kentucky Board of Certification for Professional Art Therapists in accordance with KRS 309.130;

(i) Certified professional counselor who is certified by the Kentucky Board of Certification for Professional Counselors in accordance with KRS 335.500; and

(j) For the provision of substance abuse services only, certified alcohol and drug counselor who is certified by the Kentucky Board of Certification for Alcohol and Drug Counselors in accordance with the provisions of KRS Chapter 309, or who meets the equivalent requirements as staff of nonmedical alcohol treatment and education (NATE) or drug abuse treatment and education (DATE) programs as specified in 908 KAR 1:370.

(6) [(4)] "Licensee" means the governing body legally responsible for the community mental health-mental retardation center.

(7) [(5)] "Psychiatric nurse" means a registered nurse who:

(a) Has a master's of science degree in nursing with a specialty in psychiatric or mental health nursing;

(b) Is a graduate of a four (4) year educational program with a bachelor of science degree in nursing and a minimum of one (1) year of experience in a mental health setting;

(c) Is a graduate of a three (3) year educational program with two (2) years of experience in a mental health setting; or

(d) Is a graduate of a two (2) year educational program with an associate degree in nursing with three (3) years of experience in a

mental health setting.

(8) [(6)] "Qualified social worker" means a social worker with a master's degree from an accredited school of social work who is licensed or exempt from licensure pursuant to KRS Chapter 335.

(9) "Time out" means a treatment intervention utilized by staff to separate a client from others in a nonsecure area for a time-limited period to permit the client time to regain control over his behavior.

Section 2. Scope of Operation and Services. A community mental health-mental retardation center shall provide a comprehensive range of accessible and coordinated mental health-mental retardation services, including direct services or indirect mental health or mental retardation services, to the population of a designated regional service area as required by KRS 210.370 to 210.480.

Section 3. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for the center, for the establishment of administrative policies, and for compliance with federal, state, and local laws and regulations pertaining to the operation of the center.

(b) To obtain or renew a license to operate a center, the licensee shall comply with the requirements of this administrative regulation and the requirements of all statutes and administrative regulations applicable to the services and programs offered by the center.

(2) Executive director. The licensee shall designate an executive director, qualified by training and experience, who shall be responsible for:

(a) The total program of the center and its affiliates in accordance with the center's written policies; and

(b) Evaluation of the program as it relates to the client's needs.

(3) Policies. The licensee shall establish written policies for the administration and operation of the center which shall be available to staff and which shall include:

(a) A description of the organizational structure which describes responsibilities, functions and interrelations of all units and lines of administrative and clinical authority;

(b) Appropriate methods and procedures for the storage, dispensing and administering of drugs and biologicals;

(c) Grievance procedures for clients;

(d) Confidentiality and use of client records in accordance with federal, state, and local statutes and regulations; and

(e) Personnel policies including:

1. Job descriptions and qualifications for each type of personnel;

2. Wage scales, hours of work, vacation and sick leave;

3. Plans for orientation of all personnel to the policies and objectives of the center and for on-the-job training, if necessary; and

4. Periodic evaluation of employee performance.

(4) Medical records. A medical record shall be maintained for each individual receiving services.

(a) All entries shall be current, dated, signed, and indexed according to the service received;

(b) All medical records shall be retained for a minimum of five (5) years or, in the case of a minor, three (3) years after the client reaches the age of majority, whichever is longer;

(c) All client records shall be kept in locked files and treated as confidential. Information contained in a client record shall:

1. Be disclosed to an authorized person; and

2. Not be disclosed to an unauthorized person;

(d) Each medical record shall contain:

1. An identification sheet;

2. Information on the purpose for seeking a service;

3. A history of findings and treatments rendered;

4. Screening information pertaining to the problem;

5. Staff notes on services provided;

6. Pertinent medical, psychiatric and social information;

7. Disposition;

8. Assigned status;

9. Assigned therapists; and

10. A termination study recapitulating findings and events during treatment, clinical impressions, and condition on termination.

(5) Personnel. Minimum staffing requirements for a community mental health center shall include the following full-time personnel:

(a) A program director who shall be a psychiatrist, certified or

licensed psychologist, psychiatric nurse or a qualified social worker. The program director may be the executive director;

(b)1. A board-certified or board-eligible psychiatrist who shall:

a. Be responsible for treatment planning;

b. Provide psychiatric service as indicated by client needs; and

c. Supervise and coordinate the provision of all psychiatric services by the center.

2. This position may be filled by more than one (1) psychiatrist if the total hours worked are equivalent to one (1) full-time position;

(c) A clinical psychologist who shall provide evaluation and screening services for the client as well as individual or group therapy;

(d) A psychiatric nurse who shall provide or supervise nursing service for psychiatric care;

(e) A qualified social worker who shall provide social services as required; and

(f) A person who shall assure that medical records are maintained and that information is immediately retrievable.

Section 4. Services. (1) The center shall provide services in the designated regional service area directly or through contract.

(2) Direct services. The center shall provide a sufficiently wide range of treatments to meet the clients' needs including individual, family, or group therapy, play therapy, behavior modification, or chemotherapy.

(3) Treatment plan.

(a) Each client receiving direct treatment under the auspices of a community mental health center shall have an individual treatment plan signed by a clinically licensed or certified professional provider of the treatment.

(b) A medical service, including a change of medication, a diet restriction, or a restriction on physical activity shall be ordered by a physician or other ordering practitioner acting within the limits of his statutory scope of practice [advanced-registered-nurse-practitioner-as authorized-in-KRS-314.011(8) and 314.042(8)].

(c) The treatment plan shall establish a diagnosis and indicate services required, as well as short-term and long-term goals.

(4) The center shall provide:

(a) A therapeutic program for a person who requires less than twenty-four (24) hour a day care, and more than outpatient care (i.e., partial hospitalization or day care). A psychiatrist shall be present on a regularly scheduled basis to provide consultant services to staff;

(b) Inpatient services through affiliation with a licensed community hospital for a person requiring full-time inpatient care. A center that does not have an affiliation contract in effect shall be considered to be in compliance with this requirement if the center documents a good faith effort to enter into an affiliation contract;

(c) Outpatient services on a regularly scheduled basis with arrangements made for a nonscheduled visit during a time of increased stress or crisis. The outpatient services shall provide diagnosis and evaluation of a psychiatric problem and a referral to other services or agencies as indicated by the client's needs;

(d) Emergency services for the immediate evaluation and care of a person in a crisis situation on a twenty-four (24) hour a day, seven (7) day a week basis. All components of the emergency service shall be coordinated into a unified program that enables a client receiving an emergency service to be readily transferred to another service of the center as client needs dictate; and

(e) Consultation and education services for an individual and various community agencies and groups to increase the visibility, identifiability, and accessibility of the center and to promote mental health through the distribution of relevant mental health knowledge.

(5) The center shall have a utilization and review plan for the evaluation of the service needs of each client. The need for continuing a service element for each individual shall be evaluated with sufficient frequency to ensure that proper arrangements have been made for discharge, for transfer to other elements of service, or referral to another service provider if appropriate.

(6) Medications. A treatment involving medication or chemotherapy shall be administered under the direction of a licensed physician and:

(a) Records of all medication or chemotherapy used in treatment shall be in the staff notes on a special medications chart in the medical record;

(b) A copy of the prescription[~~with a limit of no more than three (3) refills;~~] shall be kept in the medical record;

(c) Blood or another laboratory test or examination shall be performed in accordance with accepted medical practice on each individual receiving medication prescribed or administered by the center;

(d) Drug supplies shall be stored under proper sanitary, temperature, light and moisture conditions;

(e) All medications kept by the center shall be properly labeled;

(f) A medication shall be stored in the originally received container unless transferred to another container by a pharmacist or another person licensed to transfer the medication; and

(g) Medication kept in the center shall be kept in a locked cabinet.

1. A controlled substance shall be kept under double lock (e.g., in a locked box in a locked cabinet).

2. There shall be a controlled substances record, in which is recorded:

a. The name of the patient;

b. The date, time, dosage, balance remaining and method of administration of all controlled substances;

c. The name of the prescribing physician or other ordering practitioner acting within the limits of his statutory scope of practice [advanced registered nurse practitioner as authorized in KRS 314.011(8) and 314.042(8)]; and

d. The name of the nurse who administered it, or staff who supervised the self-administration.

3. A nursing medication cabinet shall be kept locked and access shall be restricted to a designated medication nurse.

Section 5. Crisis Stabilization. (1) A crisis stabilization program as a part of emergency services provided by a center in a crisis stabilization unit shall include the following:

(a) A mental status evaluation and physical health questionnaire of the client upon admission;

(b) A treatment planning process;

(c) Procedures for crisis interventions; and

(d) Discharge and aftercare planning processes.

(2) A program shall have written policies concerning the operation of a crisis stabilization unit including:

(a) Staffing.

1. At least one (1) direct-care staff member shall be assigned direct-care responsibilities for every four (4) clients during normal waking hours, and at least one (1) direct-care staff member shall be assigned direct-care responsibilities for every six (6) clients during normal sleeping hours;

2. Administrative oversight of the program shall be provided by a staff member who is:

a. An independent practitioner as defined in Section 1(5) of this administrative regulation;

b. A qualified medical health professional as defined in KRS 202A.011(12); or

c. A person qualified to be program director under Section 3(5)(a) of this administrative regulation.

3. A program shall establish and implement a training program for direct-care staff pertaining to the care of clients in a crisis stabilization program.

(b) Eligibility criteria shall assure that clients in a crisis stabilization program are:

1. Divided between adults and children into separate programs and physical location. A children's program may serve a resident up to age twenty-one (21) if it is more developmentally appropriate for that resident;

2. In need of short-term behavior management and at risk of placement in a higher level of care;

3. Able to take care of his own personal needs, if an adult;

4. Medically able to participate in services; and

5. Being served in the least restrictive environment available in the community.

(c) Referrals for physical health services to include diagnosis, treatment, and consultation for acute or chronic illnesses occurring during the client's stay in the crisis stabilization unit or for problems identified during the admission assessment.

(d) Rights of crisis stabilization clients to include:

1. A description of the client's rights and the means by which

these rights are protected and exercised.

2. At the point of admission, the program shall provide the client and his parents, if he is a child, his guardian, or other legal representative with a clearly written and readable statement of rights and responsibilities. The statement shall be read to the client and his parents, if he is a child, his guardian, or other legal representative if either cannot read and shall cover, at a minimum:

a. Each client's access to treatment, regardless of race, religion, or ethnicity;

b. Each client's right to recognition and respect of his personal dignity in the provision of all treatment and care;

c. Each client's right to be provided treatment and care in the least restrictive environment possible;

d. Each client's right to an individualized treatment plan;

e. Each client's and his parent's, if he is a child, or his legal representative's participation in treatment planning;

f. The nature of care, procedures, and treatment that he shall receive;

g. The risks, side effects, and benefits of all medications and treatment procedures used; and

h. The right, to the extent permitted by law, to refuse the specific medications or treatment procedures and the responsibility of the facility when the client refuses treatment, to seek appropriate legal alternatives or orders of involuntary treatment, or, in accordance with professional standards, to terminate the relationship with the client upon reasonable notice.

3. The rights of clients shall be written in language which is understandable to the client, and his parents, if he is a child, his guardian or other legal representative and shall be posted in appropriate areas of the facility.

4. The policy and procedure concerning the clients' rights shall assure and protect the client's personal privacy within the constraints of his treatment plan. These rights to privacy shall include:

a. Visitation by family or significant others in a suitable area of the facility; and

b. Telephone communications with family or significant others at a reasonable frequency.

5. If any rights to privacy are limited, the client and his parents, if he is a child, or his guardian or other legal representative, shall receive a full explanation. Limitations to privacy rights shall be documented in the client's record.

6. The client and his parents, if he is a child, his guardian, or other legal representative shall be informed of the use and disposition of products of special observation and audio visual techniques such as one (1) way vision mirrors, tape recorders, television, movies, or photographs.

7. Written policy and procedure developed in consultation with professional and direct-care staff shall provide for the measures utilized by the facility to manage behavior of clients who are children including the use of a time-out room. Policies and procedures related to the use of a time-out room shall be approved by the Department for Mental Health and Mental Retardation. These measures shall be fully explained to each client, and his parents, or his guardian or other legal representative.

8. The facility shall prohibit all cruel and unusual behavioral management measures including corporal punishment and the use of a seclusion room and mechanical restraint as defined in 905 KAR 1:300.

9. Written policy shall prohibit clients from administering disciplinary measures upon one another and shall prohibit persons other than professional or direct-care staff from administering disciplinary measures to clients who are children.

(e) The use of therapeutic holds as a safe physical management technique shall include:

1. Criteria for appropriate use of therapeutic holds;

2. Documentation requirements; and

3. Staff shall complete a Department of Mental Health and Mental Retardation approved training course prior to using therapeutic holds.

(f) A licensed psychiatrist shall be available to evaluate, provide treatment and participate in treatment planning on a regular basis.

(g) The program shall have written policies and procedures for proper management of pharmaceuticals that are consistent with the

requirements of Section 4(6) of this administrative regulation.

(h) Except for a program accredited by the Joint Commission for Accreditation of Health Organizations or the Commission on Accreditation of Rehabilitation Facilities, a crisis stabilization unit shall establish and adhere to written policies and procedures that address the following:

1. Procedures to be followed by staff in the event of a medical emergency of a client;

2. Proper nutrition;

3. Emergency preparedness;

4. Security; and

5. School attendance for children.

(3) Facility requirements for crisis stabilization units.

(a) A living unit shall be located within a single building and shall include:

1. Bedrooms.

a. Bedrooms shall not be used to sleep more than four (4) clients.

b. Bedrooms shall be equipped with a bed for each client. Beds shall be not less than thirty-six (36) inches wide nor less than five (5) feet in length and shall be long and wide enough to accommodate the client's size. A mattress cover, two (2) sheets and a pillow and such bed covering as is required to keep the client comfortable, shall be provided for each bed. Each bed shall be equipped with a support mechanism and a clean mattress.

c. Beds occupied by clients shall be placed so that no client may experience discomfort because of proximity to radiators, heat outlets, or exposure to drafts.

d. There shall be separate sleeping quarters for males and females.

e. Clients shall not be housed in rooms, detached buildings, or other enclosures which have not been previously inspected and approved for residential use by the licensure agency and the Department of Housing, Buildings and Construction.

2. Bathrooms. Each living unit shall have a minimum of one (1) wash basin with hot and cold water, one (1) flush toilet, and one (1) bath or shower with hot and cold water for every eight (8) clients, or fraction thereof, within the living unit. If separate toilet and bath or shower facilities are not provided, males and females shall not be permitted to use those facilities at the same time.

3. Living area.

a. The living area shall provide comfortable seating for all clients housed within the living unit.

b. Each living unit shall be equipped with a working sink, stove and refrigerator, unless a kitchen is directly available within the same building as the living unit.

c. A living unit shall house a maximum of twelve (12) clients.

Section 6. Facility Specifications. (1) A facility housing a community mental health-mental retardation center or a crisis stabilization unit shall be a general purpose buildings of safe and substantial construction and shall be in compliance with applicable state and local laws relating to zoning, construction, plumbing, safety, and sanitation. The following requirements shall apply if applicable and as adopted by the respective agency authority:

(a) Requirements for fire safety pursuant to 815 KAR 10:050, as amended; and

(b) Requirements for making a building or facility accessible to and usable by an individual with disabilities, pursuant to KRS 198B.260 and administrative regulations promulgated thereunder.

(2) Prior to occupancy, the facility shall have final approval from appropriate agencies.

(3) A facility shall be currently approved by the Department of Housing, Buildings and Construction in accordance with 815 KAR 10:050, before relicensure is granted by the licensure agency.

TIMOTHY L. VENÖ, Inspector General

JOHN MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: February 26, 1999

FILED WITH LRC: February 26, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1999, at 9 a.m., at the Health

Services Auditorium, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 1999, 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: Hiren B. Desai, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 4W-C, Frankfort, Kentucky 40621, Telephone: (502) 564-7905, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ralph Von Derau

(1) Type and number of entities affected: There are presently 14 licensed community mental health-mental retardation centers.

(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: No direct or indirect costs should be associated with this program beyond printing this new regulation.

1. First year: \$500 for printing regulation.

2. Continuing costs or savings: No additional costs or savings, since reprinting of regulations is provided for in the continuing budget.

3. Additional factors increasing or decreasing costs: No additional factors.

(b) Reporting and paperwork requirements: No additional paperwork.

(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: None

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication. No conflict.

(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. This is a licensure program and, as such, applies to all licensed services.

CABINET FOR FAMILIES AND CHILDREN
Department for Community-Based Services
Division of Policy Development
(Amendment)

922 KAR 5:070. Adult protective services.

RELATES TO: KRS Chapters 202A, 202B, 209.010 to 209.160, 209.990, 387.540(1), 403.715 to 403.785

STATUTORY AUTHORITY: KRS 194B.050 [194.050], 209.030(1), EO 98-731

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050 [194.050] provides that the Secretary for the Cabinet for Families and Children shall promulgate [adopt] administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the Cabinet for Families and Children. Pursuant to [in compliance with] KRS 209.030(1) the Department for Community-Based Services is amending this administrative regulation to [has drafted procedures that shall] enable the implementation of provisions of KRS 209.010 to 209.160 and 209.990, concerning the protection of adults who may be suffering from or at risk of abuse, neglect or exploitation [to be implemented].

Section 1. Historical File. [Central Office Register:] (1) A statewide historical file [central register] of adult abuse, neglect, exploitation and spouse abuse reports shall be maintained by the cabinet for administrative purposes.

(2) This information shall be obtained from the DSS-292, Adult Protective Services Investigation, herein incorporated by reference. [The purpose of this register shall be to:

(a) Gather and correlate data on incidence and characteristics of adult abuse, neglect, exploitation and spouse abuse;

(b) Correlate and cross-reference adult and child protection reports;

(c) Identify previous reports on an alleged victim;

(d) Serve as a resource for defining problem areas in adult protective services and identify training needs; and

(e) Serve as a source of information in the development of policy, planning and budgeting; and

(f) Identify a previous report on an alleged perpetrator requesting a certificate, license, registration or permit to operate a human services center as defined in 922 KAR 2:001.]

Section 2. Receiving the Report. (1) When receiving a report of suspected adult abuse, neglect, exploitation or spouse abuse the worker shall make every effort to obtain the information to comply with KRS 209.030(3) and other information that may assist in determining if the adult may be in a state of emergency and in immediate need of protective services. The worker may: [It may be necessary for the worker to:]

(a) Advise the reporting source that it may not be possible [additional information is necessary] to conduct an investigation if insufficient information is received; and [he refuses or is unable to give sufficient information to locate or identify the adult;]

(b) Advise the reporting source that insufficient information may lead to the inability to locate or identify the adult needing protective services. [Contact other agencies or individuals for the purpose of securing additional information which may be relevant in conducting the investigation.]

(2) When the report is received and required information secured, the worker shall:

[a] Prepare a written intake report on the DSS-115, Suspected

Abuse/Neglect, Dependency or Exploitation Reporting Form, herein incorporated by reference, [(DSS-115; see child protective services; 922 KAR 1:330)] concerning the adult alleged to be abused, neglected or exploited;

(b) [and] Submit the DSS-115 [it] to the family services office supervisor or designee, for determination of assignment for investigation; and

(c) Send a copy of the DSS-115 [shall be sent] to the appropriate law enforcement agency pursuant to [in compliance with] KRS 209.030(4) unless they are the originating reporting source.

Section 3. Adult Protective Service Investigations. (1) The Department for Community-Based Services or its designee shall conduct an investigation of a report of alleged abuse, neglect or exploitation of an adult and provide protective services, upon request. The investigation shall include contact with the alleged victim and may include contact with the alleged perpetrator and collaterals.

(2) Information obtained as a result of a protective service investigation shall be kept confidential, pursuant to the provisions of KRS 209.140. [Provisions of KRS 209.140 shall take precedence over general confidentiality statutes and are limited to protective services investigations.]

(a) Requests for written information, except for court ordered releases, shall be handled through the open records process. Court orders for records may be responded to at the local office unless the worker has reason to question or contest the order. Requests for open records made by someone other than those listed in KRS 209.140 shall be accompanied with a release of information from the alleged victim or the alleged perpetrator.

(b) Prior to releasing verbal information, the worker shall determine the legitimacy of the individual or agency's interest in the case. If staff are in contact with persons who shall not have legal access to the records, the only information which may be shared is that which is deemed necessary to carry out their statutory responsibility to protect the client and complete the investigation. [If the reporting source or other interested parties permitted by statute request follow-up information, the worker may:

1. Provide information of a general nature as to whether the investigation is complete;

2. Offer an explanation as to the type of services the department may offer in these situations; and

3. Explain the department's policy as relates to the client's right to accept or refuse services.]

(3) Guidelines for conducting investigations.

(a) The investigations of a report of adult abuse, neglect, exploitation or spouse abuse shall be initiated by the assigned family services worker within:

1. One (1) hour of receipt if the reporting source claims that the adult is in a state of emergency which presents a substantial risk of death or immediate and serious physical harm to himself or others;

2. Twenty-four (24) hours of receipt if the information indicates the adult is not in a state of emergency.

(b) An adult protective services investigation shall include a personal interview with the alleged victim and may include face-to-face contact. In situations where violence is alleged, the worker shall take into consideration the safety of the victim and worker when deciding upon the type of contact with the victim. [In alternate care situations, the worker shall inform the administrator, operator or designee that an investigation is being conducted. The alleged victim and others shall be interviewed in private if possible. If the alleged victim has a guardian, an interview with the guardian to explain the worker's role as investigator is appropriate.]

(c) Mental and physical health records necessary to complete the investigation shall be reviewed by the worker and copies obtained, if possible, to be included in the investigative report.

(d) Police records, mental inquest, disability, probate records and legal documents may be reviewed when appropriate to the conduct of the investigation.

(e) Financial records including savings and checking account statements, financial eligibility and assistance records, disability or retirement income records and property valuation records, may be reviewed by the worker in cases of financial exploitation of adults. [A release of information may be used in accessing records. If the worker

experiences difficulty, the office of the counsel may be consulted with supervisory approval.]

(f) It may be appropriate to take photographs of the alleged victims injuries, but pictures shall not be taken by Department for Community-Based Services staff if the alleged victim refuses permission.

(g) A written voluntary statement regarding the incident may be obtained if it is apparent that abuse or neglect has occurred and the alleged victim, witness, or alleged perpetrator is willing. The persons providing the statement shall be advised that it may be shared with law enforcement officials and they may be required to testify in court.

(h) When conducting a spouse abuse investigation, the worker shall:

1. Attempt to arrange a face-to-face interview with the alleged victim to conduct the investigation and offer protective services. [Efforts to contact the alleged victim shall be documented in the investigative report. If a spouse abuse report indicates that the alleged victim does not want to be contacted supervisory discretion shall be exercised in determining the appropriate plan of action based on the nature of the report.]

2. Not disclose the location of a spouse abuse shelter.;

2. Discuss all services available including spouse abuse center services. [3. Discuss the services of the area spouse abuse shelter with the alleged victim during the investigative interview. If the alleged victim requests assistance in securing shelter in the area spouse abuse shelter, the DCBS worker shall assist in making the necessary arrangements.]

(i) Upon receipt of a report of alleged abuse, neglect or exploitation of an adult in a licensed health care facility or a facility operated by the cabinet, and the Division of Licensing and Regulation is not the originating reporting source, the worker shall complete the DSS-284, Complaint Report, herein incorporated by reference. The original of the DSS-284 shall be mailed to the Division of Licensing and Regulation. [When conducting investigations involving a licensed health care facility, the worker shall contact, via telephone, the Division of Licensing and Regulation regional office to coordinate the investigation and shall send a DSS-284, Complaint Report, herein incorporated by reference.

(j) When DCBS receives a report involving alleged abuse, neglect or exploitation in a CFC facility, the worker shall immediately contact, via phone, the Division of Licensing and Regulation regional office and report the incident. The phone call is followed by completing the DSS-284 and mailing the original to the Division of Licensing and Regulation. If the worker receives the initial complaint, the worker shall notify the appropriate local law enforcement agency in compliance with KRS 209.030(4)(a) using the DSS-115.

(l) [(k)] When investigating reports of alleged abuse or neglect of an adult resulting in death, the worker shall examine the coroner's or doctor's report and if possible obtain a copy of the death certificate for the case record. The worker shall notify appropriate supervisory staff and:

1. If the findings of an investigation suggest an adult in the community died allegedly as a result of abuse or neglect, consult law enforcement for assistance in completing the investigation.

2. If the findings of an investigation suggest an adult in an alternate care facility died allegedly as a result of abuse or neglect, determine, in consultation with Licensing and Regulation, if other residents in the facility are at risk of abuse, neglect or exploitation.

(k) [(h)] Ascertain if there are other alleged victims of abuse, neglect or exploitation in the household or facility pursuant to KRS 209.020 and report the allegation pursuant to [in compliance with] KRS 209.030 and 620.030.

Section 4. Failure to Gain Entry. If an adult, a caretaker or a facility does not consent to an investigation and refuses to allow entry, the worker shall inform them of the cabinet's statutory authority to investigate. If entry is still denied, the worker may return with law enforcement officials to gain entry. If entry is still denied, the worker shall notify departmental [DCBS] supervisory staff and determine if probable cause exists to pursue a search warrant or other legal remedy. An employee of the cabinet shall not attempt to serve a search warrant.

Section 5. Results of the Investigation. [(f)] The worker, as appro-

priate, shall address the following when determining the results of the investigation:

(a) The alleged victim's account of the situation;

(b) The alleged perpetrator's account of the situation;

(c) The information supplied by collateral contact;

(d) Records and documents;

(e) The assessment information;

(f) Previous reports involving the alleged victim or alleged perpetrator; and

(g) Other factors depending upon the type of report.

(2) The findings of the adult protective services investigation shall be documented on the DSS-292 and a written record pursuant to KRS 209.030(4)(c) shall be maintained by the worker to include:

(1) The [(a)] DSS-115, Confidential Suspected [Report of] Abuse/ Neglect, Dependency or Exploitation Reporting Form;

(2) The [(b)] DSS-292, Adult Protective Services Investigation;

(3) [(c)] A narrative documenting the investigation; and

(4) [(d)] Voluntary written statements and photographs, if available, documenting the findings of the adult services investigations.

Section 6. Opening a Case. (1) A case may be opened as a result of a protective services investigation or when an adult is identified through a general adult services assessment as being at risk of abuse, neglect or exploitation. The decision to open a case shall be based on:

(a) The voluntary request for, acceptance of, or nonrefusal of services by an adult who needs adult protection or general adult services; or

(b) The need for involuntary emergency protective services.

(2) There shall be a case plan developed with the client and appropriate others in each adult service case. Within fifteen (15) [thirty (30)] working days of the decision to open a case, the case plan is initiated with the client and submitted to the family services office supervisor for approval. A copy of the case plan shall be given to the client and appropriate others with a copy of the DSS-154, pursuant to [see Fair hearing section,] 922 KAR 1:320.

Section 7. Referrals for Criminal Prosecution. Substantiated reports of abuse, neglect or exploitation may be referred for consideration for criminal prosecution.

Section 8. Involuntary Emergency Protective Services. The need for involuntary protective services shall be assessed by the worker when an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others. If an adult lacks the capacity to consent and refuses [or refuse] to consent to receive emergency protective services, the cabinet may seek a court order authorizing the provision of these services on an emergency basis in compliance with KRS 209.100-209.130. Depending upon the adult's situation, the cabinet may:

(1) [either] Seek an ex parte order; or

(2) File a petition for an emergency protective service order[, depending upon the adult's situation].

Section 9. Restraining Order or Injunctive Relief. Pursuant to [in compliance with] KRS 209.040 a court may issue a restraining order or injunctive relief upon proper application of the cabinet. Staff shall contact the office of the general counsel for advice and assistance in obtaining restraining orders or other forms of injunctive relief, if possible.

Section 10. Guardianship or Conservatorship of Disabled Persons. (1) In an attempt to provide appropriate protective services, the family services [The DCBS] worker shall assess the need for guardianship when an individual is identified who appears unable to manage personal affairs or carry out the activities of daily living.

(2) The worker may assist in protective service situations in seeking out family, friends, or other interested and qualified individuals who are willing to become guardians.

(3) The family services worker may be appointed by the court, as a member of the interdisciplinary team and may be required to testify during disability court proceedings, pursuant to KRS 387.540(1).

[(2)] A worker's decision to file a disability petition shall be based on the following conditions:

- (a) There is no one else willing to bring the petition;
 - (b) There is an urgent and bona fide need to initiate the action;
 - (c) There is assurance that filing the petition is in the best interest of the client; and
 - (d) The employee has discussed with and received approval of the district manager or designee.
- (3) The family service worker may be appointed by the court, as a member of the interdisciplinary team and may be required to testify during disability court proceedings.]

Section 11. Involuntary Hospitalization. (1) If the worker believes a client may be in need of hospitalization for mental health reasons, the worker shall encourage the client to secure mental health treatment.

(2) If a client refuses and all other resources are unavailable, a worker may file a petition for involuntary hospitalization pursuant to [in compliance with] KRS Chapter 202A. Prior approval, if possible, shall be obtained from the service region administrator [district manager] or designee.

Section 12. Domestic Violence and Abuse. Staff may assist individuals in petitioning the court for an order of protection pursuant to [in compliance with] KRS 403.715 to 403.785. Reports received from law enforcement pursuant to [per] KRS 403.785(1) that do not meet the criteria of KRS Chapter 209 may be assigned for assessment and services based on supervisory discretion. Reports received from the family support worker that do not meet the criteria of KRS Chapter 209 shall be assigned for assessment.

Section 13. Penalties. Any person violating KRS Chapter 209 shall be subject to penalties pursuant to KRS 209.990.

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) DSS - 115, "Confidential Suspected Abuse/Neglect, Dependency or Exploitation Reporting Form", "July, 1994".
- (b) DSS - 284, "Complaint Report" Form, "October, 1996".
- (c) DSS - 292, "Adult Protective Services Investigation" Form, "September, 1996".

[Section 13. Material Incorporated by Reference. (1) Forms necessary for the implementation of adult protective services shall be incorporated effective January, 1991.]

(2) This material [Material incorporated by reference] may be inspected, [and] copied, or obtained at the Department for Community-Based Services, Division of Protection and Permanency, [GFC Building, 6th Floor,] 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, [Office hours are] 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
 VIOLA P. MILLER, Secretary
 CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: March 14, 1999

FILED WITH LRC: March 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1999 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by April 14, 1999 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: Judy Trigg, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley, Director

(1) Type and number of entities affected: The total number of adults who received protective services in fiscal year 1998 was 35,479. Of that total, 12,272 received adult protective services, 17,064 received spouse abuse services, 2,635 received services relating to neglect by caretaker, 2,643 received services relating to self-neglect, and 865 received services relating to exploitation.

(2) Direct and indirect cost or savings to those affected: None

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received. To be determined after the hearing on this ordinary 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 comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received. To be determined after the hearing on this ordinary regulation.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect cost or savings: None

1. First year: None

2. Continuing cost or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: There is no fiscal impact associated with the filing 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:

(a) Geographical area in which administrative regulation will be implemented: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received. To be determined after the public hearing on this ordinary regulation.

(b) Kentucky: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received. To be determined after the public hearing on this ordinary regulation.

(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: No

(c) If detrimental effect would result, explain detrimental effect:

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

(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 of those individuals or entities regulated by it.

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, MARCH 15, 1999

KENTUCKY LEGISLATIVE ETHICS COMMISSION
(New Administrative Regulation)

2 KAR 2:031. Repeal of 2 KAR 2:030.

RELATES TO: KRS 6.686, 6.691

STATUTORY AUTHORITY: KRS 6.666(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 6.686 establishes the complaint and preliminary investigations procedures to be followed by the commission. KRS 6.691 establishes the commission's adjudicatory proceedings. KRS 13A.120(2)(f) prohibits the promulgation of an administrative regulation if a statute establishes a comprehensive scheme of regulation of a subject matter. 2 KAR 2:030 is repealed because it is not required and is prohibited by the provisions of KRS Chapter 13A.

Section 1. 2 KAR 2:030, Rules of procedure, is hereby repealed.

JUDGE CHARLES B. LESTER, Chairman

PAULA K. PABON, Legal Counsel

APPROVED BY AGENCY: March 9, 1999

FILED WITH LRC: March 11, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 22, 1999, at 10 a.m. at 22 Mill Creek Park, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by April 15, 1999, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Anthony M. Wilhoit, Executive Director, Kentucky Legislative Ethics Commission, 22 Mill Creek Park, Frankfort, Kentucky 40601, (502) 573-2863, or Fax (502) 573-2929.

REGULATORY IMPACT ANALYSIS

Contact Person: Anthony M. Wilhoit

(1) Type and number of entities affected: These rules of procedure are prohibited by statute and thus, once repealed, will have no effect.

(2) Direct and indirect costs or savings: There will be a minimum cost to reprint the Guide to the Code of Ethics to replace the old regulations with the new.

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Not applicable.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Not applicable.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any affects 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: Costs for printing of each page in the guide is approximately one cent. The original printing of 10,000 pages will cost \$100. The costs will be paid from money already budgeted from general and restricted funds, and fees collected.

2. Continuing costs or savings: The costs should be consistent on an annual basis.

3. Additional factors increasing or decreasing costs: There are

none that can be estimated at this time.

(b) Reporting and paperwork requirements: KRS 6.686 establishes the complaint and preliminary investigations procedures to be followed by the commission. KRS 6.691 establishes the commission's adjudicatory proceedings. KRS 13A.120(2)(f) prohibits the promulgation of an administrative regulation if a statute establishes a comprehensive scheme of regulation of a subject matter. The code requires the commission to follow the established requirements set out in this section.

(4) Assessment of anticipated effect on state and local revenues: There is no effect that can be estimated at this time.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: General funds budgeted for these administrative costs will be used to cover the cost of printing the new Guide to the Code of Ethics which contains the current administrative regulations.

(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: NA

(b) Kentucky: NA

(7) Assessment of alternative methods; reasons why alternatives were rejected: NA

(8) Assessment of expected benefits:

(a) There are no known effects on public health and environmental welfare of the geographical area in which the regulation will be implemented and on Kentucky.

(b) No known effect would result on the environment and public health if the regulation is not implemented.

(c) NA

(9) There is no known statute, administrative regulation, or government policy which may be in conflict, overlapping, or duplication.

(a) NA

(b) NA

(10) Any additional information or comments: None

(11) TIERING: Tiering has not been applied. KRS Chapter 6 establishes the complaint and preliminary investigations procedures which must be followed by the commission. The statutes governing the subject matter of this regulation require uniformity and therefore prohibit tiering. This regulation repeals the additional rules of procedure which are prohibited.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(New Administrative Regulation)

401 KAR 48:320. Operating requirements for less-than-one (1) acre construction/demolition debris landfills.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.70, 224.99

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-100, 224.40-120, 224.40-305, 224.40-330, 224.40-605, 224.50-760

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 requires the cabinet to adopt administrative regulations for the management, processing and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing and disposal of waste obtain a permit. This chapter establishes the minimum technical standards for solid waste sites or facilities. An overview of the permit program is found in 401 KAR 47:080, Section 1. This administrative regulation establishes the technical requirements for less-than-one (1) acre construction/demolition debris landfills.

Section 1. Applicability. This administration regulation applies to owners and operators of less-than-one (1) acre construc-

tion/demolition debris landfills The owner or operator of a less-than-one (1) acre construction/demolition debris landfill shall operate the facility in accordance with the requirements of this administrative regulation.

Section 2. Requirement to Obtain a Registered Permit-by-rule. The owner or operator of a less-than-one (1) acre construction/demolition debris landfill shall not begin construction or disposal of waste until the registered permit-by-rule for the facility has become effective as specified in 401 KAR 47:110.

Section 3. Construction Requirements. The owner or operator of a less-than-one (1) acre construction/demolition debris landfill located inside a wellhead protection area, as described in defined in 401 KAR 5:037 shall construct and maintain the following liner and leachate collection systems. The liner shall:

(1) Contain a minimum of twelve (12) inches of soil compacted to ninety (90) percent of standard proctor, or a layer of equivalent performance. The soils shall be placed in six (6) inch thick lifts. An professional engineer registered in Kentucky pursuant to KRS Chapter 322 shall oversee the design and installation of the liner, including moisture and density tests, and shall certify that the liner meets the compaction requirements. The certification shall be submitted to the cabinet within ten (10) days of completion of the liner; and

(2) Contain a leachate collection system with a minimum of a twelve (12) inch layer of gravel, or a layer of equivalent performance, and a toe-drain. The leachate shall be discharged into a collection tank with a minimum of 2000 gallons capacity. A professional engineer registered in Kentucky pursuant to KRS Chapter 322 shall oversee the design and installation of the leachate collection system, and shall certify that the collection tank meets the capacity requirement. The certification shall be submitted to the cabinet within ten (10) days of completion of the liner.

Section 4. Operating Requirements. The owner or operator of less-than-one (1) acre construction/demolition debris landfill shall comply with the following operating requirements:

(1) Comply with the environmental performance standards of 401 KAR 30:031;

(2) Comply with the siting requirements of 401 KAR 48:050;

(3) There is a liner and a leachate collection system as specified in Section 3 of this administrative regulation;

(4) Comply with the groundwater protection plan requirements of 401 KAR 5:037;

(5) Comply with the disposal requirements of KRS 224.40-120;

(6) Comply with the operator certification requirements of KRS 224.40-605;

(7) Comply with the annual report requirement of 401 KAR 47:110, Section 2(3);

(8) Not dispose of:

(a) Asbestos-containing materials;

(b) Petroleum-contaminated soil;

(c) Tires;

(d) Appliances;

(e) Furniture;

(f) Light fixtures;

(g) Electrical devices;

(h) Buckets or other containers (unless processed to prevent the entrapment of water);

(i) Cardboard;

(j) Paper;

(k) Wood generated during demolition that has been chipped or otherwise processed; or

(l) Any other nonconstruction/demolition debris material unless approved by the cabinet;

(9) Properly dispose of any non-construction/demolition debris landfill waste at a properly permitted disposal facility;

(10) Clearly delineate the horizontal boundary of the less-than-one (1) acre site with slats, stakes or other types of easily identifiable permanent markers;

(11) Install silt fencing, hay bales, or other appropriate best management practices to prevent sediment from leaving any area

disturbed by construction, including stockpiled soil and borrow pit areas. The sediment controls shall be kept in good operating order;

(12) Only accept waste from sources listed in the registration and approved by the cabinet. Wastes may be added by submitting a revised registration pursuant to 401 KAR 47:110, Section 3(3);

(13) Place the waste in two (2) foot thick, or smaller, lifts and compact weekly;

(14) Cover the waste with a minimum of 6 inches compacted soil once a week;

(15) Maintain a buffer zone of 750 yards from the construction/demolition debris landfill waste boundary and any other waste site or facility, including but not limited to another construction/demolition debris landfill; and

(16) Be responsible for removing landfill debris, mud and waste from off-site roadways.

Section 5. Closure Requirements. The owner or operator of a less-than-one (1) acre construction/demolition debris landfill shall close the facility as follows:

(1) The landfill shall be covered with a soil cap, two (2) feet thick, and the entire disturbed area shall be vegetated within thirty (30) days of ceasing to accept waste. The vegetation shall consist of a minimum of two (2) legumes, one (1) annual grass, and one (1) perennial grass, in sufficient poundage to provide at least ninety (90) percent ground coverage for the disturbed area. The grass seed shall be covered with at least one and one-half (1.5) tons of straw mulch per acre. The straw mulch shall be stabilized with netting on slopes that exceed fifteen (15) percent. The final cap shall have a slope of between five (5) percent and twenty-five (25) percent upon completion of the final grading.

(2) The facility owner or operator shall record a notice with the property deed on which the less-than-one (1) acre construction/demolition debris landfill is located. The notice shall notify, in perpetuity, any potential purchaser of the property of the facility's location and dates of operation, the nature of the waste disposed at the facility, and impose a restriction against any future disturbance of the cap. The notice shall be recorded in accordance with KRS Chapter 382 and proof of recording shall be submitted to the cabinet prior to the cabinet's approval of closure.

(3) The facility owner or operator shall, upon completion of closure of the facility, contact the cabinet for a closure inspection and release of the bond.

(4) Closure shall be completed no later than thirty (30) days after last receipt of waste.

Section 6. Corrective Action Requirements. If the cabinet determines that a threat to human health, safety, or the environment exists, the owner or operator of the facility shall conduct corrective action in accordance with 401 KAR 48:300, Section 8. The owner or operator shall certify to the cabinet that corrective action has been completed in accordance with this section. The cabinet shall determine that corrective action has been completed before releasing the bond.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: March 12, 1999

FILED WITH LRC: March 12, 1999 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for April 27, 1999, at 10 a.m. EST at the Capital Plaza Tower, Ground Floor Auditorium, Mero Street, Frankfort, Kentucky 40601. Individuals who intend to be heard at this hearing shall notify this agency, in writing, by April 20, 1999, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend 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 administrative regulation. A transcript of the hearing will not be made unless a written request for a transcript is made. If you request a transcript, you may be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation,

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to the contact person listed below. Written comments must be received before adjournment of the hearing, or by 4:30 p.m. on April 27, 1999, if the hearing is not held. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Mark Ritter, Supervisor, Program Planning and Administration, Division of Waste Management, 14 Reilly Road, Frankfort Kentucky 40601, Telephone: (502) 564-6716; Fax: (502) 564-4049.

REGULATORY IMPACT ANALYSIS

Contact person: Mark Ritter

(1) Type and number of entities affected: The administrative regulation affects persons who own or operate a less-than-one acre construction demolition debris landfills. There are 123 permits of this type in Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Based on the comments received related, the cost of living and employment will not be affected by the proposed 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: Based on the comments received, the cost of doing business in the geographical area will not be affected by the proposed regulation.

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

1. First year following implementation: The reporting frequency of the amounts, sources and types of solid waste received will be reduced from quarterly to annually. Costs may be affected by the liner and leachate collection system requirements.

2. Second and subsequent years: A continued decrease in cost of reporting is anticipated. No additional costs from the liner and leachate collection system requirements are anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct and indirect costs or savings are anticipated. Most of these new requirements were previously required as conditions to permits; now these will be required by administrative regulation.

2. Continuing costs or savings: No continuing costs or savings are anticipated.

3. Additional factors increasing or decreasing costs: No additional factors are anticipated.

(b) Reporting and paperwork requirements: Previous quarterly reports are now submitted annually.

(4) Assessment of anticipated effect on state and local revenues: No effects on state and local revenues are anticipated.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Existing agency funding will be used. No increase in funding is necessary.

(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: Based on the comments received, none.

(b) Kentucky: Based on the comments received, none.

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environment welfare of the geographical area in which implemented and on Kentucky: This administrative regulation establishes construction and operating standards, most of which were only set as permit conditions in the past.

(b) State whether a detrimental effect on environment and public health would result if not implemented: This administrative regulation

will provide environmental safeguards against poorly constructed and operated less-than-one-acre construction and demolition debris landfills.

(c) If detrimental effect would result, explain detrimental effect: Detrimental effects could include contamination of groundwater, air pollution, and litter.

(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: No conflict exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provision: No conflict exists.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Yes. Less-than-one-acre construction/demolition debris landfills have construction and operating requirements established by this administrative regulation that are tiered to their size and the types of waste they accept for disposal.

JUSTICE CABINET

Kentucky Department of Corrections (New Administrative Regulation)

501 KAR 6:181. Repeal of 501 KAR 6:180, Infectious diseases.

RELATES TO: KRS 196.030(1)(a), 196.171, 197.020(2), 197.055, 215.550

STATUTORY AUTHORITY: KRS 196.035, 197.020, 431.240

NECESSITY, FUNCTION, AND CONFORMITY: 501 KAR 6:180 is no longer required, as a newly established policy CPP 13.10 shall incorporate the administrative regulation's requirements, expanding upon these requirements and providing comprehensive serious infectious disease training, assessment and enforcement policies and procedures for institutional personnel.

Section 1. 501 KAR 6:180, Infectious diseases, is hereby repealed.

DOUG SAPP, Commissioner

STEPHEN P. DURHAM, General Counsel

APPROVED BY AGENCY: March 8, 1999

FILED WITH LRC: March 15, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on April 21, 1999 at 9 a.m., in the Fifth Floor Conference Room of the State Office Building. Individuals interested in being heard at this hearing shall notify this agency in writing by April 14, 1999, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, Telephone Number (502) 564-2024, Facsimile Number (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact Person: Tamela Biggs, Staff Attorney

(1) Type and number of entities affected: 2,948 employees of the correctional institutions and 11,134 inmates.

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

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

(b) Cost of doing business in the geographical area in which the

administrative regulation will be implemented, to the extent available from the public comments received: None

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

1. First year following implementation: None
2. Second and subsequent years: None
- (3) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 1. First year: None
 2. Continuing costs or savings: None
 3. Additional factors increasing or decreasing costs: None
 - (b) Reporting and paperwork requirements: 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: Funds budgeted for this 1998 - 2000 biennium.

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

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: N/A

(9) Identify any statute, 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. 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.

JUSTICE CABINET (New Administrative Regulation)

502 KAR 12:010. Sexual assault nurse examiner medical protocol.

RELATES TO: KRS Chapter 216B

STATUTORY AUTHORITY: KRS 15A.160, 216B.400

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 and 216B.400 provide that the Secretary of the Justice Cabinet may promulgate such administrative regulations as are necessary to properly administer the cabinet, that the chief medical examiner shall develop a statewide medical protocol for sexual assault examinations, and that the Secretary of Justice shall promulgate administrative regulations regarding sexual assault protocol in conformity with KRS Chapter 13B. This administrative regulation describes the procedures that shall be implemented by facility staff when they are presented with a victim of sexual assault. These administrative regulations set forth the conduct of the facility staff prior to the forensic sexual assault examination, during the examination and after the examination.

Section 1. Definitions. (1) "Victim" means an individual who

reports or appears to suffer direct, threatened, or attempted physical or emotional harm as a result of the commission or attempted commission of a sexual offense pursuant to KRS Chapter 510, incest pursuant to KRS 530.020, an assault or related offense pursuant to KRS Chapter 508, the use of a minor in a sexual performance pursuant to KRS 531.310, promoting sexual performance by a minor pursuant to KRS 531.320, an unlawful transaction with a minor pursuant to KRS Chapter 530, and endangering the welfare of an incompetent person pursuant to KRS 530.080.

(2) "Rape crisis center advocate" means an individual defined and trained pursuant to KRS 421.570 and who works for the Rape Crisis Center as defined and regulated by the Cabinet for Health Services pursuant to KRS 210.410, 210.450 and 908 KAR 2:070.

(3) "Facility" means a hospital emergency room, or any facility established for the purpose of providing medical care and collecting forensic evidence for victims of sexual assault.

Section 2. Preforensic Examination Procedure. When a victim reporting any of the designated offenses described in Section 1 of this administrative regulation arrives at a facility, the following process shall be completed and documented by the appropriate staff at the facility prior to conducting the forensic examination:

(1) Contact the rape crisis center to inform the on call advocate that a victim has arrived at the facility for an examination;

(2) Ask the victim if she or he wishes to have a rape crisis center advocate present for the examination.

(3) Inform the victim that all statements made during the interview, and the evidence collection process, to physicians, nurses, other hospital personnel, law enforcement officers or to rape crisis center advocates are not privileged and may be disclosed;

(4) Provide a detailed explanation of the forensic examination, the reasons for conducting the exam and the effect on a criminal prosecution if a forensic examination is not performed;

(5) Advise the victim that photographs and other documentation may be used as evidence and that the photographs may include the genitalia;

(6) Advise the victim that she or he will not have to pay for the forensic examination, but may incur costs related to medical treatment;

(7) Inform the victim that she or he may withdraw his or her consent for the forensic evidence collection process at any time during the examination;

(8) Inform the victim of the need for a physical examination due to the risk of sexually transmitted diseases, pregnancy, injury or other medical problems whether or not the victim chooses to have the evidence collected;

(9) Obtain documented consent from the victim prior to conducting the forensic rape examination.

Section 3. The Forensic Examination. (1) A physical examination may be conducted for the collection of evidence in all cases of sexual assault, regardless of the length of time which may have elapsed between the time of the assault and the examination itself;

(2) The Kentucky State Police Sexual Assault Evidence Collection Kit shall be used if the sexual assault occurred within 96 hours prior to the forensic examination;

(3) Personnel in attendance during the forensic examination shall be limited to the examining physician or sexual assault nurse examiner as defined in KRS 314.011, the attending nurse, a rape crisis center advocate, and other persons as dictated by the health needs or requested by the victim.

(4) Photographs including photographs of the genitalia may be taken if the appropriate equipment is available at the facility and the victim has consented to having photographs taken;

(5) Evidence to be collected may include but is not limited to hairs from the head or pubic region; fingernail cuttings; fibers, or other trace evidence; bodily fluids such as semen, blood and saliva; or; clothing;

(6) No evidence shall be collected if the victim is unconscious unless the collection is consistent with appropriate and necessary medical treatment;

(7) The collection of evidence shall cease immediately if the victim dies during any part of the process.

(8) The coroner shall be contacted if the victim dies during any part of the collection of evidence process and the evidence collected up to that time shall be delivered to the coroner or the designee of the coroner;

(9) The coroner shall be notified in accordance with the law and no evidence shall be collected if the victim is deceased upon arrival.

Section 4. Postforensic Examination Procedures. At the conclusion of the forensic examination the appropriate personnel at the facility shall provide the victims with:

(1) Information regarding follow-up procedures and appointments concerning sexually transmitted diseases; pregnancy; urinary tract or other infections; other assault related health conditions.

(2) Information regarding the availability of follow-up counseling and support services available from rape crisis centers or other mental health agencies;

(3) Information from the law enforcement officer regarding who to contact about the prosecution of the offense;

(4) A garment or other appropriate clothing to ensure that the victim has appropriate clothing in which to leave the hospital or provide assistance in obtaining other personal clothing;

(5) Information about the Crime Victim's Compensation Board as contained in KRS Chapter 346 and the relevant administrative regulations 107 KAR Chapter 1.

PAMEL J. MURPHY, Acting Secretary

BARBARA W. JONES, General Counsel

APPROVED BY AGENCY: March 15, 1999

FILED WITH LRC: March 15, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on April 30, at 10 a.m., at 403 Wapping Street, 2nd Floor Bush Building, Frankfort, Kentucky in the Justice Cabinet's conference room. Individuals interested in being heard at this hearing shall notify this agency in writing by April 23, 1999, 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 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: Barbara W. Jones, Justice Cabinet, 403 Wapping Street, 2nd Floor Bush Building, Frankfort, Kentucky 40601, phone: (502) 564-3279, Fax (502) 564-5244.

REGULATORY IMPACT ANALYSIS

Contact Person: Barbara W. Jones

(1) Type and number of entities affected: Every hospital that has 24 hour service, approximately 123 hospitals.

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

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

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

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: 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 is the funds budgeted for this 1998 - 2000 biennium. None

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

(a) Geographical area in which administrative regulation will be implemented:

(b) Kentucky: Every Hospital in the Commonwealth which provides 24 hour service.

(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: Regulation establishes uniform minimum standards for the collection of evidence in sexual assault cases which are presented to any hospital.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Failure to implement a uniform procedure could result in less successful prosecution of sexual assault cases.

(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: Was tiering applied: Yes

PUBLIC PROTECTION AND REGULATION CABINET Department of Financial Institutions (New Administrative Regulation)

808 KAR 12:011. Repeal of 808 KAR 12:010.

RELATES TO: KRS 294.032(2)(g), 294.060(1)

STATUTORY AUTHORITY: KRS 294.140(1)

NECESSITY, FUNCTION, AND CONFORMITY: The administrative regulation is no longer required because its provisions are addressed in the related statutes and conflict with a statute.

Section 1. 808 KAR 12:010 is repealed.

ARTHUR FREEMAN, Commissioner

H. REDMON LAIR, Cabinet Secretary

COLLEEN KEEFE, Attorney

APPROVED BY AGENCY: March 15, 1999

FILED WITH LRC: March 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on the proposed administrative regulation is scheduled for April 28, 1999, at 10 a.m., EST, at the Department of Financial Institutions. Individuals who wish to be heard at this hearing must notify, in writing, the contact person noted below before April 21, 1999, of their intent to attend the hearing. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed regulation. The department will not make a transcript of the hearing unless a person makes a written request for a transcript prior to April 21, 1999. If a person does not wish to be heard at the hearing, the person may submit written comments on the proposed regulation to the contact person noted below.

CONTACT PERSON: Colleen Keefe, Attorney, Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Telephone (502) 573-3390, Fax (502) 573-8787.

REGULATORY IMPACT ANALYSIS

Contact Person: Colleen Keefe

(1) Type and number of entities affected: Mortgage loan companies and mortgage loan brokers who file applications with this de-

partment and who become licensed by this department. The number is indeterminable.

(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: Indeterminable, 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: Indeterminable, no comments received.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

(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: Revenue neutral.

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

(a) Geographical area in which the administrative regulation will be implemented: Indeterminable, no comments received.

(b) Kentucky: Indeterminable, no comments received.

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

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

(c) If detrimental effect would result, explain detrimental effect:

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

(a) Necessity of proposed regulation, if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not applied because the regulated entities only have one class each.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of State Fire Marshal
(New Administrative Regulation)

815 KAR 10:051. Repeal of 815 KAR 10:050.

RELATES TO: KRS 13A.310, 227.300

STATUTORY AUTHORITY: KRS 227.300

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessary to repeal 815 KAR 10:050 which is no longer necessary as a separate administrative regulation. The Kentucky Standards of Safety are now promulgated in 815 KAR 10:060.

Section 1. 815 KAR 10:050, Fire Prevention Code/1995, is repealed.

CHARLES A. COTTON, Commissioner

REDMON LAIR, Deputy Secretary

JUDITH G. WALDEN, General Counsel

APPROVED BY AGENCY: March 15, 1999

FILED WITH LRC: March 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, April 21, 1999, at 10 a.m. ,

EDT, 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 April 14, 1999, (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: 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) 564-8044.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden

(1) Type and number of entities affected: This administrative regulation repeals 815 KAR 10:050 because the information contained in that regulation is no longer necessary. Therefore, the impact to this repealer regulation is not applicable.

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

(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:

1. First year following implementation:

2. Second and subsequent years:

(3) Effects on the promulgating administrative body: N/A

(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: N/A

(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: N/A

(a) Geographical area in which administrative regulation will be implemented:

(b) Kentucky:

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(8) Assessment of expected benefits: N/A

(a) Identify effects on public health and environmental welfare of the geographical area 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: 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. Tiering not applicable because administrative regulation is being repealed.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of the State Fire Marshal
(New Administrative Regulation)

815 KAR 10:060. Kentucky Standards of Safety.

RELATES TO: KRS Chapters 198B, 227

STATUTORY AUTHORITY: KRS 227.300

NECESSITY, FUNCTION, AND CONFORMITY: The Commissioner of the Department of Housing, Buildings and Construction is required by KRS 227.300 to establish reasonable administrative regulations based upon good engineering practice and principles to provide a reasonable degree of safety for human life against the emergencies of fire and panic and insure against fire loss. The State Fire Marshal and local fire marshal shall use the provisions of nationally recognized codes, and the standards referenced therein, as criteria for determining a distinct fire hazard and for establishing a reasonable degree of safety from fire loss in buildings, facilities, installations, conditions and equipment. This administrative regulation shall constitute the Kentucky standards of safety and shall be used, where applicable, as a supplement to the Kentucky Building Code.

Section 1. Definitions. (1) "Accepted" means the authority having jurisdiction has inspected a building or facility, or portion thereof, and the building owner has corrected all deficiencies communicated, in writing, to the owner including the circumstance that no fire code deficiencies were noted during the inspection.

(2) "Distinct fire hazard" means any property, or the practice or method of construction or operation, condition, or processes or materials being used which do not afford adequate protection because a fire, explosion or asphyxiation is likely to occur, or because it may provide a ready fuel supply to augment the spread or intensity of a fire or explosion, and which also poses a threat to life or property, including any condition which is likely to unreasonably inhibit escape from danger in the event of fire or explosion.

Section 2. Scope. (1) Title and applicability. This administrative regulation, together with the codes and standards referenced herein, shall be known as the Kentucky Standards of Safety and shall be enforceable on all property except single family dwellings.

(2) Authority having jurisdiction. The jurisdiction for the enforcement of this administrative regulation and the codes and standards incorporated herein is recognized as follows:

(a) State Fire Marshal. The State Fire Marshal shall have primary jurisdiction over all property, except where a local government has established a fire inspection program by ordinance adopting this administrative regulation pursuant to KRS 227.320.

(b) Local fire marshal. The local official designated by ordinance to operate a fire inspection program pursuant to KRS 227.320 shall have primary jurisdiction for the enforcement of all property within the local governmental boundary; except that, the State Fire Marshal shall have exclusive jurisdiction over state-owned property and primary jurisdiction for code compliance for health care facilities and other facilities licensed by the Kentucky Cabinet for Health Services and the Cabinet for Families and Children.

Section 3. Existing Buildings and Conditions. (1) Buildings and conditions approved under the Kentucky Building Code.

(a) Mini/maxi standard. The standards for the construction of a building constructed pursuant to the Kentucky Building Code in effect at the time of construction and for which there has been issued a lawful certificate of occupancy shall supercede any different construction standards regarding the requirements for egress facilities, fire protection and built-in fire protection equipment of this administrative regulation; and those approved methods of construction shall not be deemed a distinct fire hazard.

(b) New construction. The design and construction of a new building to provide egress facilities, fire protection, and built-in fire protection equipment shall be controlled by the Kentucky Building Code. Any alteration, addition or change to the structure which are within the scope of the building code shall be made in accordance

with the applicable code.

(c) Change of use. It shall be unlawful to make any change in the use of a building or portion thereof which has the potential to create a greater hazard to the public because of increased structural or fire loading, or inadequate exits for the number of occupants, without approval of the authority having jurisdiction.

(2) Buildings and conditions approved under other codes.

(a) Pre-KBC Buildings. Any building, facility, or portion thereof, which was constructed and approved prior to the effective date of the Kentucky Building Code and this administrative regulation, shall be maintained as previously permitted and no changes to the construction of the building in excess of that required by the codes at the time of construction shall be required so long as the building is used and maintained as originally approved.

(b) Previous fire code. Any building, facility, or portion thereof, including any alternatives, which were inspected and approved or accepted pursuant to the 1996 Kentucky Fire Prevention Code shall be maintained as previously approved or accepted and shall not be required to make modifications or changes so long as it is maintained and used as previously accepted or approved.

(3) Certificate of use. If the State Fire Marshal or local fire marshal finds an existing building or facility to be in substantial compliance with the intent of this code and there are no violations of any order of the building official or State Fire Marshal pending, he may issue a certificate authorizing the legal use of the building or facility, if such certificate was required at the time of construction, and that use may continue without change so long as it is used and maintained as approved.

(4) Hazardous conditions and buildings.

(a) If the State Fire Marshal or local fire marshal determines that a distinct fire hazard exists, he shall cause the fire hazard to be remedied so as to render the property reasonably safe.

(b) The State Fire Marshal shall use the applicable standards incorporated by reference in Section 9 of this administrative regulation when ordering the correction of a distinct fire hazard and shall otherwise act in accordance with the procedures set forth in KRS Chapter 227 and Section 5 of this administrative regulation.

(c) Any condition, equipment, building, facility or portion thereof and any alternative designed to meet the intent of a code provision which has been accepted or approved in accordance with subsection (2) of this section shall not be considered a distinct fire hazard, so long as it is maintained and used as accepted or approved.

(5) Abatement of fire hazards. The abatement of any distinct fire hazard pursuant to this administrative regulation shall not require construction measures which would exceed the requirements of the current edition of the Kentucky Building Code if the building were being newly constructed.

(6) Maintenance of equipment. All fire suppression and fire protection equipment, systems, devices and safeguards shall be maintained in good working order. This administrative regulation or any standard incorporated by reference shall not be the basis for removal or abrogation of any fire protection or safety system or device that exists in a building or facility.

(7) Cooperation with building official. When appropriate, the State Fire Marshal and the local fire marshal shall coordinate and cooperate with the building code official having jurisdiction in assessing a building for relative fire safety and to assure that the proper standards are being applied.

Section 4. Permits. (1) State permits required. A permit shall be required from the Office of the State Fire Marshal for the following types of installations:

(a) Elevator installations and alterations;
(b) Boiler installations and alterations; and
(c) Flammable, combustible and hazardous material storage vessel installations.

(2) Local permits allowed. A permit from a local government shall not be required unless it is required by local ordinance; and inspection or permit fees, if any, shall be stipulated in the local adopting legislation.

Section 5. Enforcement of Violations. (1) Notice of deficiency. If the State Fire Marshal or local fire marshal observes an apparent

violation of a provision of this administrative regulation and the standards incorporated herein or other codes or ordinances under his jurisdiction, the State Fire Marshal or local fire marshal shall prepare a written notice of deficiency, citing the applicable code provision and specifying a time period in which the required repairs or improvements shall be completed.

(2) Service of notice. The written notice of deficiency shall be served upon the owner or his duly authorized agent and upon any other person responsible for the deficiency.

(3) Failure to correct deficiency. Except when an appeal is in process pursuant to Section 6 of this administrative regulation, each deficiency shall be considered a violation and if the corrections required in the notice of deficiency are not completed within the time specified, appropriate legal proceedings to compel compliance may be requested by the authority having jurisdiction.

Section 6. Means of Appeal. (1) State Fire Marshal appeals. An appeal to the State Fire Marshal from a notice of deficiency issued by any employee or deputy of the State Fire Marshal shall be in writing and shall be requested prior to the completion date required by the notice. If the matter is not resolved by agreement of the affected parties and the State Fire Marshal, other legal action may be instituted pursuant to the KRS Chapter 227.

(2) Local appeals. If a local government adopts an ordinance for the enforcement of this administrative regulation and the codes and standards incorporated by reference herein, the appeal from a decision of the local fire marshal lies with the local authority having jurisdiction as provided by the ordinance.

Section 7. Temporary Occupancies. Changes in use, subject to Section 3(1)(c) of this administrative regulation, shall not be prohibited if the building is being used for temporary purposes only, in accordance with the requirements of this section.

(1) Time limit. The use of the building shall not exceed a total of thirty (30) days in any calendar year.

(2) Prior notice. The owner of the property shall notify the State Fire Marshal or local fire marshal, in writing, of the proposed new use, stating the nature of the use of the building and the precise dates and times the building is to be occupied.

(3) Inspection. In the notification, the owner shall consent to inspection and an opportunity for the inspection of the building shall be afforded to the State Fire Marshal or local fire marshal, upon request.

(4) Safety requirements. The property owner shall be responsible for maintaining the fire safety of the building and shall comply with the applicable provisions of this administrative regulation for the proposed use, as required by the State Fire Marshal or local fire marshal.

Section 8. Special Provisions. (1) Passenger elevator accidents.

(a) Notification of State Fire Marshal. The owner of the building shall immediately notify the State Fire Marshal of every accident involving personal injury or damage to the apparatus on, about or in connection with any passenger elevator and shall afford the State Fire Marshal every facility for investigating the accident.

(b) Discontinued use of elevator. If an accident involves the failure, breakage, damage or destruction of any part of the apparatus or mechanism, it shall be unlawful to use the device until after an examination by the State Fire Marshal is made and approval of the equipment for continued use is granted.

(c) Removal of damaged parts. If an accident involves personal injury or damage to the apparatus, it shall be unlawful to remove any part of the damaged construction or operating mechanism of the elevator or other equipment from the premises until permission has been granted by the State Fire Marshal.

(2) Fire incident reporting. The fire chief or highest ranking fire department officer shall promptly notify the Office of the State Fire Marshal upon becoming aware of any of the following:

- (a) A hazardous materials incident;
- (b) A fire or fire-related fatality (including vehicles and homes);
- (c) A fire or fire-related injury serious enough to become a fatality;
- (d) A fire involving major structural damage in the following

buildings:

- 1. All institutional, educational, state-owned or state-leased and high-hazard occupancies;
- 2. All business, mercantile and industrial occupancies having a capacity over 100 persons;
- 3. All assembly occupancies, except churches, having a capacity over 100 persons;
- 4. Churches with a capacity over 400 persons and more than 6,000 square feet;
- 5. Any other building more than three (3) stories in height or 20,000 square feet of floor area.

(3) Fire protection systems testing and inspection.

(a) Reporting. All inspections and tests required by Chapters 6, 7, and 8 of the Fire Prevention Code incorporated by reference in Section 9(1)(a) of this administrative regulation shall be conducted and reported only by persons authorized or certified by the State Fire Marshal's Office.

(b) Inspection and test reports. The required inspections and tests shall be recorded on the State Fire Marshal's Report of Inspection, dated January, 1999, incorporated by reference in Section 9 of this administrative regulation. The appropriate pages of the form shall be forwarded to the State Fire Marshal's Office within ten (10) working days of the date of the inspection.

(c) Reporting exceptions. Portable fire extinguishers and single station smoke detector inspections or tests may be inspected and tested by the property owner and their agent. These reports are not required to be filed with the State Fire Marshal.

(d) Frequency. Periodic test and inspections of fire suppression and alarm systems shall be performed as follows:

1. Fire detection and alarm systems and all fire suppression systems in buildings other than state licensed hospitals, nursing homes and ambulatory surgical centers shall be inspected and tested for proper operation annually.

2. Fire detection and alarm systems and all fire suppression systems in state licensed hospitals, nursing homes and ambulatory surgical centers shall be inspected and tested quarterly.

3. Systems or components for which the manufacturer recommends more frequent checks shall be performed as described by the manufacturer's instructions.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) NFPA Fire Prevention Code (NFPA 1), 1997 Edition, except that Section 7-1.3 through 7-1.3.2.2, High Rise Buildings, shall not be mandatory unless adopted by local ordinance for a particular jurisdiction.

(b) NFPA 101, Life Safety Code, 1997 Edition.

(c) The Kentucky Building Code/1997, as incorporated in 815 KAR 7:105, shall apply to new buildings and to alterations, additions and changes of use as described in Section 2(1) of this administrative regulation.

(d) Report of Inspection, January, 1999.

(e) This material may be inspected, copied, or obtained at the Kentucky Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite 1, Frankfort, Kentucky 40601, Monday through Friday between 8 a.m. to 4:30 p.m.

(2) Other referenced standards: The fire prevention, life safety and building code standards referenced in subsection (1)(a)-(c) of this section shall be deemed safe practices and may be used to meet the intent of this administrative regulation. Later editions of the various codes shall be deemed equivalent to the incorporated edition.

(3) Superseding provisions: If a provision of this administrative regulation establishes regulatory criteria and a provision of a referenced code or standard contains different criteria, the provisions of this administrative regulation shall supersede any provision incorporated by reference.

(4) Modification/alternatives/interpretations: If the State Fire Marshal accepts or approves an alternative to a code provision or issues an interpretation and the alternative or interpretation is of general applicability, it shall be published and forwarded to all known fire inspectors and other persons requesting copies.

CHARLES A. COTTON, Commissioner
REDMON LAIR, Deputy Secretary
JUDITH G. WALDEN, General Counsel

APPROVED BY AGENCY: March 15, 1999

FILED WITH LRC: March 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, April 21, 1999, at 10 a.m., EDT, 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 April 14, 1999, (five work days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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: 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: Hazardous materials operations and existing commercial public buildings and multifamily dwellings.

(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 is a revision of existing fire safety standards and no new effect should occur.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: The cost of doing business should not increase because of this administrative regulation.

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

1. First year following implementation: The compliance, reporting and paperwork requirements remain the same as under the old code.

2. Second and subsequent years:

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The implementation of a different fire prevention and life safety code is costless because NFPA is providing both training and books for each inspector.

1. First year:

2. Continuing costs or savings: No continuing cost.

3. Additional factors increasing or decreasing costs: Annual training seminars are on-going and changing codes requires nothing extra.

(b) Reporting and paperwork requirements: Regular inspection reports as have been carried on for many years; no change in paperwork requirements through the citations for violations, computer adjustments, etc.

(4) Assessment of anticipated effect on state and local revenues: None anticipated beyond permits, if they so choose to enact local ordinance to require permits under the code.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State Fire Marshal agency funds and general funds.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Statewide application has no economic impact.

(b) Kentucky: This code is similar to the previous code and continues to create minimum fire safety standards; no change in impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The use of BOCA National Fire Code with multiple Kentucky changes was rejected in favor of the nationally recognized and accepted NFPA Pamphlets 1 and 101 as the controlling documents best suitable as minimum fire safety standards for Kentucky and especially for existing 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: This new administrative regulation maintains the level of fire safety appropriate for various occupancies recognized over the years utilizing "tried and true" criteria.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No. The previous code was acceptable but it is believed that a return to directly operating with the national standards and the technical support they have offered will work better for the inspectors and be more enforceable.

(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 Chapter 198B and uniform standard building code.

(a) Necessity of proposed regulation if in conflict: Need appropriate up-to-date minimum standards to require fire safety in both old buildings and maintenance of fire safety in buildings constructed under the KBC, including standards for certain processes and operations in new buildings.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: This regulation and the Kentucky Building Code are harmonized to avoid conflict. It allows the building official to refer to the standards if necessary and lets fire officials enforce the fire code where not in conflict with the codes under which buildings were previously constructed or approved. State Fire Marshal enforcement powers include the ability to help enforce laws relating to fire safety.

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. This regulation is tiered in that it allows different treatment of existing buildings and conditions based upon whether or not they have had prior approval or met other building codes.

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. Intended to affect local government to the extent that every local government is supposed to adopt and enforce the standards of safety, pursuant to KRS 227.320. However, a local ordinance is necessary.

3. State the aspect or service of local government to which this administrative regulation relates. Fire safety inspections, reporting and enforcement.

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: Merely provides appropriate standards for use statewide by each local government.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of ~~February~~ 9, 1999
MARCH

MARCH

The ~~February~~ meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, ~~February~~ 9, 1999 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 ~~January 12,~~ 1999 meeting were approved.

Present were: ~~FEBRUARY 9,~~

Members: John Arnold, Chairman; Senators Marshall Long, Joey Pendleton and Dick Roeding; Representatives Jimmy Lee, James Bruce and Woody Allen.

LRC Staff: Stephen Lynn, Donna Little, Susan Wunderlich, Angela Phillips, Donna Valencia, Susan Eastman, Edna Lowery, Ellen Benz-ing, DeeAnn Wenk.

Guests: Representative Adrian Arnold; Wilbur Frye, Eli Miller, David T. Buckingham, University of Kentucky; Jeff Blair, Real Estate Commission; Nathan Goldman, Board of Nursing; John Phillips, Tom Bennett, John Phillips, Department of Fish and Wildlife Resources; Ruth Thompson, David W. Bratcher, Robin Fields Kinney, Cabinet for Economic Development; Mark Mangeot, Carl Millanti, John E. Hornback, Natural Resources and Environmental Protection Cabinet; Tamela Biggs, Brenda Priestley, Department of Corrections; Keith Horn, Department of Juvenile Justice; Charlie Harmon, Transportation Cabinet; Bob Tarvin, School Facilities Construction Commission; Carla H. Montgomery, Workers' Claims; Sharron S. Burton, Department of Insurance; Randy Smith, Public Protection and Regulation Cabinet; Cookie Whitehouse, Thelma F. Cornett, Glenna Reed, Sandra Rolland, Debbie Salleng, Cabinet for Families and Children; Ralph Von Derau, Adele Dickerson, Vera Frazer, Michael Littlefield, Trish Howard, Karen Doyle, Deborah Green, Cabinet for Health Services; Joe P. Wellner, Central Transport Service, Inc.; Barry Branham, Mt. Sterling City Cab, Inc.; Nancy Galvagni, Sarah Nicholson, Kentucky Hospital Association; Paul McDonald; Marie Alagia Cull; Curtis Wiggins; John Brazel, Kentucky Chamber of Commerce; Carl Breeding, GD&M; Donnie F. Story, Handi Van Inc.; Donovan Fornwalt, Council for Retarded Citizens; Ted Bradshaw, IIAK.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Agriculture Experiment Station: University of Kentucky: Division of Regulatory Services: Seed

12 KAR 1:115. Sampling, analyzing, testing, and tolerances. Dr. Wilbur Frye, Director; David Buckingham, Coordinator, Seed Regulatory Program, and Dr. Eli Miller, Coordinator of Feed, represented the Division.

In response to questions by Representative Bruce, Mr. Buckingham stated that if the seed tests detected bad seed, the Division would issue a stop-order or fine to the producer.

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 Section 2 were amended to comply with the drafting requirements of KRS 13A.222(4); and (3) Section 3 was amended to comply with the incorporation by reference requirements of KRS 13A.2251.

Commercial Feeds

12 KAR 2:031. Directions and precautionary statements for feed with additives. 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 Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

12 KAR 2:041. Additives. 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 Sections 1 through 5 were amended to comply with

the drafting requirements of KRS 13A.222(4).

12 KAR 2:046. Poisonous or deleterious substances. 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 Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

12 KAR 2:051. Manufacturing conditions. In response to a question by Senator Roeding, Dr. Miller stated that the good manufacturing practices: (1) were established by federal regulations; and (2) regulated the use of drugs in livestock feed.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) Section 1 was amended to comply with the incorporation by reference requirements of KRS 13A.2267; and (3) the NECESSITY, FUNCTION AND CONFORMITY paragraph and Section 1 were amended to comply with the drafting requirements of KRS 13A.222(4).

12 KAR 2:061. Registration. In response to a question by Senator Roeding, Dr. Miller stated that the registration fee: (1) had been in existence for at least twenty-five years; (2) was increased from \$25 to \$50 in 1990; (3) applied to small package products, mainly pet foods; and (4) was paid per product.

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 5 were amended to comply with the drafting requirements of KRS 13A.222(4); and (3) Sections 1 and 5 were amended to comply with the incorporation by reference requirements of KRS 13A.2251.

12 KAR 2:066. Suitability. 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 Sections 2 through 6 were amended to comply with the drafting requirements of KRS 13A.222(4).

Pet Food

12 KAR 3:012. Uniform labeling format. In response to questions by Senator Roeding, Dr. Frye stated that, while comments were not received on this administrative regulation, 12 KAR 3:017, 12 KAR 3:022, 12 KAR 3:027, 12 KAR 3:037, and 12 KAR 3:042, these administrative regulations had been: (1) revised with involvement by the Feed Council; and (2) examined by the pet food industry.

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 Sections 1 through 17 were amended to comply with the drafting requirements of KRS 13A.222(4).

12 KAR 3:017. Brand and product names. 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 Sections 1 through 6 were amended to comply with the drafting requirements of 13A.222(4).

12 KAR 3:022. Guarantees. 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 Sections 1 through 8 were amended to comply with the drafting requirements of KRS 13A.222(4).

12 KAR 3:027. Ingredients. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Sections 1, 2 and 4 were amended to comply with the drafting requirements of KRS 13A.222(4).

12 KAR 3:037. Additives. 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 drafting requirements of KRS 13A.222(4); (3) Section 2 was amended to cite the applicable federal regulations; and (4) Section 3 was amended to comply with the incorporation by reference requirements of KRS 13A.2251.

12 KAR 3:042. Statement of caloric content. 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 Section 1 were amended to comply with the drafting requirements of KRS 13A.222(4); and (3) the Official Publication of the Association of American Feed Control Officials was incorporated by reference, as required by KRS 13A.2251.

Kentucky Real Estate Commission

201 KAR 11:400. Agency disclosure requirements. Jeff Blair, General Counsel, represented the Commission.

In response to a question by Chairman Arnold and Senator Long, Mr. Blair stated that this administrative regulation was amended to: (1) comply with KRS 324.121, which: (a) was enacted during the 1998 Regular Session of the General Assembly; and (b) authorized a principal broker to designate an agent within the same company to represent consumers; and (2) provide information regarding KRS 324.121 in the: (a) agency disclosure form; and (b) consumer information bulletin.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; (2) Sections 1, 3, and 4 were amended to comply with the drafting requirements of KRS 13A.222(4); and (3) Section 5 was amended to incorporate by reference the Agency Information for Consumers Bulletin, as required by KRS 13A.2251.

201 KAR 11:410. Broker duties pursuant to designated agency. 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 clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 1 and 2 were amended to: (a) delete language that repeated or summarized KRS 324.121, as required by KRS 13A.120(2)(e); (b) clarify the requirements for designated agency; and (c) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4).

Department of Fish and Wildlife Resources: Game

301 KAR 2:132. Elk depredation permits. Tom Bennett, Commissioner, and John Phillips, Deer and Elk Program Coordinator, represented the Department.

In response to questions by Senator Roeding, Mr. Phillips stated that: (1) this administrative regulation: (a) did not establish penalties; and (b) was promulgated to help people that had problems with elk; and (2) KRS 150.990 established penalties that applied to the illegal taking of elk.

In response to questions by Representative Allen, Mr. Bennett stated that: (1) the elk hunting program would be limited to Southeast Kentucky; (2) the Department: (a) would not move elk into high agriculture areas; (b) had discussions with Tennessee, Virginia, and West Virginia regarding their intentions to create an elk population; and (c) made it clear that Southeast Kentucky was the only area in Kentucky in which the Department wanted elk; and (3) because elk needed ninety percent woods and ten percent open areas, the reclamation areas in Eastern Kentucky were ideal for elk.

In response to questions by Chairman Arnold, Mr. Bennett stated that: (1) this administrative regulation: (a) kept elk out of highly agricultural areas; and (b) created a fourteen county elk zone; (2) the Department would authorize a land owner to remove an elk that wandered outside the zone; and (3) removal meant that the Department would: (a) dart the elk; or (b) put the elk down.

In response to a question by Senator Long, Mr. Bennett stated that the Department did not plan to establish elk as dense as the deer population.

This administrative regulation was amended as follows: (1) the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs were amended to correct statutory citations; and (2) Section 3(2) was amended to comply with the formatting requirements of KRS 13A.220(4).

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: General Standards of Performance

401 KAR 63:105. Requirements for control technology determinations for major sources in accordance with Clean Air Act sections 112(g) and (j). John Hornback, Director, represented the Division.

In response to a question by Senator Roeding, Mr. Hornback stated that this administrative regulation: (1) included a cost-benefit analysis in the Regulatory Impact Analysis; (2) would impact the regulated community because this administrative regulation requires compliance with federal regulations; (3) did not impose additional costs; and (4) required the Cabinet to perform the permitting functions that: (a) related to emissions of hazardous air pollutants; and (b) were previously performed by the federal government.

Section 1 of the administrative regulation was amended to comply with the drafting requirements of 13A.222(4).

Justice Cabinet: Department of Corrections: Division of Adult Institutions: Office of the Secretary

501 KAR 6:140. Bell County Forestry Camp. Tamela Biggs, Staff Attorney, represented the Department.

BCFC 02-08-01 of this administrative regulation was amended to comply with the drafting requirements of KRS 13A.222(4).

501 KAR 6:170. Green River Correctional Complex. In response to questions by Representative Allen, Ms. Biggs stated that: (1) inmates were permitted to attend an arts and crafts class at the institution; and (2) she would provide the number of staff members and inmates in the Green River Treatment Center (for Juveniles).

GRCC 22-04-01 of this administrative regulation was amended to comply with the drafting requirements of KRS 13A.222(4).

Transportation Cabinet: Department of Vehicle Regulation: Office of General Counsel: Division of Motor Carriers

601 KAR 1:115. Taxicabs, limousines, and disabled persons vehicles. Charles Harman, Staff Assistant, represented the Cabinet.

In response to a question by Representative Bruce, Mr. Harman stated that: (1) the Cabinet had met with the people, businesses, and associations affected by this administrative regulation on several occasions; and (2) the Cabinet amended the escrow provision which was of concern to them.

In response to a question by Senator Roeding, Mr. Harman stated that this administrative regulation was different from 603 KAR 7:080, which related to transportation brokers.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) Section 5(2) was amended to clarify that the Cabinet or other governmental agency would be able to inspect a list of taxi drivers at any time; (3) Section 6 was amended to provide the methods by which an operator could replace a cab in operation and forfeit a vehicle; and (4) a new Section 6(3) was created to provide that the number of vehicles in escrow would not be considered in a proceeding to determine the adequacy of a carrier's service.

School Facilities Construction Commission: Procedures

750 KAR 1:010 & E. Commission procedures. Dr. Robert Tarvin, Executive Director, represented the Commission.

This administrative regulation was amended as follows: (1) Section 1 was amended to comply with the drafting requirements of KRS 13A.222(4); and (2) Sections 2, 4, and 8 were amended to correct the name of the State Board of Education.

Labor Cabinet: Department of Workers' Claims: Workers' Claims

803 KAR 25:175 & E. Filing of insurance coverage and notice of policy change or termination. Carla Montgomery, Staff Attorney, represented the Department.

In response to a question by Chairman Arnold, Ms. Montgomery

stated that: (1) the insurance companies, rather than the individuals, were required to file the proof of coverage or cancellation information; (2) because some companies did not properly notify the Department that coverage was obtained, the commissioner issued show cause orders to require them to explain why a citation should not be issued; and (3) some fines had been levied for failure to file this information.

Sections 2 and 4 were amended to: (1) clearly establish the current requirements for filing proof of coverage information; and (2) delete provisions that applied previously.

Department of Insurance: Life Insurance and Annuity Contracts

806 KAR 15:040 & E. Licensing, reporting, and general requirements for viatical settlement providers and brokers. Sharron Burton, Staff Attorney, represented the Department.

In response to a question by Chairman Arnold, Ms. Burton stated that: (1) a viatical settlement provider was a company that contracted with an individual that had a: (a) catastrophic or life threatening illness; and (b) life insurance policy; (2) the viatical settlement provider purchased the life insurance policy for an amount less than the face value; (3) at the death of the policy holder, the viatical settlement provider received the proceeds of the insurance policy; and (4) the viatical settlement broker was the person who sold the contract to the consumer.

Representative Bruce stated that this was a common practice in the insurance industry.

This administrative regulation was amended as follows: (1) substantive material was deleted from the Definitions section and added in Sections 3 and 4; (2) Sections 3(1) and 4(1) were amended to remove references to a date that had passed; (3) Section 5 was amended to provide that the Commissioner could revoke a license after notice and a KRS Chapter 13B hearing; (4) Section 12(2) was amended to delete a reference to sexual orientation; and (5) Sections 2 and 6 were amended to comply with the drafting requirements of KRS 13A.222(4).

Cabinet for Families and Children: Department for Community Based Services: Division of Policy Development: Administration

900 KAR 1:041. Repeal of 900 KAR 1:040. Sandra Rollin represented the Department.

In response to a question by Senator Long, Ms. Rollin stated that this administrative regulation: (1) repealed 900 KAR 1:040 because the guardianship requirements were now established in 905 KAR 1:180; and (2) did not affect court-ordered guardianships.

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 was amended to comply with the drafting requirements of KRS 13A.222(4).

Cabinet for Health Services: Department for Public Health: Division of Adult and Child Health: Health Services and Facilities

902 KAR 20:016. Hospitals; operations and services. Ralph von Derau, Health Planner, represented the Department.

In response to a question by Representative Bruce, Mr. von Derau stated that this administrative regulation: (1) expanded the scope of personnel authorized to prescribe medications to comply with legislation enacted during the 1998 Regular Session of the General Assembly regarding physicians' assistants; and (2) deleted references to the Cabinet for Health Services and the Natural Resources Cabinet regarding: (a) the disposal of waste; and (b) alternative methods of disposing waste.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Section 3 was amended to: (a) update references to data storage technology; (b) specify the source of federal guidelines; and (c) comply with the drafting requirements of KRS 13A.222(4).

Cabinet for Families and Children: Department for Community Based Services: Division of Policy Development: Public Assistance

904 KAR 2:116 & E. Home energy assistance program. Glenna Reed represented the Department.

In response to a question by Chairman Arnold, Ms. Reed stated that LIHEAP was an acronym for the low income home energy assistance program.

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 11 were amended to comply with the drafting requirements of KRS 13A.222(4); (3) Section 1 was amended to add definition of "LIHEAP;" (4) Section 3 was amended to provide citation to federal authority; and (5) Section 12 was added to incorporate by reference the "Vendor Agreement" form.

Cabinet for Health Services: Department for Medicaid Services

907 KAR 1:755 & E. Preadmission Screening and Resident Review Program. Vera Frazer and Trish Howard represented the Cabinet.

In response to questions by Representative Bruce, Ms. Frazer stated that: (1) this administrative regulation established the preadmission screening requirements required by federal regulations; (2) a person with a mental illness or mental retardation was required to complete a preadmission screening process: (a) before the person would be admitted to a nursing facility; and (b) to determine if the individual needed nursing facility services; (3) while she did not know the exact number, she believed very few people were denied admission based on mental illness; (4) a person would: (a) be admitted to a nursing facility if the person required nursing facility services; and (b) be admitted to the appropriate placement, not a nursing facility, if the person needed services for a mental illness or mental retardation; (5) the Department for Mental Health and Mental Retardation Services: (a) was required by federal regulations to be the responsible agency for the evaluations and determinations; and (b) had contracted with community mental health centers to perform the evaluations and determinations; and (6) the community mental health centers would be paid by the Department for Medicaid Services for those evaluations.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Sections 1, 2, 4, 5, 6, 7, 8 and 9 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Department for Mental Health and Mental Retardation Services: Institutional Care

908 KAR 3:025. Notification of discharge, transfer or escape of violent offenders. Mike Littlefield, Regulations Coordinator, represented the Department.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph and Section 3 were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, and 5 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); and (3) Section 1 was amended to clearly establish the notification procedures that apply if a violent offender is admitted to a state psychiatric facility.

The Subcommittee determined that the following administrative regulations complied with statutory requirements:

Kentucky Real Estate Commission

201 KAR 11:230. Mandatory continuing education. Jeff Blair, General Counsel, represented the Commission.

Board of Nursing

201 KAR 20:370. Applications for licensure and registration. Nathan Goldman, General Counsel, represented the Board.

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Water Patrol

301 KAR 6:051. Repeal of 301 KAR 6:050. Tom Bennett, Com-

missioner, and John Phillips, Deer and Elk Program Coordinator, represented the Department.

Economic Development Cabinet: Kentucky Economic Development Finance Authority: Venture Capital

307 KAR 6:010. Kentucky Investment Fund Act. David Bratcher and Robin Kinney, General Counsel, represented the Cabinet.

Mr. Bratcher stated that this administrative regulation: (1) implemented the Kentucky Investment Fund Act, which: (a) was enacted during the 1998 Regular Session of the General Assembly; and (b) authorized the establishment of privately-run venture capital funds in Kentucky, for which investors would receive tax credits; and (2) established the application and review process that will be carried out by the Kentucky Economic Development Finance Authority.

In response to questions by Senator Roeding, Mr. Bratcher stated that: (1) to be reviewed at the board's June 24, 1999, meeting, an application was required to be submitted between March 1 and April 30; (2) because the Cabinet did not know how many applications would be received, this administrative regulation authorized them to limit the applications to specific dates if the Cabinet was inundated with proposals; and (3) based on the number of inquiries received about the program, the Cabinet believed: (a) the program was well received; and (b) there would be some applications.

In response to questions by Chairman Arnold, Mr. Bratcher stated that: (1) the Cabinet would approve investment funds and investment fund managers; (2) KRS 154.20-253 defined investment fund manager as a person who had: (a) a background in operating venture capital companies; and (b) the ability to find investors; (3) before an application was submitted to the finance authority, KRS 154.20-259 required: (a) a fund manager to have raised at least one million dollars from various investors, which would be transferred within ninety days of approval; and (b) the fund manager to raise his total venture capital investment within one year; (4) KRS 154.20-263 established a tax credit for investors, that would: (a) equal forty percent of the amount invested by an investor; (b) be divided over a four year period at twenty-five percent of the total credit each year; and (c) would not be given until the second year of the biennium; (5) the fiscal year began July 1; (6) KRS 154.20-267 authorized credits for up to fifty million dollars in venture capital; (7) because funds were limited to a maximum of ten million dollars, Kentucky would have five identifiable venture capital funds: (a) once the statute is fully implemented; and (b) to work with small businesses and investors; (8) once the funds have been approved, the Cabinet will have a list of venture capital companies available for distribution to entrepreneurs, who will submit business plans and proposals directly to the venture fund managers.

In response to a question by Representative Bruce, Mr. Bratcher stated that: (1) a similar program: (a) has been very successful for many years in Kansas and West Virginia; and (b) has just begun in Louisiana; and (2) based on the level of inquiries the Cabinet had received, he believed the program would be well-received in Kentucky.

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: New Source Requirements; Nonattainment Areas

401 KAR 51:001. Definitions and abbreviations of terms used in 401 KAR Chapter 51. John Hornback, Director, represented the Division.

Mr. Hornback stated that this administrative regulation amended the definitions governing the chapter on fugitive emissions to: (1) include new exemptions from the federal level in the volatile compound definition because those compounds were no longer believed to impact air quality; (2) conform to the federal definitions; and (3) establish consistency with other Cabinet definitions administrative regulations.

In response to questions by Senator Roeding, Mr. Hornback stated that: (1) this administrative regulation would have little impact on Kentucky nonattainment areas, unless a facility handled a compound that was now deregulated; (2) a scientific analysis: (a) was used by the federal government to determine a compound's impact on air quality; and (b) took time to conduct in a slow and methodic fashion; (3) additional exemptions would probably be established in

the future; (4) PCP compounds were not included in the definitions; (5) fugitive emissions were: (a) emissions that: 1. came off a piece of permitted property; and 2. did not go through a stack or control device; and (b) regulated to a degree by the Cabinet; (6) after the federal government changed the operating permit requirements, the Cabinet: (a) in 1994 adopted a slightly different definition of fugitive emissions; and (b) did not update other administrative regulations to conform; (7) he believed this administrative regulation would have a neutral cost-benefit effect because its definitions had already been in use for the permitting process since 1994; and (8) while there might be new nonattainment areas for ozone in one or two years, this administrative regulation would not provide a measurable impact, positively or negatively, on sources.

The Subcommittee and promulgating administrative bodies agreed to defer consideration of the following administrative regulations to the April 13, 1999 meeting of the Subcommittee:

Kentucky State Treasurer

20 KAR 1:040E. Unclaimed properties; claims.

20 KAR 1:070E. Unclaimed property; administrative hearing, appeals process.

20 KAR 1:080E. Reports to be filed by holders of unclaimed property.

Kentucky Employees Retirement System: General Rules

105 KAR 1:205E. Eligibility for disability retirement.

Board of Pharmacy

201 KAR 2:165. Transfer of prescription information.

201 KAR 2:185. Prescription drug refills.

Board of Medical Licensure

201 KAR 9:320. Procedures for physician training and/or supervision of noncertified individuals in the use of automatic external defibrillators (AEDs).

201 KAR 9:330E. Determination of death by a paramedic.

201 KAR 9:335E. Discontinuance of resuscitation by a paramedic.

201 KAR 9:340E. Training of paramedics in determination of death and discontinuance of resuscitation.

Board of Nursing

201 KAR 20:420E. Determination of death by a registered nurse employed by an ambulance service.

201 KAR 20:430E. Discontinuance of resuscitation by a registered nurse employed by an ambulance service.

201 KAR 20:440E. Training of registered nurses employed by an ambulance service in determination of death and discontinuance of resuscitation.

Board of Podiatry

201 KAR 25:031. Continuing education.

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: General Administrative Procedures

401 KAR 50:010. Definitions and abbreviations of terms used in 401 KAR Chapter 50.

New Source Standards

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

Existing Source Standards

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

General Standards of Performance

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

Mobile Source-related Emissions

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

Department for Surface Mining Reclamation and Enforcement: Bond and Insurance Requirements

405 KAR 10:010E. General requirements for performance bond and liability insurance.

Public Protection and Regulation Cabinet: Office of the Petroleum Storage Tank Environmental Assurance Fund: Petroleum Storage Tank Environmental Assurance Fund

- 415 KAR 1:050. Definitions.
- 415 KAR 1:060. Financial responsibility account.
- 415 KAR 1:070. Petroleum storage tank account.
- 415 KAR 1:080. Claims procedures.
- 415 KAR 1:090. Ranking system.
- 415 KAR 1:100. Third-party claims.
- 415 KAR 1:110. Contractor costs.
- 415 KAR 1:114. Contractor certification.
- 415 KAR 1:116. Certification of contracting companies.
- 415 KAR 1:120. Hearings.
- 415 KAR 1:130. Small owners tank removal account.
- 415 KAR 1:135. Financial audits.

Justice Cabinet: Abuse Investigations

500 KAR 13:010E. Appeals hearings for substantiated abuse investigations.

Department of Corrections: Division of Adult Institutions: Office of the Secretary

- 501 KAR 6:190 & E. Certification procedures for mental health professionals performing sex offender risk assessments.
- 501 KAR 6:200 & E. Sex offender risk assessment procedure.
- 501 KAR 6:210 & E. Sex offender community notification.

Department of Criminal Justice Training: Kentucky Law Enforcement Council

- 503 KAR 1:100. Certification of instructors.

General Training Provisions

503 KAR 3:040. Telecommunications academy trainee requirements; misconduct; penalties; discipline procedures.

Transportation Cabinet: Department of Vehicle Regulation: Office of General Counsel: Division of Motor Carriers

601 KAR 1:040E. Application for operating authority and registration of motor carriers.

Department of Highways: Division of Transportation Planning: Mass Transportation

- 603 KAR 7:080 & E. Human service transportation delivery.

Education, Arts and Humanities Cabinet: Department of Libraries and Archives: Division of Public Records: Archives

725 KAR 1:070E. Standards for documents presented for recording.

Public Protection and Regulation Cabinet: Kentucky Board of Tax Appeals: Tax Appeals

- 802 KAR 1:010. Rules of practice and procedure.

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 2:320E. Air contaminants.
- 803 KAR 2:425E. Toxic and hazardous substances.
- 803 KAR 2:500E. Maritime employment.

Cabinet for Health Services: Department for Public Health: Division of Adult and Child Health: Health Services and Facilities

- 902 KAR 20:078. Operations and services; group homes.

Cabinet for Families and Children: Department for Community Based Services: Division of Policy Development: Public Assistance

- 904 KAR 2:500. Family Alternatives Diversion (FAD).
- 904 KAR 2:510. Relocation Assistance Program.

Day Care

- 905 KAR 2:090. Child care facility licensure.

Cabinet for Health Services: Office of Inspector General

- 906 KAR 1:130. Administrative subpoenas guidelines.

Department for Medicaid Services

- 907 KAR 1:002. Definitions.

907 KAR 1:013E. Payments for hospital inpatient services.

907 KAR 1:019. Pharmacy services.

907 KAR 1:021. Amounts payable for drugs.

907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services.

Payment and Services

907 KAR 3:005. Physicians' services. Adell Dickerson and Trish Howard represented the Department.

In response to a question by Chairman Arnold, Ms. Howard stated that Medicaid recipients were classified as: (1) categorically needy, for which eligibility was based on the individual's income and resources; or (2) medically needy, for which eligibility was based on the need for medical assistance based on a medical condition.

Senator Roeding stated that: (1) he was concerned about the Physicians Manual that was incorporated by reference in this administrative regulation because: (a) the summary explained two pages of changes; and (b) he had not seen those changes; (2) some of the changes that concerned him included the: (a) updated information regarding reimbursement of prescription drugs; (b) clarification of policy regarding induced termination of pregnancy; and (c) removal of references regarding reimbursements for private source vaccines; (3) he did not think a problem would be presented by the changes to: (a) incorporate information regarding EPSDT: 1. coverage services; and 2. reimbursement schedules; (b) add provisions to allow for reimbursement of services provided by a physician's assistant; and (c) clarify the requirement that providers give up front notification to a recipient of the recipient's liability for payment of services; and (4) he: (a) was not able to vote for material he had not seen; and (b) was particularly concerned about the policy clarification on induced termination of pregnancy or abortion.

In response to questions by Chairman Arnold, Ms. Dickerson stated that: (1) the manual: (a) established the coverage requirements for physicians services provided to Medicaid recipients; and (b) outlined the services for which a physician would be reimbursed through the Medicaid program; and (2) the policy regarding induced termination of pregnancy: (a) was very short; (b) stated that induced termination of pregnancy shall be covered in accordance with KRS 205.560 and subject to other program edits; (c) required: 1. completion of the appropriate forms; and 2. the attachment of an operative note to the claim; and (d) reworded the information included in the prior policy to more clearly reference the applicable statute.

Ms. Howard stated that: (1) the Department had not extended coverage of abortions beyond the limits of federal or state statutes or the court order; (2) the manual had been filed: (a) with the Regulations Compiler as required by KRS Chapter 13A; and (b) at the time this administrative regulation was filed; and (3) the Department would provide him with a copy of the manual if he so desired.

Subcommittee staff stated that: (1) copies of material incorporated by reference were available to members of the Subcommittee; and (2) members needed to let her know when a copy was desired.

Senator Roeding stated that members should be given copies of material incorporated by reference, especially manuals, that affect many Kentuckians.

Subcommittee staff stated that: (1) the Department had filed two copies of the material incorporated by reference, including a: (a) dirty copy, which showed each change being made to the manual with the use of: 1. underlining for new language; and 2. strikeouts and brackets for deleted language; and (b) clean copy, which showed the language as it will appear; (2) due to the amount of material incorporated by reference, it would be too expensive to mail a copy to each member; and (3) pursuant to KRS 13A.2251, material incorporated by reference was available from: (a) Subcommittee staff; or (b) the promulgating agency.

Chairman Arnold stated that a member should ask Subcommittee staff for a copy of material incorporated by reference if the member wanted to see the material.

The Subcommittee approved a motion by Representative Bruce, seconded by Senator Roeding, to defer consideration of this administrative regulation.

Without objection, this administrative regulation and 907 KAR 3:010 were deferred.

907 KAR 3:010. Reimbursement for physicians' services.

907 KAR 3:090E. Acquired brain injury services.

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907 KAR 3:100E. Payments for acquired brain injury services.

Kentucky Children's Health Insurance Program

907 KAR 4:020E. Kentucky Children's Health Insurance Program.

Department for Mental Health and Mental Retardation Services: Division of Substance Abuse: Substance Abuse

908 KAR 1:311. Repeal of 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, and 908 KAR 1:260.

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

Cabinet for Families and Children: Department for Community Based Services: Division of Policy Development: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

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

OTHER BUSINESS:

House Bill 1, "Safe Boating Act"

In response to questions raised at the February 9, 1999, Subcommittee meeting, Commissioner Tom Bennett, Department of Fish and Wildlife, distributed a list of the Boater Safety Testing sites and dates for each county.

Justice Cabinet: Department of Juvenile Justice: Child Welfare

505 KAR 1:040. Policies and procedures manual.

Subcommittee staff stated that: (1) at its February 9, 1999, meeting, the Subcommittee agreed to wait to consider this administrative regulation as an existing administrative regulation until after the Interim Joint Committee on Judiciary had taken action on this administrative regulation; and (2) because the Interim Joint Committee on Judiciary had not considered this administrative regulation, the Subcommittee would defer its consideration of this administrative regulation until the April 13, 1999, meeting.

Cabinet for Health Services: Office of Inspector General: Division of Licensing and Regulation: Certificate of Need

900 KAR 6:050. Certificate of need administrative regulations.

Subcommittee staff stated that: (1) at its February 9, 1999, meeting, the Subcommittee had requested additional information from the Cabinet, interested parties, Subcommittee staff, and the Interim Joint Committee on Appropriations and Revenue; and (2) because of staff illness and time constraints, the Subcommittee would defer its consideration of this existing administrative regulation until the April 13, 1999, meeting.

Representative Bruce stated that he had talked with Ann Gordon, who indicated that the Cabinet: (1) needed a few more days to promulgate an emergency administrative regulation that will mirror the proposal made by Senator Pendleton at the Interim Joint Committee on Health and Welfare; and (2) will file an emergency administrative regulation shortly.

Cabinet for Health Services: Department for Public Health: Maternal and Child Health

902 KAR 4:110. Abortion information.

Subcommittee staff stated that: (1) at its February 9, 1999, meeting, the Subcommittee had requested information from Subcommittee staff regarding this administrative regulation; and (2) because of staff illness and time constraints, the Subcommittee would defer its consideration of this existing administrative regulation until the April 13, 1999, meeting.

Kentucky Commission on Poverty

Subcommittee staff stated that: (1) the Subcommittee had been requested by the Kentucky Commission on Poverty to provide an opinion regarding the applicability of KRS Chapter 13A to recent

actions by the Kentucky Public Service Commission in implementing a low-income telephone assistance program known as Lifeline; (2) as part of the implementation, the Public Service Commission has charged a surcharge on each telephone line; and (3) the Subcommittee staff needed approval from the Subcommittee to research this issue.

The Subcommittee approved the request.

Meeting Times

Subcommittee staff stated that the Subcommittee meeting time had been changed from 10:00 a.m. to 10:30 a.m. on the second Tuesday of each month.

The Subcommittee adjourned at 11:40 a.m. until April 13, 1999, at 10:30 a.m. in Room 149 of the Capitol Annex.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

**INTERIM JOINT COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES
Meeting of November 18, 1998**

Administrative regulations were available for consideration by the Interim Joint Committee on Agriculture and Natural Resources during its meeting of November 18, 1998 having been referred to the Committee on October 21 and November 17, 1998, pursuant to KRS 13A.290(6):

The following administrative regulations were found to comply with KRS Chapter 13A:

Department of Fish and Wildlife Resources

301 KAR 5:020

301 KAR 5:030

Natural Resources and Environmental Protection Cabinet

Division of Water

401 KAR 5:002

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

Natural Resources and Environmental Protection Cabinet

Division of Water

401 KAR 5:009

The Committee rationale for the finding of deficiency is: The Committee agreed with, and adopted as its own position, the action taken by the Administrative Regulations Review Subcommittee at its meeting on November 10, 1998.

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 regulation was deferred pursuant to KRS 13A.300: None

The following administrative regulation was reviewed but no action was taken: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the November 18, 1998 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES
Meeting of February 10, 1999**

Administrative regulations were available for consideration by the Interim Joint Committee on Agriculture and Natural Resources during its meeting of February 10, 1999 having been referred to the Committee on January 19, 1999 pursuant to KRS 13A.290(6):

The following administrative regulation was found to comply with KRS Chapter 13A:

Department of Fish and Wildlife Resources

301 KAR 2:251

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

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 regulation was deferred pursuant to KRS 13A.300: None

The following administrative regulation was reviewed but no action was taken: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 10, 1999 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE
Meeting of February 17, 1999**

The following administrative regulations were available for consideration by the Interim Joint Committee on Health and Welfare during its meeting of February 17, 1999, having been referred to the Committee on January 19, 1999, pursuant to KRS 13A.290(6):

900 KAR 6:030

900 KAR 6:050

900 KAR 1:050

907 KAR 1:391

The following administrative regulation was approved as amended at the Committee meeting pursuant to KRS 13A.320: 900 KAR 6:050.

The wording of the amendment to 900 KAR 6:050 is attached to and made a part of this memorandum.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 17, 1999 meeting, which are hereby incorporated by reference.

**INTERIM JOINT COMMITTEE ON
APPROPRIATIONS AND REVENUE
Meeting of February 25, 1999**

The following administrative regulation was available for consideration by the Interim Joint Committee on Appropriations and Revenue during its meeting of February 25, 1999, having been referred to the Committee on February 17, 1999, pursuant to KRS 13A.290(6): 103 KAR 44:060 & E.

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as

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amended at the Committee meeting pursuant to KRS 13A.320:
None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulation is reflected in the minutes of the February 25, 1999 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON EDUCATION Meeting of March 1, 1999

The following administrative regulations were available for consideration by the Interim Joint Committee on Education during its meeting of March 1, 1999, having been referred to the Committee on February 17, 1999, pursuant to KRS 13A.290(6):

13 KAR 2:020
13 KAR 2:090
702 KAR 6:100
704 KAR 3:480 & E
707 KAR 1:270
704 KAR 20:015
704 KAR 20:022

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 March 1, 1999 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 February 24, 1999

The following administrative regulations were available for consideration by the Interim Joint Committee on Local Government during its meeting of February 24, 1999, having been referred to the Committee on December 17, 1998 and February 17, 1999, pursuant to KRS 13A.290(6):

815 KAR 45:090
815 KAR 45:100
815 KAR 7:105

No administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

The following administrative regulation was approved as submitted pursuant to KRS Chapter 13A:
815 KAR 7:105

The following administrative regulations were approved as

amended at the Committee meeting pursuant to KRS 13A.320:
815 KAR 45:090
815 KAR 45:100

The wording of the amendment of each administrative regulation is as follows:

815 KAR 45:090, Section 1(7), (Page 3) was revised to clarify that fire training instructors had supervisory powers over fire department personnel only in training. The new section reads, in part, as follows: "Fire protection instructor" or "fire service training officer" means a person...qualified to instruct fire protection personnel or oversee the training of fire protection personnel."; and

815 KAR 45:100, Section 4(3), (Page 5) was revised to clarify that facility refurbishment is an accepted loan use. The corrected version reads, in part, "A prerequisite to obtaining a loan for facilities, vehicles, or rehabilitation of facilities, vehicles, or equipment, the volunteer fire department." and continuing in Section 4(3), the latter part was changed to read, in part, "the volunteer fire department shall verify the availability of unobligated funds in the amount of twenty-five (25) percent of the total cost of the facility, vehicle, or equipment, or the rehabilitation of the facility, vehicle, or equipment.". In Section 4(4), (Page 5, line 18) members of the committee felt that the requirement of twelve bank statements should be clarified to require twelve monthly bank statements. In Section 7(3) language was inserted specifying that the lesser of either a percentage or a specified sum shall be used as the amount of a loan. The new language reads, in part, "The amount of a loan for the purchase of equipment shall not exceed the lesser of \$75,000 or seventy-five (75) percent of the total price quote.".

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 17, 1999 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES Meeting of March 10, 1999

Administrative regulations were available for consideration by the Interim Joint Committee on Agriculture and Natural Resources during its meeting of March 10, 1999 having been referred to the Committee on February 17, 1999 pursuant to KRS 13A.290(6):

The following administrative regulations were found to comply with KRS Chapter 13A:

Department of Fish and Wildlife Resources

301 KAR 2:049
301 KAR 2:140
301 KAR 2:142
301 KAR 2:144
301 KAR 2:221
301 KAR 2:222
301 KAR 1:140
301 KAR 1:058
301 KAR 2:223
301 KAR 2:226

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

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 regulation was deferred pursuant to

KRS 13A.300: None

The following administrative regulation was reviewed but no action was taken: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the March 10, 1999 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON TRANSPORTATION
Meeting of March 2, 1999

The following administrative regulations were available for consideration by the Interim Joint Committee on Transportation during its meeting of March 2, 1999, having been referred to the Committee on February 17, 1999, pursuant to KRS 13A.290(6):

601 KAR 1:200
601 KAR 1:201

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 17, 1999 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates J - 2

The Locator Index lists all administrative regulations published in VOLUME 25 of the Administrative Register from July, 1998 through June, 1999. 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 24 are those administrative regulations that were originally published in Volume 24 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1998 bound Volumes were published.

KRS Index J - 16

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 25 of the Administrative Register.

Subject Index J - 28

The Subject Index is a general index of administrative regulations published in VOLUME 25 of the Administrative Register, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	24 Ky.R Page No.	Effective Date	Regulation Number	24 Ky.R. Page No.	Effective Date
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VOLUME 24

The administrative regulations listed under VOLUME 24 are those administrative regulations that were originally published in Volume 24 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1998 bound Volumes were published.

EMERGENCY ADMINISTRATIVE REGULATIONS:

12 KAR 4:170E	2326	4-7-98
Expired		10-18-98
31 KAR 4:120E	2575	4-22-98
Expired		11-18-98
200 KAR 15:010E	2327	4-7-98
Expired		10-18-98
302 KAR 20:040E	2330	4-3-98
Replaced		10-16-98
401 KAR 5:002E	2576	4-17-98
Replaced		11-18-98
401 KAR 5:009E	2588	4-17-98
Expired		11-18-98
601 KAR 2:020E	1863	2-13-98
Replaced		9-1-98
803 KAR 6:010E	2333	3-20-98
Expired		10-18-98
806 KAR 17:141E	2601	4-15-98
Expired		11-18-98
806 KAR 17:150E	2602	4-15-98
Expired		11-18-98
905 KAR 2:160E	2605	4-20-98
Replaced		11-18-98
907 KAR 1:006E	2337	4-6-98
Replaced		9-16-98
907 KAR 1:011E	2339	4-6-98
Replaced		9-16-98
907 KAR 1:022E	2080	2-18-98
Expired		10-18-98
907 KAR 1:026E	2612	4-24-98
Replaced		11-18-98
907 KAR 1:560E	2093	2-18-98
Expired		10-18-98
907 KAR 1:563E	2097	2-18-98
Expired		10-18-98
907 KAR 1:605E	2344	4-6-98
Replaced		9-16-98
907 KAR 1:626E	2614	4-24-98
Replaced		11-18-98
907 KAR 1:640E	2346	4-6-98
Replaced		9-16-98
907 KAR 1:645E	2350	4-6-98
Replaced		9-16-98

907 KAR 1:755E	2100	2-18-98
Withdrawn		9-1-98
907 KAR 3:030E	1639	12-19-97
Expired		7-21-98
908 KAR 2:210E	2352	4-6-98
Expired		10-18-98

ORDINARY ADMINISTRATIVE REGULATIONS:

202 KAR 3:010	2782	(See Volume 25)
202 KAR 3:030	2783	(See Volume 25)
600 KAR 6:050		
Amended	2760	(See Volume 25)
600 KAR 6:060		
Amended	2762	(See Volume 25)
600 KAR 6:080		
Amended	2765	(See Volume 25)
601 KAR 2:020	2784	(See Volume 25)
810 KAR 1:001		
Amended	2445	(See Volume 25)
810 KAR 1:009		
Amended	2447	10-12-98
810 KAR 1:015		
Amended	2450	(See Volume 25)
810 KAR 1:016		
Amended	2452	(See Volume 25)
811 KAR 1:090		
Amended	2454	(See Volume 25)
811 KAR 1:215		
Amended	2456	10-12-98
902 KAR 50:031		
Amended	1573	
Withdrawn		1-29-99
902 KAR 50:032		
Amended	1575	
Withdrawn		1-29-99
902 KAR 55:033		
Amended	1578	1-29-99
Withdrawn		
907 KAR 1:595	2788	(See Volume 25)
907 KAR 3:030	2790	(See Volume 25)
908 KAR 1:311	2484	
908 KAR 1:370	2485	(See Volume 25)

*Statement of Consideration Not Filed by Deadline

VOLUME 25

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EMERGENCY ADMINISTRATIVE REGULATIONS: (Note: Emergency regulations expire 170 days from publication, or 170 days from publication plus number of days of requested extension, or upon replacement or repeal, whichever occurs first)

20 KAR 1:040E	1015	10-15-98
20 KAR 1:070E	1017	10-15-98
20 KAR 1:080E	1018	10-15-98

30 KAR 4:010E	539	7-15-98
Replaced	1869	2-18-99
31 KAR 4:130E	36	5-20-98
Expired		12-18-98
40 KAR 2:070E	540	7-15-98
Replaced	1581	1-19-99
40 KAR 2:075E	541	7-15-98
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40 KAR 6:010E	543	7-15-98	503 KAR 1:140E	1570	11-30-98
Replaced	1265	1-19-99	601 KAR 1:040E	1573	12-14-98
103 KAR 44:060E	546	8-7-98	603 KAR 7:080E	37	5-15-98
Expired		2-18-99	Expired		12-18-98
105 KAR 1:170E	222	7-14-98	702 KAR 7:125E	555	8-6-98
Replaced	589	11-20-98	Replaced	1597	1-19-99
105 KAR 1:205E	1561	12-1-98	704 KAR 3:480E	1021	10-14-98
105 KAR 1:230E	223	7-14-98	Replaced	2150	3-1-99
Replaced	1351	11-24-98	704 KAR 20:720E	558	7-15-98
200 KAR 5:021E	548	7-17-98	Replaced	1602	1-19-99
Replaced	903	2-18-99	705 KAR 4:240E	559	8-6-98
200 KAR 6:060E	225	7-15-98	Replaced	1284	1-19-99
Replaced	946	12-17-98	725 KAR 1:070E	1832	1-6-99
200 KAR 21:010E	2116	2-12-99	735 KAR 2:010E	236	6-30-98
200 KAR 22:005E	549	7-17-98	Replaced	1357	12-3-98
Expired		2-18-99	735 KAR 2:020E	238	6-30-98
200 KAR 30:010E	2311	2-26-99	Replaced	1358	12-3-98
200 KAR 30:020E	2312	2-26-99	735 KAR 2:030E	239	6-30-98
200 KAR 30:030E	2313	2-26-99	Replaced	1359	12-3-98
200 KAR 30:040E	2314	2-26-99	735 KAR 2:040E	240	6-30-98
200 KAR 30:050E	2315	2-26-99	Replaced	1360	12-3-98
200 KAR 30:060E	2316	2-26-99	735 KAR 2:050E	241	6-30-98
200 KAR 30:070E	2316	2-26-99	Replaced	1361	12-3-98
201 KAR 9:330E	1338	11-12-98	735 KAR 2:060E	243	6-30-98
201 KAR 9:335E	1339	11-12-98	Expired		1-18-99
201 KAR 9:340E	1340	11-12-98	750 KAR 1:010E	1022	9-23-98
201 KAR 20:420E	1829	1-4-99	750 KAR 2:010E	244	7-1-98
201 KAR 20:430E	1830	1-4-99	Expired		1-18-99
201 KAR 20:440E	1830	1-4-99	787 KAR 1:200E	245	6-30-98
201 KAR 38:010E	2317	3-4-99	Replaced	914	12-17-98
201 KAR 38:020E	2318	3-4-99	803 KAR 2:306E	246	7-2-98
201 KAR 38:030E	2319	3-4-99	Expired		1-18-99
201 KAR 38:040E	2320	3-4-99	803 KAR 2:307E	249	7-2-98
201 KAR 38:050E	2321	3-4-99	Expired		1-18-99
201 KAR 38:060E	2322	3-4-99	803 KAR 2:308E	251	7-2-98
301 KAR 2:181E	551	7-16-98	Expired		1-18-99
Replaced	1271	1-19-99	803 KAR 2:311E	253	7-2-98
301 KAR 2:221E	1341	10-22-98	Expired		1-18-99
Replaced	2137	3-10-99	803 KAR 2:316E	255	7-2-98
301 KAR 2:222E	1343	10-22-98	Expired		1-18-99
Replaced	2138	3-10-99	803 KAR 2:317E	256	7-2-98
301 KAR 2:223E	1347	10-22-98	Expired		1-18-99
Replaced	1700	3-10-98	803 KAR 2:320E	258	7-13-98
301 KAR 2:225E	552	8-10-98	Withdrawn		1-15-99
Replaced	1095	1-19-99	Resubmitted	1835	1-15-99
301 KAR 2:226E	1019	9-23-98	803 KAR 2:403E	264	7-2-98
Replaced	1746	3-10-99	Expired		1-18-99
301 KAR 6:005E	554	7-16-98	803 KAR 2:404E	265	7-2-98
Replaced	1272	1-19-99	Expired		1-18-99
405 KAR 10:010E	1562	11-24-98	803 KAR 2:418E	269	7-2-98
500 KAR 13:010E	1831	12-30-98	Expired		1-18-99
501 KAR 1:030E	226	7-14-98	803 KAR 2:425E	271	7-2-98
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501 KAR 1:050E	229	7-14-98	Resubmitted	1840	1-15-99
Replaced	1037	11-20-98	803 KAR 2:500E	1841	1-15-99
501 KAR 2:070E	230	7-14-98	803 KAR 25:175E	1349	10-28-98
Replaced	1355	12-17-98	806 KAR 15:040E	560	7-21-98
501 KAR 6:020E	231	7-14-98	806 KAR 17:066E	2323	3-12-99
Replaced	1355	12-17-98	806 KAR 17:160E	272	6-19-98
501 KAR 6:190E	1564	12-4-98	Replaced	1363	12-17-98
501 KAR 6:200E	1567	12-4-98	806 KAR 17:170E	564	8-6-98
501 KAR 6:210E	1568	12-4-98	Expired		2-18-99
501 KAR 14:010E	233	7-14-98	806 KAR 17:180E	275	6-19-98
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806 KAR 17:200E	278	7-2-98	As Amended	806	10-1-98
Expired		1-18-99	11 KAR 4:070	450	
806 KAR 17:210E	280	7-2-98	As Amended	808	10-1-98
Expired		1-18-99	11 KAR 5:001		
806 KAR 17:220E	281	7-2-98	Amended	390	
Replaced	1363	12-17-98	As Amended	809	10-1-98
904 KAR 2:006E	775	9-14-98	11 KAR 5:130		
904 KAR 2:018E	42	5-15-98	Amended	888	12-3-98
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904 KAR 2:116E	782	9-15-98	Amended	890	
904 KAR 2:370E	786	9-14-98	Amended	1398	1-19-99
904 KAR 2:380E	44	6-15-98	11 KAR 12:010		
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904 KAR 2:490E	283	6-22-98	As Amended	810	10-1-98
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907 KAR 1:013E	1025	9-29-98	Amended	393	
907 KAR 1:025E	285	6-30-98	As Amended	811	10-1-98
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907 KAR 1:635E	790	9-1-98	As Amended	812	
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907 KAR 1:755E	793	9-1-98	11 KAR 12:070		
907 KAR 3:065E	48	5-15-98	Amended	397	
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907 KAR 3:090E	1851	1-11-99	11 KAR 14:010	451	
907 KAR 3:100E	1854	1-11-99	As Amended	813	10-1-98
907 KAR 4:020E	1856	1-15-99	11 KAR 14:020	453	
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9 KAR 1:030					
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12 KAR 2:051			103 KAR 44:060	1743	
Amended	894		As Amended	2126	2-25-99
As Amended	2357		105 KAR 1:170		
12 KAR 2:056			Amended	589	11-20-98
Amended	894		105 KAR 1:205	2227	
Withdrawn		3-9-99	105 KAR 1:230		
12 KAR 2:061			Amended	901	
Amended	895		As Amended	1351	11-24-98
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12 KAR 2:066			Amended	2182	
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Amended	1088		Amended	903	2-18-99
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12 KAR 3:017			200 KAR 7:010		
Amended	1090		Repealed	139	9-8-98
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12 KAR 3:022			200 KAR 15:010		
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12 KAR 3:027			Amended	904	
Amended	899		Died		11-11-98
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12 KAR 3:037			Amended	906	
Amended	900		Died		11-11-98
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Amended	1091		Amended	907	
As Amended	2364		Died		11-11-98
13 KAR 2:020			Amended	2187	
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13 KAR 2:045			Amended	2188	
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13 KAR 2:090			Amended	1944	
Amended	1903		201 KAR 2:185		
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30 KAR 4:010			201 KAR 6:010		
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31 KAR 4:120	1869	2-18-99	201 KAR 6:011	1268	1-19-99
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32 KAR 2:210			201 KAR 6:040	680	
Amended	1680		As Amended	1585	1-19-99
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40 KAR 2:075	1263		201 KAR 6:070	682	
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40 KAR 2:076	1265		201 KAR 6:080	685	
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201 KAR 9:310			Amended	407	
Amended	2427		As Amended	823	9-16-98
201 KAR 9:320	687		201 KAR 26:215		
201 KAR 9:330	2229		Amended	408	9-16-98
201 KAR 9:335	2230		201 KAR 34:030	476	
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201 KAR 11:400			As Amended	828	9-16-98
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201 KAR 20:070			Amended	1684	3-10-99
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As Amended	1030	11-18-98	Amended	409	
201 KAR 20:090			As Amended	834	10-16-98
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201 KAR 20:091	689		Amended	1686	3-10-99
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201 KAR 20:110			Amended	410	
Amended	594		As Amended	834	10-16-98
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201 KAR 20:240			Amended	411	10-16-98
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301 KAR 2:223			Amended	2411	
Amended	1700	3-10-99	402 KAR 3:030	1761	
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301 KAR 2:226	1746	3-10-99	Amended	1097	
301 KAR 2:251			415 KAR 1:060		
Amended	1435	2-10-99	Amended	1099	
301 KAR 5:020			Amended	1906	
Amended	600		415 KAR 1:070		
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301 KAR 5:030			Amended	1909	
Amended	602		415 KAR 1:080		
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301 KAR 6:005	1272	1-19-99	Amended	1912	
301 KAR 6:051	2035		415 KAR 1:090		
302 KAR 20:040			Amended	1110	
Amended	415	10-16-98	Amended	1917	
302 KAR 20:051	488		415 KAR 1:100		
Withdrawn		10-9-98	Amended	1112	
307 KAR 6:010	2035		415 KAR 1:110		
401 KAR 5:002	690	11-18-98	Amended	1114	
401 KAR 5:009	701		Amended	1919	
Amended	1061	11-19-98	415 KAR 1:114		
401 KAR 47:110			Amended	1119	
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401 KAR 61:001			Recodified as 820 KAR 1:010		2-23-99
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401 KAR 63:002	2046		Recodified as 820 KAR 1:020		2-23-99
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Amended	603	1-19-99	Recodified as 820 KAR 1:025		2-23-99
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Repealed	711	1-19-99	Recodified as 820 KAR 1:030		2-23-99
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401 KAR 63:105	1483		Recodified as 820 KAR 1:040		2-23-99
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401 KAR 65:001			Recodified as 820 KAR 1:050		2-23-99
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401 KAR 68:010	1747		Recodified as 820 KAR 1:060		2-23-99
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401 KAR 68:020	1748		Recodified as 820 KAR 1:070		2-23-99
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401 KAR 68:048	1750		Recodified as 820 KAR 1:080		2-23-99
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401 KAR 68:065	1751		Recodified as 820 KAR 1:100		2-23-99
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501 KAR 6:110			Amended	350	
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