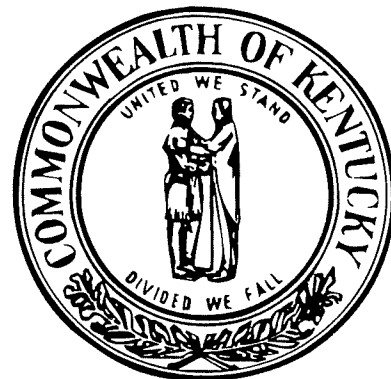


ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 25, NUMBER 12
TUESDAY, JUNE 1, 1999

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MEETING NOTICE

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on June 8, 1999, at 10:30 a.m. in Room 149 of the Capitol Annex. See tentative agenda on pages 2759-2761 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 12 – JUNE 1, 1999

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA – June 8, 1999 at 10:30 a.m. in Room 149, Capitol Annex**

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

General Administration
103 KAR 1:050. Forms manual.

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

Development Finance
109 KAR 9:010. Area Development Fund. (Not Amended After Hearing) (Deferred from May)

**FINANCE AND ADMINISTRATION CABINET
Office of the Secretary**

Purchasing
200 KAR 5:340. Process for evaluating information for use in determining whether to approve privatization of a government service.

Underwriter and Bond Counsel Selection Process

200 KAR 21:010 & E. Procedure for prequalification of underwriters and bond counsel for state bond issues.
200 KAR 21:030. Calculating the preference for Kentucky bond counsel firms for state bond issues.

Division of Occupations and Professions

Directory of Registered Athlete Agents (Deferred from May)

200 KAR 30:010E. Definitions.
200 KAR 30:020E. Complaint review
200 KAR 30:030E. Requirements for registration.
200 KAR 30:040E. Fees.
200 KAR 30:050E. Reinstatement.
200 KAR 30:060E. Annual contact report.
200 KAR 30:070E. Records retention.

GENERAL GOVERNMENT CABINET

Board of Medical Licensure (Deferred from May)

201 KAR 9:084. Fee schedule.
201 KAR 9:175. Physician assistants; certification and supervision.
201 KAR 9:310. Continuing medical education.
201 KAR 9:330 & E. Determination of death by a paramedic. (Deferred from April)
201 KAR 9:335 & E. Discontinuance of resuscitation by a paramedic. (Deferred from April)
201 KAR 9:340 & E. Training of paramedics in determination of death and discontinuance of resuscitation. (Deferred from April)

Board of Nursing

201 KAR 20:420 & E. Determination of death by a registered nurse employed by an ambulance service. (Deferred from April)
201 KAR 20:430 & E. Discontinuance of resuscitation by a registered nurse employed by an ambulance service. (Deferred from April)
201 KAR 20:440 & E. Training of registered nurses employed by an ambulance service in determination of death and discontinuance of resuscitation. (Deferred from April)

Board of Certification of Fee-Based Pastoral Counselors (Deferred from May)

201 KAR 38:010E. Definitions.
201 KAR 38:020E. Application.
201 KAR 38:030E. Equivalent course of study.
201 KAR 38:040E. Fees.
201 KAR 38:050E. Travel expenses of board members.
201 KAR 38:060E. Code of ethics.

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

Game

301 KAR 2:049. Small game and furbearer hunting on public areas.
301 KAR 2:172. Deer hunting seasons and requirements.
301 KAR 2:174. Deer hunting zones.
301 KAR 2:178. Deer hunting on wildlife management areas.
301 KAR 2:179. State park deer hunts.

Water Patrol

301 KAR 6:060. Safe boating certification.

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

Solid Waste Facilities

401 KAR 47:110. Registered permit-by-rule. (Public Hearing)

Standards for Solid Waste Facilities

401 KAR 48:320. Operating requirements for less-than-one acre construction/demolition debris landfills. (Public Hearing)

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Division for Air Quality

Attainment and Maintenance of the National Ambient Air Quality Standards

- 401 KAR 51:001. Definitions for 401 KAR Chapter 51.
- 401 KAR 51:100. General provisions for regional NOx requirements.
- 401 KAR 51:110. Regional NOx emission limits.
- 401 KAR 51:120. Regional NOx controls.
- 401 KAR 51:130. Banking and trading NOx allowances.
- 401 KAR 51:140. NOx credits for early reduction and emergency.

Hazardous Pollutants

- 401 KAR 57:002. 40 CFR Part 61 national emission standards for hazardous air pollutants. (Amended After Hearing) (Deferred from May)
- 401 KAR 57:019. Repeal of 401 KAR 57:005, 57:015, 57:021, 57:025, 57:030, 57:035, 57:040, 57:045, 57:050, 57:055, 57:130, 57:270, 57:300, 59:450, 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, 60:160, 60:170, 60:180, 60:190, 60:250, 60:260, 60:330, 60:340, 60:370, 60:380, 60:390, 60:400, 60:420, 60:440, 60:450, 60:460, 60:470, 60:480, 60:490, 60:500, 60:540, 60:560, 60:580, 60:590, 60:600, 60:620, 60:630, 60:640, 60:680, 60:700, 60:730, 60:750, 63:070, 63:100, 63:101, 63:104, 63:110, 63:160, 63:190, 63:300, 63:320, 63:340, 63:360, 63:400, 63:420, 63:460, 63:520, 63:541, 63:560, 63:640, 63:680, 63:701, 63:920, 63:940, and 63:960. (Amended After Hearing) (Deferred from May)

New Source Performance Standards

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

General Standards of Performance

- 401 KAR 63:002. 40 CFR Part 63 national emission standards for hazardous air pollutants. (Amended After Hearing)
- Department for Surface Mining Reclamation and Enforcement**

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 1:080E. Claims procedures.
- 415 KAR 1:120. Hearings. (Not Amended After Hearing) (Deferred from February)

JUSTICE CABINET

Abuse Investigation

- 500 KAR 13:010E. Appeals hearings for substantiated abuse investigations. (Deferred from March)
- 500 KAR 13:020E. Internal investigations unit.

Department of Corrections Division of Adult Institutions

Office of the Secretary

- 501 KAR 6:040. Kentucky State Penitentiary.
- 501 KAR 6:060. Northpoint Training Center.
- 501 KAR 6:120. Blackburn Correctional Complex.

Department of State Police

Sexual Assault Nurse Examiner Medical Protocol

- 502 KAR 12:010. Sexual assault nurse examiner medical protocol. (Deferred from May)
- Department of Criminal Justice Training**

Kentucky Law Enforcement Council

- 503 KAR 1:140 & E. Peace officer professional standards.

TRANSPORTATION CABINET

Department of Vehicle Regulation Division of Vehicle Enforcement

Division of Motor Carriers

- 601 KAR 1:040E. Application for operating authority and registration of motor carriers. (Deferred from February)

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)

WORKFORCE DEVELOPMENT CABINET

Department for Adult Education and Literacy

Adult Education and Literacy

- 785 KAR 1:010. Testing program.

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)
- Department of Alcoholic Beverage Control**

Licensing

- 804 KAR 4:210. Supplemental bar license.

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Department of Insurance

Health Insurance Contracts

806 KAR 17:066E. Medicare supplement insurance policies. (Deferred from May)

CABINET FOR HEALTH SERVICES

Office of Certificate of Need

Certificate of Need

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

Department for Public Health

Office of Inspector General

Health Services and Facilities

902 KAR 20:091. Facilities specifications, operation and services; community mental health-mental retardation center. (Public Hearing)

902 KAR 20:140. Operation and services; hospices.

Kentucky Board of Family Health Care Providers

902 KAR 22:040. Charitable health care providers. (Not Amended After Hearing) (Deferred from May)

CABINET FOR FAMILIES AND CHILDREN

Department for Community-Based Services

Division of Policy Development

Child Welfare

905 KAR 1:180. Protection and permanency policy and procedures manual.

Day Care

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

CABINET FOR HEALTH SERVICES

Department for Medicaid Services

Medicaid Services

907 KAR 1:002. Definitions. (Deferred from February)

907 KAR 1:019. Pharmacy services. (Amended After Hearing) (Deferred from February)

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. (Amended After Hearing) (Deferred from May)

Division of Member and Provider Services

Payment and Services

907 KAR 3:035. Criteria for certification for out-of-state residential services for Medicaid-eligible children under 21.

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 4:020 & E. Kentucky Children's Health Insurance Program.

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. (Amended After Hearing) (Deferred from May)

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)

Division of Mental Health

Institutional Care

908 KAR 3:160E. Policies and procedures of Kentucky Correctional Psychiatric Center.

CABINET FOR FAMILIES AND CHILDREN

Office of Program Support

Administration

920 KAR 1:060. Protection of human subjects.

Department for Community-Based Services

Division of Policy Development

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

921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability.

Division of Program Development

Food Stamp Program

921 KAR 3:030. Application process.

Adult Services

922 KAR 5:070. Adult protective services. (Public Hearing)

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

Notice of Intent

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

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

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing information, tiering statement, regulatory impact analysis, fiscal note, and the federal mandate comparison. Those administrative regulations received by the deadline required in KRS 13A.050 shall be published in the Administrative Register.

Public Hearing

The administrative body shall schedule a public hearing on proposed administrative regulations to be held not less than twenty (20) nor more than thirty (30) days following publication. The time, date, and place of the hearing and the name and address of the agency contact person shall be included on the last page of the administrative regulation when filed with the Compiler's office.

Any person interested in attending the scheduled hearing must submit written notification of such to the administrative body at least five working (5) days before the scheduled hearing. If no written notice is received at least five (5) working days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler of the cancellation. If the hearing is held, the administrative body shall submit within fifteen (15) days following the hearing a statement of consideration summarizing the comments received at the hearing and the administrative body's responses to the comments.

No transcript of the hearing need to be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

Review Procedure

If a proposed administrative regulation is amended as a result of the public hearing, the amended version shall be published in the next Administrative Register; and the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting following publication. If a proposed administrative regulation is not amended as a result of the hearing or if the hearing is cancelled, the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting. After review by the Subcommittee, the administrative regulation shall be referred by the Legislative Research Commission to an appropriate jurisdictional committee for a second review. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the appropriate jurisdictional committee meets or thirty (30) days after being referred by LRC, whichever occurs first.

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

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

April 26, 1999

(1) **11 KAR 12:010.** Definitions for 11 KAR Chapter 12.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an amendment to the administrative regulation governing the subject matter listed above, particularly, deletion of the definition of "minimum rate of return" and modification of the definition of various notices.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, June 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 June 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 this administrative regulation is KRS 164A.325(9).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will amend an existing administrative regulation, 11 KAR 12:010. Definitions for 11 KAR Chapter 12, as follows:

1. Delete section 1(15).

2. Modify subsections (16) through (22) by removing the reference to a "form" and instead defining the various notices as "the participant's written instructions."

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 164A.325(9) authorizes the board to promulgate administrative regulations to implement the Kentucky Educational Savings Plan Trust. This administrative regulation establishes the definitions for 11 KAR Chapter 12.

(d) The benefits expected from the administrative regulation are: The administrative regulation defines terms used in participation agreements and the administrative regulations contained in 11 KAR Chapter 12, which pertain to the Kentucky Educational Savings Plan Trust.

(e) The administrative regulation will be implemented as follows: The administrative regulation merely defines terms used in participation agreements and the administrative regulations contained in 11 KAR Chapter 12, which pertain to the Kentucky Educational Savings Plan Trust.

April 26, 1999

(1) **11 KAR 12:020.** General rules for investments and fund transfers.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an amendment to the administrative regulation governing the subject matter listed above, particularly, deletion of the definition of "administrative fund," modification of the standards for investment in mutual funds and other investments approved by the board, and addition of a specified minimum rate of interest on investments guaranteed by the trust.

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

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(a) The statutory authority for the promulgation of this administrative regulation is KRS 164A.325(9).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will amend an existing administrative regulation, 11 KAR 12:020. General rules for investments and fund transfers, as follows:

1. Delete Section 1. Definition;

2. Modify former Section 2(2) by adding standards for investment in mutual funds and other board approved investment instruments; and

3. Addition of a specified minimum rate of interest on investments guaranteed by the trust.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 164A.300 through 164A.380 confer certain powers and duties upon the Kentucky educational savings plan trust to invest funds and to utilize the administrative fund to support its activities. This administrative regulation establishes the policy for investments and fund transfers.

(d) The benefits expected from the administrative regulation are: The administrative regulation establishes the policy for investments and fund transfers. The proposed amendments remove a definition being added to another regulation and add standards to the permitted investments.

(e) The administrative regulation will be implemented as follows: The administrative regulation imposes limits on the board and program administrator with respect to permitted investment of trust funds.

April 26, 1999

(1) **11 KAR 12:060.** Cancellation and payment of refund.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an amendment to the administrative regulation governing the subject matter listed above, particularly, addition of a new Section 2 to permit partial withdraw of the account balance.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, June 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 June 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 this administrative regulation is KRS 164A.325(9).

(b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will amend an existing administrative regulation, 11 KAR 12:060. Cancellation and payment of refund, as follows: add a new Section 2 to permit partial withdraw of the account balance.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 164A.325(9) authorizes the board to promulgate administrative regulations to implement the Kentucky Educational Savings Plan Trust. KRS 164A.350(2) provides that a participant may cancel a participation agreement and requires a penalty to be charged by the trust. This administrative regulation establishes the procedures for cancellation of the participation agreement and refund of the account balance and specifies the penalty.

(d) The benefits expected from the administrative regulation are: The administrative regulation provides that a participant may cancel a participation agreement and requires a penalty to be charged by the trust. The proposed amendment adds a new Section 2 to permit partial withdraw of the account balance so that the participant would not have to cancel the participation agreement in its entirety.

(e) The administrative regulation will be implemented as follows: The administrative regulation provides that a participant may terminate a participation agreement and withdraw the entire balance or may withdraw part of the balance by submitting a written request to the program administrator.

April 26, 1999

(1) **11 KAR 12:070.** Benefits payable from the Kentucky Educational Savings Plan Trust Program fund.

(2) The Kentucky Higher Education Assistance Authority intends to promulgate an amendment to the administrative regulation governing the subject matter listed above, particularly, modification of the amounts payable for room and board to beneficiaries who reside off-campus and deletion of limits on the time period in which benefits must be used.

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

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1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky 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 this administrative regulation is KRS 164A.325(9).
- (b) The administrative regulation that the Kentucky Higher Education Assistance Authority intends to promulgate will amend an existing administrative regulation, 11 KAR 12:070. Benefits payable from the Kentucky Educational Savings Plan Trust Program fund., as follows:
 1. Amendment of Section 2 to modify the amounts payable for room and board to beneficiaries who reside off-campus; and
 2. Deletion of Section 3(2) that established limits on the time period in which benefits must be used.
- (c) The necessity and function of the proposed administrative regulation is as follows: KRS 164A.310(8), 164A.330(5) and 164A.335 establish the statutory framework for payment of benefits from the program fund. This administrative regulation establishes the maximum benefits payable in an academic period, the duration of the payments, the payment of benefits for a beneficiary residing off campus and the notice provisions in the event of a refund of the payments for nonuse or unused benefits from the program fund.
- (d) The benefits expected from the administrative regulation are: This administrative regulation establishes the maximum benefits payable in an academic period, the duration of the payments, the payment of benefits for a beneficiary residing off campus and the notice provisions in the event of a refund of the payments for nonuse or unused benefits from the program fund.
- (e) The administrative regulation will be implemented as follows: This administrative regulation establishes the maximum benefits payable in an academic period, the duration of the payments, the payment of benefits for a beneficiary residing off campus and the notice provisions in the event of a refund of the payments for nonuse or unused benefits from the program fund.

KENTUCKY REGISTRY OF ELECTION FINANCE

April 21, 1999

- (1) **32 KAR 1:180.** Twenty-four (24) hour gubernatorial slate reporting.
- (2) The Kentucky Registry of Election Finance intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 28, 1999, at 9:30 a.m., at the office of the Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 28, 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: Rosemary F. Center, General Counsel, Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky, 40601, (502) 573-2226, FAX (502) 573-5622.
- (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 Registry of Election Finance 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 24 hour gubernatorial slate reporting is KRS 121A.020(7).
- (b) The administrative regulation that the Kentucky Registry of Election Finance intends to promulgate will not amend an existing administrative regulation. It will require all slates of candidates for Governor and Lieutenant Governor to report to the Kentucky Registry of Election Finance within 24 hours the receipt of or authorization for any contribution, expenditure or deposit to the campaign depository made by or on behalf of the members of the slate during the 28 days immediately preceding a primary or regular election and during the 14 days immediately preceding a runoff primary.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: Pursuant to KRS 121A.020(7), the Registry is required to promulgate administrative regulations and official forms necessary to implement KRS Chapter 121A. KRS 121A.020(5) provides reporting requirements for all slates of candidates, including slates rejecting expenditure limits ("non-participating slates") and slates accepting expenditure limits ("participating slates"). The public interest requires effective and timely disclosure of all campaign contributions and expenditures. Slates are prohibited from accepting contributions during the 28 days preceding a primary or regular election and during the 14 days immediately preceding a runoff primary, except for non-participating slates of candidates who choose to expend their own personal funds during the foregoing statutory periods. See *Gable v. Patton*, 142 F.3d 940 (6th Cir. 1998), cert. denied, ___ U.S. ___ (March 1, 1999) (No. 897, 1998 Term). Further, under KRS 121A.080, participating slates of candidates may resume fundraising upon a ruling by the Registry or voluntary notice that a slate of candidates has received contributions or made expenditures in excess of the campaign expenditure limits established by KRS 121A.030. Therefore, in order to effectively administer the public financing program, it is necessary to promulgate this regulation.
- (d) The benefits expected from administrative regulation are:
 1. Immediate notice to the Kentucky Registry of Election Finance and all other slates of candidates of a contribution of money or commitment to expend money by or on behalf of a slate of candidates during the last 28 days preceding an election.
 2. Prompt and effective administration of the public financing program.
 3. Avoidance of corrupt election practices or the appearance of corruption in elections.
- (e) The administrative regulation will be implemented as follows: Gubernatorial slates of candidates shall make 24 hour reports that are required under the proposed regulation using existing election finance statement forms, which are distributed to all slates and are available at the offices of the Registry. The 24 hour reports required under the proposed regulation will be supplementary to any other reports required of

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the slates under KRS Chapters 121 and 121A. The proposed regulation will apply to the next regular election after its effective date.

REVENUE CABINET Department of Law Division of Tax Policy

May 13, 1999

- (1) **103 KAR 20:020**, Items of capital for corporation license tax.
- (2) The Revenue Cabinet intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 10 a.m., in Training Room E, 200 Fair Oaks Lane, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 30, 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: Jennifer C. Hays, Director, Kentucky Revenue Cabinet, Division of Compliance and Taxpayer Assistance, 200 Fair Oaks Lane, Station 50, Frankfort, Kentucky 40601, Telephone: (502) 564-5495, Fax: (502) 564-3392, E-mail: jhays@mail.state.ky.us.
- (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 Revenue Cabinet at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the administration of the corporation license tax is KRS 131.130(1).
 - (b) The administrative regulation that the Kentucky Revenue Cabinet intends to promulgate will not amend an existing administrative regulation. It will define terms and explain the computation of capital.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 131.130(1) requires the cabinet to make administrative regulations for the administration of all tax laws. KRS 136.070 defines the term "capital" which includes capital stock, surplus, advances by affiliated companies, intercompany accounts, and borrowed moneys. This administrative regulation will establish a definition for each item of capital and provide guidance for the implementation of KRS 136.070.
 - (d) The benefits expected from the administrative regulation are:
 1. Improved corporate taxpayer education;
 2. Fewer mistakes made by corporate taxpayers on returns filed; and
 3. Fewer adjustments made by the cabinet to license tax returns filed.
 - (e) The administrative regulation will be implemented as follows: The provisions of this administrative regulation will be incorporated into the instructions of Revenue Form 720, Kentucky Corporation Income and License Tax Return, and other publications issued by the Revenue Cabinet for taxable years beginning after December 31, 1999.

DEPARTMENT FOR LOCAL GOVERNMENT

April 19, 1999

- (1) Regulation number and title: **109 KAR 2:020**. Training incentive.
- (2) The Department for Local Government intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 1999, at 10 a.m., at Department for Local Government, 1024 Capital Center Drive #340, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 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: Thomas Troth, Legal Counsel, Department for Local Government, 1024 Capital Center Drive #340, Frankfort, Kentucky 40601; telephone (502) 573-2382; fax (502) 573-2939.
- (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 Local Government 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 64.5275(6)(7)
 - (b) The administrative regulation that the Department for Local Government commissioners may attend various training sessions so as to earn credit toward a 40 hour training unit. Upon the completion of each training unit, the officer shall be eligible for a \$100 training incentive.
 - (c) The necessity and function of the proposed administrative regulation is as follows: To allow the various county judge-executives, sheriffs, county clerks, jailers who operates a full service jail, fiscal court magistrates and county commissioners to receive training related to their

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function as it intends to promulgate will not amend an existing regulation. It will set up a program where county judge-executives, sheriffs, county clerks, jailers who operate a full service jail, fiscal court magistrates and county officer so as to allow these various officers to run their county governments in a more efficient and professional manner.

(d) The benefits expected from administrative regulation are: This regulation will allow for better trained county government officers, which shall in turn result in a more efficient and professional county government.

(e) The administrative regulation will be implemented as follows: The department's Division of Training and ADD Services will mail the affected county officials information on the Training Incentive Program including, but not limited to, information on dates, times, locations, and content of the various training sessions.

April 19, 1999

(1) Regulation number and title: **109 KAR 15:020**. State Local Finance Officer Policy Manual.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 1999, at 10 a.m., at Department for Local Government, 1024 Capital Center Drive #340, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 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: Thomas M. Troth, Department for Local Government, 1024 Capital Center Drive #340, Frankfort, Kentucky 40601; telephone (502) 573-2382; fax (502) 573-2939.

(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 Local Government 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 68.210, 68.250, and 68.350.

(b) The administrative regulation that the Department for Local Government intends to promulgate will not amend an existing regulation. It will incorporate by reference the Instructional Guide for County Budget Preparation and State Local Finance Officer Policy Manual.

(c) The necessity and function of the proposed administrative regulation is as follows: To allow the 120 county governments to function in a more effective manner in implementation of their various county budgets.

(d) The benefits expected from the administrative regulation will allow for better use of budget funds by the various counties, so as to allow county governments to be run in a more efficient and professional manner.

(e) The administrative regulation will be implemented as follows: by disseminating copies of the incorporated manual to the various county governments; and through training the various county government officers at budget workshops given by the Department for Local Government Division of Financial Services and the State Local Finance Officer.

FINANCE AND ADMINISTRATION CABINET Office of Financial Management and Economic Analysis

May 14, 1999

(1) **200 KAR 14:011** Qualified investments.

(2) The Office of Financial Management and Economic Analysis, Finance and Administration Cabinet, intends to promulgate an amendment to the administrative regulation listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 24, 1999 at 10 a.m. at 702 Capitol Avenue, Suite 261, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 24, 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: Mr. Gordon L. Mullis, Executive Director, Office of Financial Management and Economic Analysis, 702 Capitol Avenue, Suite 261, Frankfort, Kentucky 40601, Phone: (502) 564-2924; Fax (502) 564-7416.

(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 promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Office of Financial Management and Economic Analysis at the address listed above.

(7) Information related to the proposed regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the Commonwealth's qualified investments is KRS 42.500(2), (10), and 42.525.

(b) The administrative regulation that the Office of Financial Management and Economic Analysis intends to promulgate will amend 200 KAR 14:011, Standards that govern the Commonwealth's investment and cash management programs. The following amendments to the regulation are proposed:

1. Section 5(5) will be amended to make asset backed securities limitations consistent with collateralized mortgage obligations.

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2. Section 5(7) will be amended to make the amount available to purchase by issuer consistent throughout the regulations.
3. Section 5(9) will be amended to make it consistent with 200 KAR 14:081, the Commonwealth's guidelines for Repurchase Agreements.
4. Section 8(1)(a) will be amended to add the capability to invest General Fund assets in the intermediate pool.
5. Section 9(3)(b) will be amended to allow the addition of broker/dealers who bring value to the state.
- (c) The necessity and function of the proposed administrative regulation is as follows: The changes requested in Section 5(5), (7) and (9) are to create consistency throughout the State Investment Commission's regulations. The changes requested in Sections 8(1)(a) and 9(3)(b) will enable better execution of security trades and investment pool administration.
- (d) The benefits expected from the proposed amendment are: The proposed amendment will enable more efficient trading and accounting.
- (e) This amended administrative regulation will be implemented as follows: No implementation will be required due to the amendments.

May 14, 1999

- (1) **200 KAR 14:081.** Repurchase agreements.
- (2) The Office of Financial Management and Economic Analysis, Finance and Administration Cabinet, intends to promulgate an amendment to the administrative regulation listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 24, 1999 at 10:30 a.m. at 702 Capitol Avenue, Suite 261, Frankfort, Kentucky, 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 24, 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: Mr. Gordon L. Mullis, Executive Director, Office of Financial Management and Economic Analysis, 702 Capitol Avenue, Suite 261, Frankfort, Kentucky 40601, Phone: (502) 564-2924; Fax (502) 564-7416.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Office of Financial Management and Economic Analysis at the address listed above.
- (7) Information related to the proposed regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the Commonwealth's repurchase agreements is KRS 42.500(9) to (14), 42.520, and 42.525.
 - (b) The administrative regulation that the Office of Financial Management and Economic Analysis intends to promulgate will amend 200 KAR 14:081, the general standards which apply to the employment of repurchase agreements. The following amendments to the regulation are proposed:
 1. Section 3(2) will be amended to remove the word "For" at the beginning of the sentence.
 2. Section 5(2) will be amended to insure that all contracts administered are in compliance with the Commonwealth's banking contract.
 3. Section 8(1) will be amended to correct a typographical error.
- (c) The necessity and function of the proposed administrative regulation is as follows: The changes requested in Sections 3(2) and 8(a) are to correct grammar and a typographical error. Section 5(2) is being amended to properly reflect how the banking procedures are currently administered.
- (d) The benefits expected from the proposed amendment are: The proposed amendment will bring the Commonwealth's General Depository Bank in compliance with the Commonwealth's current banking contract.
- (e) This amended administrative regulation will be implemented as follows: No implementation will be required as a result of the amendments.

May 14, 1999

- (1) **200 KAR 14:091.** Guidelines for money market instruments.
- (2) The Office of Financial Management and Economic Analysis, Finance and Administration Cabinet, intends to promulgate an amendment to the administrative regulation listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 24, 1999 at 11 a.m. at 702 Capitol Avenue, Suite 261, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 24, 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: Mr. Gordon L. Mullis, Executive Director, Office of Financial Management and Economic Analysis, 702 Capitol Avenue, Suite 261, Frankfort, Kentucky 40601, Phone: (502) 564-2924; Fax (502) 564-7416.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Office of Financial Management and Economic Analysis at the address listed above.
- (7) Information related to the proposed regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to the Commonwealth's guidelines for money market instruments is KRS 42.525.
 - (b) The administrative regulation that the Office of Financial Management and Economic Analysis intends to promulgate will amend 200

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KAR 14:091, the general standards which apply to the investment of the Commonwealth's funds in money market type instruments. The following amendments to the regulation are proposed:

1. Section 3(3) will be amended to change the amount by issuer from \$10 million to \$25 million.
2. Section 4(3)(a) will be amended to change six (6) months to nine (9) months and to add "unless specifically authorized by KRS 41:610."
- (c) The necessity and function of the proposed administrative regulation is amended as follows: Section 3(3) is amended to create consistency throughout the State Investment Commission's regulations. Section 4(3)(a) is amended to make 200 KAR 14:091 consistent with KRS 41:610.
- (d) The benefits expected from the proposed amendment are: To have consistency throughout the regulations and with applicable statutes.
- (e) This amended administrative regulation will be implemented as follows: No implementation will be required as a result of the amendments.

BOARD OF PHARMACY

April 17, 1999.

- (1) **201 KAR 2:020. Examinations.**
- (2) The Kentucky Board of Pharmacy intends to amend an administrative regulation, 201 KAR 2:020 relating to the requirements for examinations by which applicants obtain licensure as a pharmacist in the Commonwealth.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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: Michael A. 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 score required for successful completion of the Multistate Pharmacy Jurisprudence Examination in order to be issued a license 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, 315.191(1)(c) and 315.210 requires the board to promulgate administrative regulations to prescribe the time, place, method, manner, scope, and subjects of examinations. This administrative regulation identifies the examinations that are required and the scores that must be earned to receive a license to practice pharmacy in the Commonwealth.
- (d) The benefit expected from the amendment to the administrative regulation is a standardized score on the Multistate Pharmacy Jurisprudence Examination that has been psychometrically validated.
- (e) The amendment to the administrative regulation will be implemented as follows: The board proposes to establish the passing score on the Multistate Pharmacy Jurisprudence Examination as the score that is nationally used and psychometrically validated.
- (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 June 16, 1999.

KENTUCKY BOARD OF LICENSURE FOR NURSING HOME ADMINISTRATORS

May 12, 1999

- (1) **201 KAR 6:020. Other requirements for licensure.** This proposed amended administrative regulation establishes other requirements for licensure by the board.
- (2) The Kentucky Board of Licensure for Nursing Home Administrators 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 June 25, 1999, at 3 p.m., in the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 25, 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 Licensure for Nursing Home Administrators, 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.

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(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 other requirements for licensure is KRS 216A.070(3), 216A.080(1)(e), (f) which mandate that the board develop, impose, and enforce standards which shall be met by an individual in order to receive a license.

(b) The administrative regulation the Kentucky Board of Licensure for Nursing Home Administrators intends to promulgate will establish those standards as mandated by statute.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish other requirements for licensure as mandated by statute.

(d) The benefit expected from this amended administrative regulation is that applicants for credentialing will be allowed more opportunities to satisfy the testing requirements for licensure.

(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.

May 12, 1999

(1) **201 KAR 6:060. Fees.** This proposed amended administrative regulation establishes fees for licensure by the board.

(2) The Kentucky Board of Licensure for Nursing Home Administrators 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 June 25, 1999, at 3 p.m., in the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 25, 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 Licensure for Nursing Home Administrators, 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 fees is KRS 216A.070(3), (4), 216A.110(1), 216.130 which mandate that the board establish and collect fees for a temporary permit, application process, examination, issuance of licenses, renewals, and licensure by reciprocity.

(b) The administrative regulation the Kentucky Board of Licensure for Nursing Home Administrators intends to promulgate will establish fees as mandated by statute.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish fees as mandated by statute.

(d) The benefit expected from this amended administrative regulation is that applicants for credentialing will be required to pay the full cost of the application and testing process.

(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.

KENTUCKY STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

April 14, 1999

(1) **201 KAR 18:131.** Disciplinary and grievance hearing procedures.

(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 June 23, 1999, at 2:30 p.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 June 23, 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 disciplinary and grievance hearing procedures is KRS 322.180, 322.190, 322.200, 322.220, and 322.290.

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(b) The administrative regulation that the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors intends to promulgate will amend 201 KAR 18:131. It will establish procedural guidelines for administrative hearings under KRS Chapter 322.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: To implement disciplinary and grievance hearing procedures as authorized by KRS Chapter 322.

(d) The benefit expected from this administrative regulation is that the procedures for administrative hearings will be clarified and brought into conformity with KRS Chapter 13B.

(e) This administrative regulation will be implemented as follows: Licensees and applicants for licensure 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 licensees and applicants for licensure and will be applied the same to all.

April 14, 1999

(1) **201 KAR 18:140.** Code of professional practice and conduct.

(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 June 23, 1999, at 3 p.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 June 23, 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 a code of professional practice and conduct 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 18:140. It will establish a code of professional code and practice which clarifies the responsibilities of professional engineers and land surveyors.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: To implement the code of professional practice and conduct as mandated by KRS Chapter 322.290(11).

(d) The benefit expected from this administrative regulation is that the responsibilities of professional engineers and land surveyors will be clarified and more easily understood by licensees, applicants, and the general public.

(e) This administrative regulation will be implemented as follows: Professional engineers and 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. The proposed amendments will affect all licensees and will be applied the same to all.

KENTUCKY ATHLETIC COMMISSION

May 14, 1999

(1) **201 KAR 27:012.** Wrestling requirements.

(2) The Kentucky Athletic 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 June 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 June 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 wrestling requirements is KRS 229.180.

(b) The administrative regulations that the Kentucky Athletic Commission intends to promulgate will amend 201 KAR 27:012 to recognize that professional wrestling is not athletic competition but is rather "sports entertainment", and to develop better standards for the licensing of wrestlers and promoters, safety of the participants and the audience.

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(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation licensing requirements for wrestlers and promoters, rules for wrestling events in order to set rules for the matches, standards of conduct and safety for the participants and to promote crowd control. This regulation will establish said standards.

(d) The benefit expected from these administrative regulations is ensure that all entities associated with the wrestling industry are properly licensed and certified, therefore being able to be held accountable for violations of the standards of safety and conduct. Further, newly promulgated standards will help ensure the safety of the participants and audience.

(e) The administrative regulations will be implemented as follows: Persons interested in promoting wrestling events or participating as a professional wrestler will be required to comply with this administrative regulation, and the Kentucky Athletic Commission will enforce the administrative regulations.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources

February 26, 1999

(1) **301 KAR 2:140**. Requirements for wild turkey hunting.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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), 150.390(1) and 150.620.

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:140 as follows: It will require persons to check turkey by using an automated telephone call-in system instead of taking the turkey to a check station.

(c) The necessity and function of the proposed administrative regulation is the protection and conservation of wild turkey populations. This amendment will reflect the new telephone check-in procedure.

(d) The benefits expected from the administrative regulation are more complete data on turkey harvest.

(e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the department's Division of Law Enforcement.

JUSTICE CABINET Department of Corrections

May 12, 1999

(1) **501 KAR 3:010**, Definitions.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 3:010, as follows: To comply with KRS Chapter 13A and revise the definitions.

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

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1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 3:040, Personnel.**

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 3:040, as follows: To comply with KRS Chapter 13A and to permit jail personnel to receive in-service training from an agency approved by Corrections.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 3:060, Security; control.**

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 3:060, as follows: To comply with KRS Chapter 13A.

(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 neces-

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sary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 3:070**, Safety; emergency procedures.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 3:070, as follows: To comply with KRS Chapter 13A, to require that each jail comply with the Kentucky Building Code and permit an existing, approved jail to continue without change, unless alterations, additions or changes occur.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 3:110**, Classification.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 3:110, as follows: To comply with KRS Chapter 13A and permit each detention facility to develop prisoner classification and reclassification systems.

(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 neces-

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sary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 3:120**, Admission; release.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 3:120, as follows: To comply with KRS Chapter 13A, provide a basis for a strip search, and set forth the criteria for determining reasonable suspicion.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 3:140**, Inmate rights.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 3:140, as follows: To comply with KRS Chapter 13A and to permit a jail to prohibit the sending or receiving of mail between prisoners.

(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

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reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 14, 1999

(1) **501 KAR 6:020**, Department of Corrections.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 6:020, as follows:

1. The Monitoring and Operation of Private Prisons (CPP 1.4) shall be amended to comply with KRS Chapter 13A and to outline the procedures for operating and monitoring a private prison.

2. Extraordinary Occurrence Report (CPP 1.6) shall be deleted, as it shall be replaced by an amended version in Chapter 8.

3. Extraordinary Occurrence Report (CPP 8.6) is a new policy, which establishes procedures for filing and distributing an extraordinary occurrence report.

4. Notification of Extraordinary Occurrence (CPP 8.7) is a new policy which sets forth the procedures to be followed for providing notification to appropriate personnel or law enforcement of an extraordinary occurrence.

5. Restoration of Forfeited Good Time (CPP 15.5) shall be amended to delete the old policy number and to comply with KRS Chapter 13A.

6. Adjustment Procedures and Programs (CPP 15.6) shall be amended for better organization; to clarify when a disciplinary report shall be sent back for further investigation with a more appropriate charge; to make more clear what witnesses should be interviewed; and, to have a legal aide present if an inmate is ejected from a hearing due to unruly behavior.

7. Inmate Personal Property (CPP 17.1) shall be amended to prohibit the use or ownership of role playing games, to add items to the approved property list and limit the quantity of postal items an inmate may possess at a time.

8. Classification of the Inmate (CPP 18.1) shall be amended to comply with KRS Chapter 13A, to set forth the responsibilities of the classification branch manager, to clarify the guidelines used in classification and update various committees' responsibilities and functions.

9. Central Office Classification Committee (CPP 18.2) shall be amended to comply with KRS Chapter 13A, to set forth Central Office Classification Committee membership and clarify when a warden may request a review of a case.

10. Transfers (CPP 18.7) shall be amended to comply with KRS Chapter 13A, to clarify the five types of transfers, and update transfer procedures and requirements.

11. Staffing Pattern for the First Incarceration Shock Treatment Program (F.I.S.T.)(CPP 21.1) shall be deleted as the policies and procedures which govern the operation of the boot camp and the rights and responsibilities of the inmates in the program, are all set forth in the Boot Camp Operations Manual which is incorporated, herein, by reference.

12. Boot Camp Program (CPP 21.2) shall be amended to comply with KRS Chapter 13A, to set forth eligibility criteria for the boot camp program and delineate the reasons for dismissal.

13. Program Schedule - Phase II and Phase III (CPP 21.3) shall be deleted as the policies and procedures which govern the operation of the boot camp and the rights and responsibilities of the inmates in the program, are all set forth in the Boot Camp Operations Manual which is incorporated, herein, by reference.

14. Platoon Size and Composition (CPP 21.4) shall be deleted as the policies and procedures which govern the operation of the boot camp and the rights and responsibilities of the inmates in the program, are all set forth in the Boot Camp Operations Manual which is incorporated, herein, by reference.

15. Physical Conditioning Program Component (CPP 21.5) shall be deleted as the policies and procedures which govern the operation of the boot camp and the rights and responsibilities of the inmates in the program, are all set forth in the Boot Camp Operations Manual which is incorporated, herein, by reference.

16. Group and Individual Counseling (CPP 21.6) shall be deleted as the policies and procedures which govern the operation of the boot camp and the rights and responsibilities of the inmates in the program, are all set forth in the Boot Camp Operations Manual which is incorporated, herein, by reference.

17. Drug and Alcohol Abuse Counseling and Treatment (CPP 21.7) shall be deleted as the policies and procedures which govern the operation of the boot camp and the rights and responsibilities of the inmates in the program, are all set forth in the Boot Camp Operations Manual which is incorporated, herein, by reference.

18. Work Programs Component (CPP 21.8) shall be deleted as the policies and procedures which govern the operation of the boot camp and the rights and responsibilities of the inmates in the program, are all set forth in the Boot Camp Operations Manual which is incorporated,

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herein, by reference.

19. Education and Life Management (CPP 21.9) shall be deleted as the policies and procedures which govern the operation of the boot camp and the rights and responsibilities of the inmates in the program, are all set forth in the Boot Camp Operations Manual which is incorporated, herein, by reference.

20. Auxiliary Services (CPP 21.10) shall be deleted as the policies and procedures which govern the operation of the boot camp and the rights and responsibilities of the inmates in the program, are all set forth in the Boot Camp Operations Manual which is incorporated, herein, by reference.

21. Offenses and Penalties (CPP 21.11) shall be deleted as the policies and procedures which govern the operation of the boot camp and the rights and responsibilities of the inmates in the program, are all set forth in the Boot Camp Operations Manual which is incorporated, herein, by reference.

22. Inmate Furloughs (CPP 25.4) shall be amended to comply with KRS Chapter 13A, to delineate who is, or is not eligible to participate and to revise the guidelines for application and approval of a furlough.

23. Availability of supervision Services (CPP 27-06-01) shall be amended to comply with KRS Chapter 13A and update the procedures.

24. Kentucky Community Resources Director (CPP 27-09-01) shall be amended to comply with KRS Chapter 13A, to delete unnecessary definitions and update procedures.

25. Initial Interview (CPP 27-12-03) shall be totally revised to delete references to the Department of Corrections, to delete unnecessary procedures for processing a case, to delete unnecessary recordkeeping requirements and to provide notification of the availability of resources, a grievance procedure and to add language regarding procedures for an offender with additional jail time or a concurrent probation.

26. Conditions of Supervision and Request for Modification (CPP 27-12-04) shall be amended to comply with KRS Chapter 13A, to set forth policy in cases where special conditions are not available and clarify procedures for reviewing and interpreting conditions.

27. Releasee's Report (CPP 27-12-05) is totally revised to delete references to the Department of Corrections, delete reference to ACA Standards, to reflect the procedures to follow for completion and scheduling a releasee report, and to shorten the number of days in which to document an offender contact.

28. Employment, Educational and Vocational Referrals (CPP 27-12-07) is totally revised to comply with KRS Chapter 13A, delete references to leisure activities, reduce number of days for documenting referrals and delete procedures which are no longer performed by an officer.

29. Supervision Plan (CPP 27-12-08) is totally revised to comply with KRS Chapter 13A, delete references to the Department of Corrections and to streamline the procedures by deleting the description of specific pages of the supervision plan.

30. Community Service Work (CPP 27-12-13) shall be amended to comply with KRS Chapter 13A, to delete references to the Department of Corrections and to clarify the procedures to be followed documenting participation and completion of the program.

31. Offender Travel (CPP 27-12-14) shall be amended to comply with KRS Chapter 13A, delete references to the Department of Corrections, and to streamline procedures for allowing an offender to travel or visit a correctional facility.

32. Alcohol Detection (CPP 27-13-02) shall be amended to comply with KRS Chapter 13A, to delete references to the Department of Corrections and to update the procedures for testing for alcohol use and reporting any violations.

33. Absconder Procedures (CPP 27-17-01) shall be amended to comply with KRS Chapter 13A, delete references to ACA Standards, update procedures for dealing with an absconder and add LINK to the pertinent data bases.

34. Probation and Parole Issuance of Detainer or Warrant (CPP 27-18-01) shall be amended to comply with KRS Chapter 13A, delete references to ACA Standards, clarify definitions, delete language covered in other policies and delete provisions regarding duties of the Parole Board.

35. Fugitive Unit Apprehensions (CPP 27-22-01) shall be deleted, as the fugitive unit is no longer in existence.

36. Fugitive Unit Transportation of Fugitives (CPP 27-22-02) shall be deleted as the unit is no longer operative and transportation of offenders is covered in another policy.

37. Conditional Discharge of Sex Offenders (CPP 27-30-02) is a new policy which sets forth the policies and procedures for supervision of a sex offender convicted after July 15, 1998 who is sentenced to a period of conditional discharge.

38. Use of Chemical Agents in Probation and Parole (CPP 27-31-01) is a new policy which sets forth the procedures for:

- a. Training employees in the use of chemical agents;
- b. Using an agent; and
- c. After-use disposal and first aid.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 14, 1999

(1) **501 KAR 6:030**, Kentucky State Reformatory.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the 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 6:030, as follows: Library Services for Correctional Psychiatric Treatment Unit (KSR 21-00-05) shall be added to establish a procedure to ensure inmates housed in the new mental health unit at the Kentucky State Reformatory have access to library services.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

2. This administrative regulation updates operating procedures at the Kentucky State Reformatory to comply with KRS Chapter 13A and to reflect current operating procedures.

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

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

May 12, 1999

(1) **501 KAR 6:110**, Roederer Correctional Complex.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 6:110, as follows:

1. Fire Prevention (RCC 08-01-01) shall be amended to reflect grammatical corrections.

2. Duties and Responsibilities of the Fire and Safety Officer (RCC 09-04-03) shall be amended to reflect grammatical corrections.

3. Food Service: General Guidelines (RCC 11-01-01) shall be amended to reflect grammatical corrections.

4. Food Service: Security (RCC 11-02-01) shall be amended to reflect grammatical corrections.

5. Dining Room Guidelines (RCC 11-03-01) shall be amended to reflect grammatical corrections.

6. Food Service: Meals (RCC 11-04-01) shall be amended to reflect grammatical corrections.

7. Food Service: Menu, Nutrition and Alternative Items (RCC 11-04-02) shall be amended to reflect a change in special diets to alternative items and grammatical corrections.

8. Food Service: Purchasing and Storage (RCC 11-07-01) shall be amended to reflect the wording of kitchen to Food Service Department and grammatical corrections.

9. Sanitation, Living Conditions, and Clothing Issuances (RCC 12-01-01) shall be amended to reflect grammatical corrections.

10. General Guidelines for Living Units (RCC 12-01-03) shall be amended to reflect rules for use of walkmans and televisions in living units and grammatical corrections.

11. Issuance of Clean Laundry and Receiving of Dirty Laundry (RCC 12-02-01) shall be amended to reflect a change in the supervision of the institutional laundry and other operational changes, as well as grammatical corrections.

12. Institutional Inspections (RCC 12-04-01) shall be amended to reflect a deletion of annual inspections by state and local health, safety and fire officials as we can not mandate what another agency or entity shall do, plus grammatical corrections.

13. Insect and Vermin Control (RCC 12-06-01) shall be amended to reflect grammatical corrections.

14. Health Maintenance Services: Sick Call and Pill Call (RCC 13-02-01) shall be amended to reflect administration of controlled substances and grammatical corrections.

15. Licensure and Training Standards for Medical Department (RCC 13-05-02) shall be amended to reflect grammatical corrections.

16. Emergency Medical and Dental Care Services (RCC 13-06-03) shall be amended to reflect grammatical corrections.

17. Health Records (RCC 13-07-01) shall be amended to reflect grammatical corrections.

18. Use of Pharmaceutical Products (RCC 13-07-03) shall be amended to reflect grammatical corrections.

19. Self-Administered Medication Program (RCC 13-07-04) shall be amended to reflect additional rules for self-administered medication and grammatical corrections.

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- 20. Health Education and Special Health Programs (RCC 13-10-01) shall be amended to reflect grammatical changes.
- 21. Telephone Communications (RCC 16-02-01) shall be amended to reflect operational changes and grammatical changes.
- 22. Inmate Personal Property and Property Control (RCC 17-03-01) shall be amended to reflect grammatical changes.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 6:999**, Department of Corrections secured policies and procedures.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) There shall be no public hearing on these regulations as they relate to secured policies under the provisions of KRS 197.025 which states that these policies shall not be accessible to the public or inmates.

(4) Information relating to these proposed administrative regulations:

(a) The statutory authority for the promulgation of these administrative regulations relating to the subject matter of these administrative regulations is KRS 196.035, 197.020, and 197.025.

(b) The administrative regulations that the Department of Corrections intends to promulgate shall delete secured policies from existing administrative regulations and establish 501 KAR 6:999, as follows:

1. Security Threat Groups (CPP 9.3) is a new policy which provides guidelines for identifying and validating gang membership and sharing and confidentiality of records.

2. Control and Use of Flammable, Toxic, and Caustic Materials (RCC 08-08-01) shall be amended to reflect a change in labeling of hazardous chemicals in portable containers and grammatical changes.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

3. KRS 197.025(5) provides: "The policies and procedures of administrative regulations of the department which address the security and control of inmates and penitentiaries shall not be accessible to the public or inmates. The Administrative Regulations Review Subcommittee's review process for these policies and procedures shall be conducted in closed sessions."

(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 shall comply with operational procedures and standards noted in policy changes.

May 12, 1999

(1) **501 KAR 7:010**, Definitions.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 7:010, as follows: To comply with KRS Chapter 13A and revise the definitions.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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reflect current operating procedures.

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

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

May 12, 1999

(1) **501 KAR 7:020**, Administration; management.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 7:020, as follows: To comply with KRS Chapter 13A.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 7:040**, Personnel.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 7:040, as follows: To comply with KRS Chapter 13A and permit training by other agencies with Corrections' approval.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 7:050**, Physical plant.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 7:050, as follows: To comply with KRS Chapter 13A and increase the ratio of residents to showers.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 7:060**, Security; control.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 7:060, as follows: To comply with KRS Chapter 13A.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 7:080**, Sanitation; hygiene.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 7:080, as follows: To comply with KRS Chapter 13A and revise the procedures for hair cutting services.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 7:120**, Admission; release.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 7:120, as follows: To comply with KRS Chapter 13A, provide the basis for a strip search and the criteria for determining reasonable suspicion.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 7:140**, Inmate rights.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 7:140, as follows: To comply with KRS Chapter 13A, permit a center to prohibit a resident sending or receiving of mail to or from an inmate and providing residents with opportunities for religious worship or counseling.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 10:010**, Definitions.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 10:010, as follows: To comply with KRS Chapter 13A, revise definitions to include statutory references and delineate number of prisoners affected.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 10:040**, Personnel.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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, Tameela 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 10:040, as follows: To comply with KRS Chapter 13A.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 10:060**, Security; control.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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, Tameela 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 10:060, as follows: To comply with KRS Chapter 13A and provide for constant monitoring of any prisoner placed in physical restraints.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

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policy changes.

May 12, 1999

(1) **501 KAR 10:070**, Safety; emergency procedures.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 10:070, as follows: To comply with KRS Chapter 13A, require that jails comply with the Kentucky Building Code and permit an existing jail to operate unless an alteration, addition or change occurs.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 10:110**, Classification.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 10:110, as follows: To comply with KRS Chapter 13A, provide for separation of male and female prisoners except in diversion or holding, and permit each detention facility to develop prisoner classification and reclassification systems.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 10:120**, Admission; release.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 10:120, as follows: To comply with KRS Chapter 13A, provide the basis for a strip search and set forth the criteria for determining reasonable suspicion.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

May 12, 1999

(1) **501 KAR 10:140**, Inmate rights.

(2) The Justice Cabinet, Department of Corrections, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 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 June 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 10:140, as follows: To comply with KRS Chapter 13A, to permit a jail to prohibit sending or receiving of mail to or from a prison or detention facility and afford a prisoner to participate in, or receive, religious services or counseling.

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

1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

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

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

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

TRANSPORTATION CABINET

April 26, 1999

- (1) **601 KAR 1:017.** Repeal of 601 KAR 1:015 and 601 KAR 1:016.
- (2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation repealing 601 KAR 1:015 and 601 KAR 1:016.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 29, 1999 at 10 a.m. local prevailing time, at 501 High Street, 10th Floor, General Counsel Conference Room of the State Office Building, Frankfort, Kentucky 40622.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 22, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should contact Charles Harman at: phone (502) 564-7650, fax (502) 564-5238, and e-mail charman@mail.kytc.state.ky.us. A written request may be mailed to 501 High Street, 10th Floor, State Office Building, Frankfort, Kentucky 40622.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Transportation Cabinet at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to the overweight and overdimensional permitting process is KRS 174.080, 189.222, 189.270, 189.273 and 189.274.
- (b) The administrative regulation that the Transportation Cabinet intends to promulgate will repeal 601 KAR 1:015 and 1:016.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 174:080, 189.222, 189.270, 189.273 and 189.274 permit the Transportation Cabinet to promulgate regulations that govern the overweight and overdimensional permitting process. This regulation repeals 3 existing regulations, and replaces them with 1.
- (d) The benefits expected from the administrative regulation are increased efficiency through the consolidation of regulations.
- (e) The administrative regulation will be implemented as follows: In accordance with KRS Chapter 13A.
- (8) Any person with a disability for which the Transportation Cabinet needs to make an accommodation in order for the person to participate in the public comment hearing should notify Charles Harman at the above-mentioned address no later than 10 days prior to the scheduled hearing date.

April 26, 1999

- (1) **601 KAR 1:018.** Overweight or overdimensional permits.
- (2) The Kentucky Transportation Cabinet intends to promulgate a new administrative regulation regarding overweight and overdimensional permits.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 29, 1999 at 10 a.m. local prevailing time, at 501 High Street, 10th Floor General Counsel Conference Room of the State Office Building, Frankfort, Kentucky 40622.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 22, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should contact Charles Harman at: phone (502) 564-7650, fax (502) 564-5238, and e-mail charman@mail.kytc.state.ky.us. A written request may be mailed to 501 High Street, 10th Floor, State Office Building, Frankfort, Kentucky 40622.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Transportation Cabinet at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to the overweight and overdimensional permitting process is KRS 174.080, 189.222, 189.270, 189.2717, 189.273 and 189.274.
- (b) The administrative regulation that the Transportation Cabinet intends to promulgate will create 601 KAR 1:018. It will consolidate 11 existing regulations into 1 new regulation.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 174:080, 189.222, 189.270, 189.2717, 189.273 and 189.274 permit the Transportation Cabinet to promulgate regulations that govern the overweight and overdimensional permitting process. This new regulation will clarify the overweight and overdimensional permitting process.
- (d) The benefits expected from the administrative regulation are increased efficiency through the consolidation of regulations.
- (e) The administrative regulation will be implemented as follows: In accordance with KRS Chapter 13A.
- (8) Any person with a disability for which the Transportation Cabinet needs to make an accommodation in order for the person to participate in the public comment hearing should notify Charles Harman at the above-mentioned address no later than 10 days prior to the scheduled hearing date.

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April 26, 1999

(1) **603 KAR 5:076**, Repeal of 603 KAR 5:075, 603 KAR 5:100, 603 KAR 5:105, 603 KAR 5:110, 603 KAR 5:112, 603 KAR 5:260, 603 KAR 5:270, 603 KAR 5:330.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation repealing 603 KAR 5:075, 100, 105, 110, 112, 260, 270, 330.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 29, 1999 at 10 a.m. local prevailing time, at 501 High Street, 10th Floor General Counsel Conference Room of the State Office Building, Frankfort, Kentucky 40622.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 22, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should contact Charles Harman at: phone 502.564.7650, fax 502.564.5238, and e-mail charman@mail.kytc.state.ky.us. A written request may be mailed to 501 High Street, 10th Floor, State Office Bldg., Frankfort, Kentucky 40622.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the overweight and overdimensional permitting process is KRS 189.222, 189.270, and 189.2717.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will repeal 603 KAR 5:075, 100, 105, 110, 112, 260, 270, and 330.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 189.222, 189.270, and 189.2717 permit the Transportation Cabinet to promulgate regulations that govern the overweight and overdimensional permitting process. This regulation repeals 8 existing regulations, and replaces them with 1.

(d) The benefits expected from the administrative regulation are increased efficiency through the consolidation of regulations.

(e) The administrative regulation will be implemented as follows: In accordance with KRS Chapter 13A.

(8) Any person with a disability for which the Transportation Cabinet needs to make an accommodation in order for the person to participate in the public comment hearing should notify Charles Harman at the above-mentioned address no later than 10 days prior to the scheduled hearing date.

May 14, 1999

(1) **603 KAR 5:150**. Encroachment permits.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation regarding encroachment permits.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 29, 1999, at 11 a.m., local prevailing time, at 501 High Street, 10th Floor, General Counsel Conference Room, State Office Building, Frankfort, Kentucky 40622.

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

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

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

(5)(a) Persons wishing to request a public hearing should contact Charles Harman at: phone (502) 564-7650, fax (502) 564-5238, and e-mail charman@mail.kytc.state.ky.us. A written request may be mailed to 501 High Street, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to encroachment permits are KRS 176.050, 177.047.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend 603 KAR 5:150. It will amend an existing regulation. It will establish procedures to be followed when requesting an encroachment permit.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 176.050 and 177.047 allows the Transportation Cabinet to establish standards for obtaining a permit for any encroachment to the right-of-way of any state highway.

(d) The benefits expected from the administrative regulation are to provide policy and procedures in maintenance of highways to allow encroachments onto a highway or right-of-way.

(e) The administrative regulation will be implemented as follows: By the Transportation Cabinet in accordance with KRS Chapter 13A.

(8) Any person with a disability for which the Transportation Cabinet needs to make an accommodation in order for the person to participate in the public comment hearing should notify Charles Harman at the above-mentioned address no later than 10 days prior to the scheduled hearing date.

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EDUCATION PROFESSIONAL STANDARDS BOARD

May 1999

- (1) **704 KAR 20:011.** Repeal of various administrative regulations.
- (2) The Education Professional Standards Board intends to repeal the administrative regulations.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 1999, at 10 a.m. in the Local District Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 22, 1999, the hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.
- (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 Education Professional Standards Board at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the repeal of administrative regulations is KRS 13B.120(2)(f).
 - (b) The administrative regulations that the Education Professional Standards Board intend to repeal are, 704 KAR 20:065, 704 KAR 20:085, 704 KAR 20:090, 704 KAR 20:110, 704 KAR 20:150, 704 KAR 20:240, 704 KAR 20:245, 704 KAR 20:250, 704 KAR 20:270, 704 KAR 20:285, 704 KAR 20:350, 704 KAR 20:360, 704 KAR 20:370.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS Chapter 161 et al. requires that the Education Professional Standards Board set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professionals and establish standards and requirements for obtaining and maintaining a teaching certificate. This administrative regulation repeals various regulations concerning the training and certification of teachers.
 - (d) The benefit expected from administrative regulation is: The board has been mandated by KRS 161.028 to streamline teacher certification and the certification process. Repeal of these regulations will promote this legislative mandate.
 - (e) The administrative regulation will be implemented as follows: The regulations will be repealed.

May 1999

- (1) **704 KAR 20:021.** Planned Fifth-year Program.
- (2) The Education Professional Standards Board intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 1999, at 10 a.m. in the Local District Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 22, 1999, the hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.
- (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 Education Professional Standards Board 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 establishing of standards and requirements for obtaining and maintaining a teaching certificate is KRS 161.028 and 161.030.
 - (b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:021, Planned Fifth-year Program. The amendment will remove the experienced teacher standards from this regulation; the experienced teacher standards will continue in effect, and will be contained in a new administrative regulation 704 KAR 20:730, Standards for certified school personnel.
 - (c) The necessity and function of the proposed administrative regulation is as follows:
 1. KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate.
 2. KRS 161.030 grants the Education Professional Standards Board certification authority.
 - (d) The benefits expected from administrative regulation are: Placement of the standards for certified school personnel in a separate administrative regulation will both emphasize their importance and allow teachers and administrators to more easily reference these standards.
 - (e) The administrative regulation will be implemented as follows: Local districts, teacher training institutions, and private education associations will be notified of the change, and publications of the Education Professional Standards Board and the Office of Teacher Education and Certification will be updated to reflect the change.

May 1999

- (1) **704 KAR 20:305.** Written examination prerequisites for teacher certification.
- (2) The Education Professional Standards Board intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22,

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1999, at 10 a.m. in the Local District Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 22, 1999, the hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.

(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 Education Professional Standards Board 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 establishing of standards and requirements for obtaining and maintaining a teaching certificate is KRS 161.028 and 161.030.

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:305, Written examination prerequisites for teacher certification. It will revise the current passing scores.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.030 requires the Education Professional Standards Board to select appropriate assessments that measure knowledge of the specific teaching field of each teacher applicant.

(d) The benefits expected from administrative regulation are: Teacher applicants will have to meet higher standards in their specific teaching field to fulfill the requirements for certification.

(e) The administrative regulation will be implemented as follows: Notification of the amendments to this regulation will be given to all Kentucky teacher preparation institutions from the Office of Teacher Education and Certification.

May 1999

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

(2) The Education Professional Standards intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 1999, at 10 a.m. in the Local District Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 22, 1999, the hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.

(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 Education Professional Standards Board 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 establishing of standards and requirements for obtaining and maintaining a teaching certificate is KRS 161.028 and 161.030.

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:670, Kentucky teaching certificates. The amendment will remove the new teacher standards from this regulation; the new teacher standards will continue in effect, and will be contained in a new administrative regulation 704 KAR 20:730, Standards for certified school personnel.

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

1. KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate.

2. KRS 161.030 grants the Education Professional Standards Board certification authority.

(d) The benefits expected from administrative regulation are: Placement of the standards for certified school personnel in a separate administrative regulation will both emphasize their importance and allow teachers and administrators to more easily reference these standards.

(e) The administrative regulation will be implemented as follows: Local districts, teacher training institutions, and private education associations will be notified of the changes, and publications of the Education Professional Standards Board and the Office of Teacher Education and Certification will be updated to reflect the changes.

May 1999

(1) **704 KAR 20:730.** Standards for certified school personnel.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 1999, at 10 a.m. in the Local District Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at

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least 10 days prior to June 22, 1999, the hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.

(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 Education Professional Standards Board 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 establishing of standards and requirements for obtaining and maintaining a teaching certificate is KRS 161.028 and 161.030.

(b) The administrative regulation that the Education Professional Standards Board intends to promulgate is 704 KAR 20:730, Standards for certified school personnel. It will contain the experienced teacher standards and new teacher standards as currently contained in 704 KAR 20:021 and 704 KAR 20:670 respectively, and the new technology standard adopted by the Education Professional Standards Board.

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

1. KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate.

2. KRS 161.030 grants the Education Professional Standards Board certification authority.

(d) The benefits expected from administrative regulation are: The new technology standard for both experienced teachers and new teachers will assist in the further integration of technology in the classroom, and updating teacher skills will better prepare students for the technological demands of the next century. Additionally, placement of the standards for certified school personnel in a separate administrative regulation will both emphasize their importance and allow teachers and administrators to more easily reference these standards.

(e) The administrative regulation will be implemented as follows: Local districts, teacher training institutions, and private education associations will be notified of the changes, and the publication of the Education Professional Standards Board and the Office of Teacher Education and Certification will be updated to reflect these changes.

**CABINET FOR WORKFORCE DEVELOPMENT
Department for Employment Services**

May 6, 1999

(1) **787 KAR 1:201**, Repeal of 787 KAR 1:200, Maximum weekly benefit rate.

(2) The Cabinet for Workforce Development, Department for Employment Services, Division of Unemployment Insurance, intends to promulgate an administrative regulation repealing administrative regulation 787 KAR 1:200, Maximum weekly benefit rate.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 21, 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 the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 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: Ron Holland, Director, Division of Unemployment Insurance, Cabinet for Workforce Development, 2nd Floor, 275 East Main Street, Frankfort, Kentucky 40621, Phone (502) 564-2900, Fax (502) 564-5502.

(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 Cabinet for Workforce Development 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 13A.310 and 341.115.

(c) The administrative regulation that the Cabinet for Workforce Development intends to promulgate will repeal 787 KAR 1:200, Maximum weekly benefit rate.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: 787 KAR 1:200 is not required because KRS 341.380 determines which unemployment insurance maximum weekly benefit rate that will be in effect for the period July 1 through June 30 each year.

(d) The benefit expected from this administrative regulation is: To avoid redundancy in the determination of the maximum weekly benefit rate for appropriate assignment of applicable unemployment compensation amounts for unemployment insurance claimants.

(e) The administrative regulation will be implemented as follows: Maximum weekly benefit rates for the period July 1 through June 30 each year will be calculated by the application of the parameters for mathematical computation required by KRS 341.380.

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**PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Mine Electrical Safety Standards**

April 21, 1999

- (1) **805 KAR 3:091.** Repeal of 805 KAR 3:090.
- (2) The Department of Mines and Minerals intends to propose the regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 29, 1999, at 1 p.m., (ET), in the First Floor Hearing Room, Department of Mines and Minerals, 1025 Capital Center 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, or 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 is not received from the required number of people at least 10 days prior to June 29, 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: Stephan L. Taylor, General Counsel, Department of Mines and Minerals, PO Box 2244, Frankfort, Kentucky 40602-2244, telephone (502) 573-0140, or facsimile the request to (502) 573-0152.
- (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 Mines and Minerals 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 mine electrical safety standards is KRS 352.220(3)(b).
 - (b) The summary of the administrative regulation that the Department of Mines and Minerals intends to promulgate as 805 KAR 3:091 is as follows: The proposed regulation repeals 805 KAR 3:090.
 - (c) The necessity and function of the proposed administrative regulation is: New and better electrical safety standards applicable to the coal mining industry are needed to afford greater protection to those who work in coal mines.
 - (d) The benefits expected from administrative regulation are: Repeal of the current electrical safety standards in favor of the proposed electrical safety standards will save coal miners from injury and death.
 - (e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented by the Department of Mines and Minerals, Division of Mine Safety and Health and the Division of Mine Safety Analysis through their inspections.

April 21, 1999

- (1) **805 KAR 3:130.** General safety standards.
- (2) The Department of Mines and Minerals intends to propose the regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 29, 1999, at 1 p.m., (ET), in the First Floor Hearing Room, Department of Mines and Minerals, 1025 Capital Center 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, or 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 is not received from the required number of people at least 10 days prior to June 29, 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: Stephan L. Taylor, General Counsel, Department of Mines and Minerals, PO Box 2244, Frankfort, Kentucky 40602-2244, telephone (502) 573-0140, or facsimile the request to (502) 573-0152.
- (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 Mines and Minerals 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 mine electrical safety standards is KRS 352.220(3)(b).
 - (b) The summary of the administrative regulation that the Department of Mines and Minerals intends to promulgate as 805 KAR 3:130 is as follows: The proposed regulation sets out general safety standards for the use of electricity in coal mines. It also describes requirements for the use of electrical installations and conductors.
 - (c) The necessity and function of the proposed administrative regulation is: The ever-present and inherent dangers of electrical machinery and equipment require vigilance in the maintenance and proper use of that machinery and equipment.
 - (d) The benefits expected from administrative regulation are: The proposed regulation will enhance the safety of coal miners who work with or around electrical machinery or equipment.
 - (e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented by the Department of Mines and Minerals, Division of Mine Safety and Health and the Division of Mine Safety Analysis through their inspections.

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April 21, 1999

- (1) **805 KAR 3:140.** Disconnecting devices.
- (2) The Department of Mines and Minerals intends to propose the regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 29, 1999, at 1 p.m., (ET), in the First Floor Hearing Room, Department of Mines and Minerals, 1025 Capital Center 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, or 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 is not received from the required number of people at least 10 days prior to June 29, 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: Stephan L. Taylor, General Counsel, Department of Mines and Minerals, Post Office Box 2244, Frankfort, Kentucky 40602-2244, telephone (502) 573-0140, or facsimile the request to (502) 573-0152.
- (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 Mines and Minerals 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 mine electrical safety standards is KRS 352.220(3)(b).
 - (b) The summary of the administrative regulation that the Department of Mines and Minerals intends to promulgate as 805 KAR 3:140 is as follows: The proposed regulation establishes requirements for the type and use of disconnecting devices and the proper means and methods of grounding electrical machinery and equipment.
 - (c) The necessity and function of the proposed administrative regulation is: Electrical machinery and equipment need to be properly grounded and have appropriate disconnecting devices to ensure the persons working with or around them will be protected from injury or death due to electrical shock.
 - (d) The benefits expected from administrative regulation are: The proposed regulation will save coal miners from injury and death.
 - (e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented by the Department of Mines and Minerals, Division of Mine Safety and Health and the Division of Mine Safety Analysis through their inspections.

April 21, 1999

- (1) **805 KAR 3:150.** Protective devices.
- (2) The Department of Mines and Minerals intends to propose the regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 29, 1999, at 1 p.m., (ET), in the First Floor Hearing Room, Department of Mines and Minerals, 1025 Capital Research 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, or 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 is not received from the required number of people at least 10 days prior to June 29, 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: Stephan L. Taylor, General Counsel, Department of Mines and Minerals, PO Box 2244, Frankfort, Kentucky 40602-2244, telephone (502) 573-0140, or facsimile the request to (502) 573-0152.
- (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 Mines and Minerals 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 mine electrical safety standards is KRS 352.220(3)(b).
 - (b) The summary of the administrative regulation that the Department of Mines and Minerals intends to promulgate as 805 KAR 3:150 is as follows: The proposed regulation sets out the protective devices required for the use of electrical machinery and equipment and the testing of those devices. The proposed regulation also sets out the requirements for the use and maintenance of methane monitors and for the location and use of such machinery and equipment.
 - (c) The necessity and function of the proposed administrative regulation is: Electrical machinery and equipment need to have protective devices for their safe operation and they need to be used only where such use would be safe. Methane monitors need to be used to warn coal miners of the presence of potentially explosive gas.
 - (d) The benefits expected from administrative regulation are: The proposed regulation will enhance the safety of working in coal mines.
 - (e) The administrative regulation will be implemented as follows: The proposed administrative regulation will be implemented by the Department of Mines and Minerals, Division of Mine Safety and Health and the Division of Mine Safety Analysis through their inspections.

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**PUBLIC PROTECTION AND REGULATION CABINET
Department of Financial Institutions**

April 23, 1999

- (1) **808 KAR 10:200.** Investment advisers minimum liquid capitalization; bond.
- (2) The Department of Financial Institutions intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 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 June 23, 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, Counsel, Department of Financial Institutions, 1025 Capital Center Dr., 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 person 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(6) and 292.330(7).
 - (b) The proposed administrative regulation will amend an existing regulation. It sets forth the minimum net capital required of an investment adviser and allows an adviser to post a bond in lieu of the required net capital.
 - (c) The necessity and function of the proposed administrative regulation is as follows: The statutes authorizing this regulation provide that the commissioner may establish minimum capital requirements for investment advisers and may require investment advisers to post a surety bond. This regulation establishes the minimum required amounts. The amendments will provide a definition of net worth.
 - (d) The benefits expected from the proposed administrative regulation are: The regulation will provide protection to clients of an investment adviser.
 - (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.

April 23, 1999

- (1) **808 KAR 10:340.** Registration exemption for certain limited offerings made exclusively to accredited investors.
- (2) The Department of Financial Institutions intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 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 June 23, 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, Counsel, Department of Financial Institutions, 1025 Capital Center Dr., 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 person 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 292.410(1)(q).
 - (b) The proposed administrative regulation will amend an existing regulation. It provides an exemption from registration for certain securities offerings made exclusively to accredited investors.
 - (c) The necessity and function of the proposed administrative regulation is as follows: The statute authorizing this regulation provides that the commissioner may exempt certain transactions from registration if the commissioner finds that registration is not necessary or appropriate in the public interest or for the protection of investors. The commissioner believes that certain offerings to accredited investors should be exempt. The amendments will correct improper statutory references in the existing administrative regulation.
 - (d) The benefits expected from the proposed administrative regulation are: The regulation will clearly state the conditions for exemption to apply.
 - (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.

April 23, 1999

- (1) **808 KAR 10:410.** Investment advisor solicitors.
- (2) The Department of Financial Institutions intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 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

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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 June 23, 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, Counsel, Department of Financial Institutions, 1025 Capital Center Dr., 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 person 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(14).
- (b) The proposed administrative regulation will not amend an existing regulation. It will provide an exemption from registration for investment adviser solicitors who meet certain conditions.
- (c) The necessity and function of the proposed administrative regulation is as follows: The statute authorizing this regulation provides that the commissioner may exempt certain persons from registration if the commissioner finds that registration is not necessary or appropriate in the public interest or for the protection of investors. The commissioner believes that investment advisor solicitors who meet certain conditions should be exempt.
- (d) The benefits expected from the proposed administrative regulation are: The regulation will clearly state the conditions for exemption to apply.
- (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.

April 27, 1999

- (1) **808 KAR 10:420**. Limited offering exemption under KRS 292.410(1)(i)3.
- (2) The Department of Financial Institutions intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 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 June 23, 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, Counsel, Department of Financial Institutions, 1025 Capital Center Dr., 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 person 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 292.410(1)(i)5.
- (b) The proposed administrative regulation will not amend an existing regulation. It will set forth conditions for reliance on the exemption provided at KRS 292.410(1)(i)3 and will prohibit certain issuers from relying on the exemption.
- (c) The necessity and function of the proposed administrative regulation is as follows: The statute authorizing this regulation provides that the commissioner may deny or expand the exemption provided at KRS 292.410(1)(i)3. This regulation will require oil and gas issuers to file a claim of exemption with the commissioner prior to making an offering in reliance on the exemption. It will also prohibit issuers with "bad boy" violations from claiming the exemption.
- (d) The benefits expected from the proposed administrative regulation are: The regulation will provide additional protection to the public for offerings that have an added element of risk.
- (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.

CABINET FOR HEALTH SERVICES
Department for Public Health

May 15, 1999

- (1) **902 KAR 4:040**, Special Supplemental Food Program for Women, Infants and Children.
- (2) Cabinet for Health Services, Department for Public Health intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 30, 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: 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 Public Health, Health Services 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 902 KAR 4:040, Special Supplemental Food Program for Women, Infants and Children, are 7 CFR Part 246, 42 USC 1786, KRS Chapter 13B, 194A.050(1), 211.090, 211.180 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 4:040, Special Supplemental Food Program for Women, Infants and Children, to conform with the new national standardized risk criteria, update the criteria to be an authorized WIC vendor, revise Section 9 in keeping with the amended federal regulations 7 CFR Part 246, entitled Special Supplemental Nutrition Program for Women, Infants and Children (WIC): WIC/Food Stamp Program (FSP) Vendor Disqualification.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the application and participation process for the Kentucky Special Supplemental Food Program for Women, Infants and Children (WIC) for women, infants, children, vendors, and to include the sanction and hearing process.

(d) The benefits expected from administrative regulation will be to conform with the amended federal regulations 7 CFR Part 246.

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

May 15, 1999

(1) **902 KAR 4:090**, Lead poisoning prevention.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 4:090 is KRS 211.900 to 211.905, 211.994 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 4:090, Lead poisoning prevention, to change reporting requirements and include language relating to environmental activities surrounding lead hazard identification and remediation.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth levels at which a child is considered blood lead poisoned, as well as establishes the concern level of lead, the action level (per CDC guidelines and recommendations); updates the language to reflect current program policies and laws, including environmental activities.

(d) The benefits expected from administrative regulation are: Updates the regulation to reflect current statewide policies; identifies concern levels of lead; identifies the level considered "lead poisoned" (per CDC's revised guidelines and recommendations); the action level of lead; reflects new environmental laws and policies relating to lead poisoned children and allows for the reporting of all blood lead sample analyses.

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

May 15, 1999

(1) **902 KAR 4:110**, Abortion information.

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

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

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1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 4:110 are KRS 194A.030, 194A.050, and 311.725.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 4:110, Abortion Information to include information on further resources for women seeking an abortion.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the information that is to be made available to the pregnant woman concerning the nature and purpose of abortion procedures or treatments, medical risks and alternatives to the procedures and treatments, gestational ages, medical risks associated with carrying the pregnancy to term, medical assistance benefits available and the liability of the father of the fetus.

(d) The benefits expected from administrative regulation are: Information will be provided to pregnant women seeking an abortion.

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

May 15, 1999

(1) **902 KAR 13:010**, Definitions for 902 KAR Chapter 13.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 13:010 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:010, Definitions for 902 KAR Chapter 13 relating to training, certification, and recertification of emergency medical technicians.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth uniform definition of terms that shall be used in administrative regulations promulgated by the cabinet relating to emergency medical technicians.

(d) The benefits expected from administrative regulation are to establish uniform definitions relating to training, certification and recertification of emergency medical technicians.

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

May 15, 1999

(1) **902 KAR 13:030**, Fees.

(2) Cabinet for Health Services, Department for Public Health intends to promulgate an administrative regulation governing the subject

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matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 13:030 is KRS 211.964, 211.966, and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:030, Fees, to revise the fee schedule and charges related to testing and issuance of certificates, and for the renewal of certificates for emergency medical technicians.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the fee schedule and charges related to the approval of organizations to become EMS training agencies or EMS testing agencies and individuals applying for certification or recertification as EMT-first responders, EMT-first responder instructors, EMT-basics, EMT-basic instructors, and EMT-instructor trainers.

(d) The benefits expected from administrative regulation are to more accurately reflect the administrative costs to the cabinet for training, testing, and issuance of certificates for emergency medical technicians.

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

May 15, 1999

(1) **902 KAR 13:050**, Requirements for examination, certification and recertification of the emergency medical technician-basic.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 13:050 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:050, Requirements for examination, certification and recertification of the emergency medical technician-basic, to establish standards for applicants, testing, certification and recertification of emergency medical technicians.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes standards for applicants, testing, certification and recertification of emergency medical technicians.

(d) The benefits expected from administrative regulation are to establish uniform standards for applicants, testing, certification and recertification of emergency medical technicians.

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

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May 15, 1999

(1) **902 KAR 13:070**, Emergency medical technician-basic instructors.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 13:070 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:070, Emergency medical technician-basic instructors, to establish standards for the training, certification and recertification of EMT-instructors and establish an evaluation process for approving new instructors.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for training, certification, and recertification of EMT-instructors.

(d) The benefits expected from administrative regulation are to establish uniform requirements that all persons shall follow in order to be certified as an EMT-instructor.

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

May 15, 1999

(1) **902 KAR 13:080**, Emergency medical technician-basic authorized procedures.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 13:080 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:080, Emergency medical technician-basic authorized procedures, to establish authorized procedures under the 1994 National Standard Curriculum which EMT-Bs may perform; and identify requirements for pilot programs to test specialized procedures; and permit EMT-Bs to perform certain procedures under the direction of a medical director which EMT-Bs have not been previously authorized to perform.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for procedures which an EMT-B shall be authorized to perform.

(d) The benefits expected from administrative regulation are to establish uniform procedures under the 1994 National Standard curriculum which an EMT-B may perform; authorize pilot programs to test specialized procedures; and permit additional procedures to be performed by an EMT-B under the direction of a medical director.

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

May 15, 1999

(1) **902 KAR 13:090**, Disciplinary actions.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 13:090 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:090, Disciplinary actions, to establish criteria, guidelines and procedures for disciplinary action which the cabinet may take to deny, suspend, revoke, probate, or restrict a certificate of an EMT-B, EMT-first responder, or instructor.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for taking disciplinary action against the certification of an EMT-B, EMT-first responder, or instructor.

(d) The benefits expected from administrative regulation are to establish uniform guidelines which the cabinet shall utilize in order to take disciplinary action against the certification of all levels of emergency medical technicians.

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

May 15, 1999

(1) **902 KAR 13:110**, Emergency medical technician-first responder training, examination, and certification.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 13:110 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:110, Emergency medical technician-first responder training, examination, and certification, to adopt the requirements of the 1995 Department of Transportation (DOT) National Standard Curriculum; increase the number of hours in the current program from 40 to 47 1/2 which will allow hours for additional training in Acquired Immune Deficiency Syndrome (AIDS) as required by KRS 214.610, oxygen therapy and airway adjuncts, automated external defibrillation, cervical collar application, proper use of sphygmomanometer and stethoscope for blood pressure monitoring, and competency in cardiopulmonary resuscitation.

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(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for the education, training, testing, and certification and recertification of emergency medical technician-first responders (EMT-first responders).

(d) The benefits expected from administrative regulation are to upgrade the EMT-first responder program in order for Kentucky to meet and exceed the criteria established by the DOT in the EMT-first responder 1995 National Curriculum.

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

May 15, 1999

(1) **902 KAR 13:140**, Emergency medical services educational institutions and emergency medical services testing agencies.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 13:140 is KRS 211.964, 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will create 902 KAR 13:140, Emergency medical services educational institutions and emergency medical services testing agencies, to establish standards for an agency to be certified as an EMS educational institution or an EMS testing agency to conduct training or testing for persons who wish to become certified as an emergency medical technician-basic (EMT-b), or EMT-first responder.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for training agencies to become certified as an EMS educational institution.

(d) The benefits expected from administrative regulation are to develop uniform requirement for certification of EMS educational institutions including performance standards for continued certification.

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

May 15, 1999

(1) **902 KAR 13:150**, Emergency medical technician-basic course requirements.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 13:150 is KRS 211.964 and 194A.030.

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(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 13:150, Emergency medical technician-basic course requirements, to establish standards for the training course which an EMS educational institution shall utilize for emergency medical technician-basic (EMT-B) training.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth requirements for the EMT-B training course.

(d) The benefits expected from administrative regulation are to establish uniform requirements that all EMS training institutions shall follow in the training of EMT-Bs.

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

May 15, 1999

(1) **902 KAR 13:151**, Repeal of 902 KAR 13:020 and 902 KAR 13:130.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 13:151 is KRS 211.964 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will create 902 KAR 13:151, to repeal 902 KAR 13:020 and 902 KAR 13:130.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation will repeal 902 KAR 13:020 because the applicant requirements for EMT training and certification shall be included in other administrative regulations within 902 KAR Chapter 13 relating to the same subject matter and 902 KAR 13:130 is no longer needed because the requirements for EMT maintenance and discontinuation of a preestablished peripheral intravenous (IV) infusion shall be included in 902 KAR 13:080.

(d) The benefits expected from administrative regulation are to repeal 902 KAR 13:020 and 902 KAR 13:130 which are no longer needed because the requirements of these administrative regulations shall be included in other administrative regulations within 902 KAR Chapter 13.

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

May 15, 1999

(1) **902 KAR 17:041**, State Health Plan for facilities and services.

(2) The Cabinet for Health Services, Department for Public Health, Division of Health Policy Development, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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).

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(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 902 KAR 17:041 are KRS 216B.010, 216B.015 and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 17:041, State Health Plan for facilities and services, to comply with the requirement for the annual updating of that plan.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the requirements for the Cabinet for Health Services to oversee development and annual updating of the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B.

(d) The benefits expected from administrative regulation are: Orderly and effective determination of health policy goals for health facilities and services in the Commonwealth. Ensure appropriate distribution of health services to all Kentuckians.

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

April 26, 1999

(1) **902 KAR 20:221**. Repeal of 902 KAR 20:220.

(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 June 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 June 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 repeal of administrative regulations is KRS 13A.310(1).

(b) The cabinet intends to promulgate 902 KAR 20:221 to repeal 902 KAR 20:220.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: 902 KAR 20:220 is no longer required because KRS 216B.107, which authorized the cabinet to issue a dual license to an acute care hospital, has been repealed.

(d) The benefits expected are neutral.

(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.

May 15, 1999

(1) **902 KAR 45:101**, Repeal of 902 KAR 45:005, Retail food code; 902 KAR 45:006, Bed and breakfast administrative regulation; and 902 KAR 45:100, State food and beverage vending machines.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999 at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 45:101 is KRS 217.005 to 217.215 and

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217.992; 217.808 to 217.812; 221; 217.990(8) and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will repeal 902 KAR 45:005, 45:006; and 45:100.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This repealer is necessary to comply with the requirements of the 1999 FDA Model Food Code recommended for states' adoption which will be promulgated in 902 KAR 45:170.

(d) The benefits expected from administrative regulation are: Uniformity with federal food code and consolidation of retail food operational standards within one administrative regulation.

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

May 15, 1999

(1) **902 KAR 45:170**, Retail food code.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999 at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 (VTDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 902 KAR 45:170 is KRS 217.005 to 217.215 and 217.992; 217.808 to 217.812; 221, 217.990(8) and 194A.030.

(b) The administrative regulation that the Department for Public Health intends to promulgate will create 902 KAR 45:170, Retail Food Code.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation will seek to comply with the requirements of the 1999 FDA Model Food Code recommended for states' adoption. This administrative regulation establishes a uniform code for the regulation of all retail food establishments for the purpose of protecting the public health. Establishments included are all retail food establishments, all food service establishments, retail food stores, temporary food service establishments, bed and breakfast establishments, and food and beverage vending machines.

(d) The benefits expected from administrative regulation are: Uniformity with federal food code and consolidation of retail food operational standards within one administrative regulation.

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

May 15, 1999

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

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 ac-

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cordance 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 902 KAR 55:025 is KRS 194A.030, 194A.050, 211.090, 218A.020, 218A.080 and 218A.250.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 55:025, Schedule III substances, to conform with recently amended federal regulations.

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

(d) The benefits expected from administrative regulation are conformity with federal regulation.

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

May 15, 1999

(1) **902 KAR 55:030**, Schedule IV substances.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 55:030 is KRS 194A.030, 194A.050, 211.090, 218A.020, 218A.100 and 218A.250.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 55:030, Schedule IV substances, to conform with recently amended federal regulations.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 218A.100 authorizes the Cabinet for Health Services to place substances in Schedule IV under specified conditions. KRS 218A.020(3) provides that if any substance is designated, rescheduled, or deleted as a controlled substance under a federal law and notice of the designation, rescheduling or deletion is given to the cabinet, the cabinet may similarly control the substance by administrative regulation. Thus, the Cabinet for Health Services designates substances set forth in this administrative regulation as Schedule IV.

(d) The benefits expected from administrative regulation are conformity with federal regulation.

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

May 15, 1999

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

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 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 form from the Administrative Regulation Coordinator, Department for Public Health, Health Services 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 902 KAR 55:045 is KRS 194A.030, 194A.050, 211.090, 218A.020, and 218A.250.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 55:045, Exempt prescription products, to conform with the recently amended federal regulations.

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

(d) The benefits expected from administrative regulation are conformity with federal regulation and elimination of unnecessary record-keeping.

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

May 15, 1999

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

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 1999, at 9 a.m., in the Cabinet 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 June 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 Public Health, Health Services 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 902 KAR 55:090 is KRS 194A.030, 194A.050, 211.090, 218A.020, and 218A.250.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 55:090, Exempt anabolic steroid products, to add 9 products to the list of anabolic steroid products that are exempt from the provisions of KRS Chapter 218A, the Controlled Substances Act and make technical revisions.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation will exempt certain anabolic steroid products from the provisions of KRS Chapter 218A that have been exempted pursuant to federal regulation.

(d) The benefits expected from administrative regulation are conformity with federal regulation and elimination of unnecessary record-keeping.

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

Department for Medicaid Services

May 15, 1999

(1) **907 KAR 1:011**, Technical eligibility requirements.

(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 June 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 June 30, 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: 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 resource standards for Medicaid are KRS 194A.030, 194A.050, and 205.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:011, Technical eligibility requirements, to incorporate a federal policy change, which no longer requires that a person work less than 100 hours per month in order to be considered unemployed.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the technical eligibility requirements for Medicaid.

(d) The benefits expected from administrative regulation are: Conformity with KTAP policy for ease of program administration, thereby allowing more families who are eligible for KTAP to also be eligible for Medicaid benefits.

(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.

May 15, 1999

(1) **907 KAR 1:013**, Payments for inpatient hospital 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 June 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 June 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 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 Administration and Development, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to payments for inpatient hospital services are KRS 194A.303, 194A.050, 205.637, and 205.640.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will comply with provisions of HB 785 of the 1998 GA, to clarify the method by which outpatient costs for a hospital are determined and include the disproportionate share hospital budgeted funding for fiscal year 2000.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the method for determining the amount payable by the Medicaid Program for a hospital inpatient service.

(d) The benefits expected from administrative regulation are: Compliance with provisions of HB 785 of the 1998 GA, removal of obsolete policy regarding nondisproportionate share hospitals, clarification of the method by which outpatient costs for a hospital are determined, clarify the distribution methodology of disproportionate share hospital payments, and include the funding for the next fiscal year.

(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.

May 15, 1999

(1) **907 KAR 1:023**, Review and approval of oxygen and selected therapies in nursing facilities.

(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 June 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:

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1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 30, 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 review and approval of oxygen and selected therapies for Medicaid recipients in nursing facilities are 42 USC 1396a, b, d, KRS 194A.030, 194A.050, 205.520, 44 CFR 431, 432, 433, 435, 440, 442, 447, 455, 456.
 - (b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:023, Review and approval of oxygen and selected therapies in nursing facilities. The intent of the amendments is to clarify the reimbursement policy to facilities for ancillary therapy services that are specific to the special oxygen and therapy needs of children, delineate the modalities performed by a physical therapist and an occupational therapist as established in KRS 319A.010 and 327.010, incorporate KRS 194A.030, which reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services in the Cabinet for Health Services, revise the language to comply with the requirements of KRS Chapter 13A, define "adult recipient" and "pediatric recipient", the role of the Peer Review Organization (PRO), and include the revised edition of the material incorporated by reference.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth provisions relating to review and approval of oxygen and selected therapies for Medicaid recipients in nursing facilities.
 - (d) The benefits expected from administrative regulation are:
 1. Reimburse facilities as an ancillary for therapy services provided to children to address their special healthcare needs;
 2. Delineate the modalities performed by a physical therapist and an occupational therapist;
 3. Incorporate KRS 194A.030 which reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services in the Cabinet for Health Services;
 4. Revise the language to comply with the requirements of KRS Chapter 13A;
 5. Establish the definitions of "adult recipient" and "pediatric recipient";
 6. Clarify the role of the Peer Review Organization (PRO); and
 7. To include the revised edition of the material incorporated by reference.
 - (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.

May 15, 1999

- (1) **907 KAR 1:031**, Payment for home health 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 June 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 June 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 Member and Provider Services, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.
- (c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to payments for home health services are KRS 194A.030, 194A.050, and 205.520.
 - (b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:031, Payments for Home Health Services, to delete outdated material, to revise the language to comply with KRS Chapter 13A, to incorporate the administrative appeal process for providers subject to cost-based reimbursement as outlined in 907 KAR 1:671, and to modify the cost report instructions

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(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 resource standards for Medicaid are KRS 194A.030, 194A.050, and 205.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:011, Technical eligibility requirements, to incorporate a federal policy change, which no longer requires that a person work less than 100 hours per month in order to be considered unemployed.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the technical eligibility requirements for Medicaid.

(d) The benefits expected from administrative regulation are: Conformity with KTAP policy for ease of program administration, thereby allowing more families who are eligible for KTAP to also be eligible for Medicaid benefits.

(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.

May 15, 1999

(1) **907 KAR 1:013**, Payments for inpatient hospital 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 June 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 June 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 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 Administration and Development, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to payments for inpatient hospital services are KRS 194A.303, 194A.050, 205.637, and 205.640.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will comply with provisions of HB 785 of the 1998 GA, to clarify the method by which outpatient costs for a hospital are determined and include the disproportionate share hospital budgeted funding for fiscal year 2000.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the method for determining the amount payable by the Medicaid Program for a hospital inpatient service.

(d) The benefits expected from administrative regulation are: Compliance with provisions of HB 785 of the 1998 GA, removal of obsolete policy regarding nonproportionate share hospitals, clarification of the method by which outpatient costs for a hospital are determined, clarify the distribution methodology of disproportionate share hospital payments, and include the funding for the next fiscal year.

(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.

May 15, 1999

(1) **907 KAR 1:023**, Review and approval of oxygen and selected therapies in nursing facilities.

(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 June 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:

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1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 30, 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 review and approval of oxygen and selected therapies for Medicaid recipients in nursing facilities are 42 USC 1396a, b, d, KRS 194A.030, 194A.050, 205.520, 44 CFR 431, 432, 433, 435, 440, 442, 447, 455, 456.
- (b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:023, Review and approval of oxygen and selected therapies in nursing facilities. The intent of the amendments is to clarify the reimbursement policy to facilities for ancillary therapy services that are specific to the special oxygen and therapy needs of children, delineate the modalities performed by a physical therapist and an occupational therapist as established in KRS 319A.010 and 327.010, incorporate KRS 194A.030, which reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services in the Cabinet for Health Services, revise the language to comply with the requirements of KRS Chapter 13A, define "adult recipient" and "pediatric recipient", the role of the Peer Review Organization (PRO), and include the revised edition of the material incorporated by reference.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth provisions relating to review and approval of oxygen and selected therapies for Medicaid recipients in nursing facilities.
- (d) The benefits expected from administrative regulation are:
 1. Reimburse facilities as an ancillary for therapy services provided to children to address their special healthcare needs;
 2. Delineate the modalities performed by a physical therapist and an occupational therapist;
 3. Incorporate KRS 194A.030 which reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services in the Cabinet for Health Services;
 4. Revise the language to comply with the requirements of KRS Chapter 13A;
 5. Establish the definitions of "adult recipient" and "pediatric recipient";
 6. Clarify the role of the Peer Review Organization (PRO); and
 7. To include the revised edition of the material incorporated by reference.
- (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.

May 15, 1999

- (1) **907 KAR 1:031**, Payment for home health 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 June 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 June 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 Member and Provider Services, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.
- (c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to payments for home health services are KRS 194A.030, 194A.050, and 205.520.
- (b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:031, Payments for Home Health Services, to delete outdated material, to revise the language to comply with KRS Chapter 13A, to incorporate the administrative appeal process for providers subject to cost-based reimbursement as outlined in 907 KAR 1:671, and to modify the cost report instructions

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necessary for filing the annual home health cost report for clarity and accuracy.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the method for determining amounts payable for home health agency services and appeal rights for home health service providers.

(d) The benefits expected from administrative regulation are:

1. The revision to the appeal process will make the process consistent with KRS Chapter 13B and 907 KAR 1:671 to ensure that providers are afforded all their due process rights;

2. Outdated material will be eliminated and existing reimbursement policy will be more clearly defined; and

3. The language will be consistent with the requirements of KRS Chapter 13A.

4. The cost report instructions will be better understood by the provider.

(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.

May 15, 1999

(1) **907 KAR 1:470**, Durable medical equipment.

(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 June 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 June 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 Member and Provider Services, 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 durable medical equipment are KRS 194A.030 and 194A.050.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:470, to revise and clarify conditions of participation; covered services; revise, update and implement the durable medical equipment manual; to make drafting and formatting changes in order to comply with KRS Chapter 13A, and make minor clarifications to current policy.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the provision relating to the delivery of durable medical equipment, orthotics, prosthetics and supplies for which payment shall be made by the Medicaid program on behalf of both the categorically needy and medically needy.

(d) The benefits expected from administrative regulation are: Revise, clarify and update policy for coverage of durable medical equipment.

(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.

May 15, 1999

(1) **907 KAR 1:472**, Payments for durable medical equipment.

(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 June 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 June 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 Member and Provider Services, 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 ac-

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cordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to payments for durable medical equipment are KRS 194A.030 and 194A.050.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:472, to revise the payment methodology, to state that the department will reimburse providers for covered items at a rate not to exceed 80% of the Medicare upper limit. Items not covered by Medicare, but covered by Medicaid will also be addressed in the proposed regulation. The department also intends to make drafting and formatting changes in order to comply with KRS Chapter 13A, and make minor clarifications to current policy.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the method for determining amounts payable by the Department for Medicaid Services for durable medical equipment.

(d) The benefits expected from administrative regulation are: To clarify pricing methodology and to limit the rate of growth in this program.

(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.

May 15, 1999

(1) **907 KAR 1:475**, Repeal of 907 KAR 1:474, Incorporation by reference of the durable medical equipment manual.

(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 June 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 June 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 Administration and Development, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to incorporation by reference of the durable medical equipment manual are KRS 194A.030 and 194A.050.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will repeal 907 KAR 1:474, Incorporation by reference of the durable medical equipment manual.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation acts to repeal 907 KAR 1:474.

(d) The benefits expected from administrative regulation are: To eliminate any conflict between obsolete and current material.

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

May 15, 1999

(1) **907 KAR 1:605**, Medicaid procedures for determining initial and continuing eligibility.

(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 June 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 June 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.

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(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 Medicaid procedures for determining initial and continuing eligibility are KRS 194A.030, 194A.050, and 42 USC 1396a, b, and d.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:605, Medicaid procedures for determining initial and continuing eligibility, to allow for the disqualification of an individual from Medicaid eligibility if found guilty by the department or by a court, of an intentional program violation.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth provisions relating to determining initial and continuing eligibility for assistance under the Medicaid Program.

(d) The benefits expected from administrative regulation are: Control of recipient fraud and abuse of the Medicaid Program in accordance with KRS 205.8453.

(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.

May 15, 1999

(1) **907 KAR 1:645**, Resource standards for Medicaid.

(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 June 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 June 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 resource standards for Medicaid are KRS 194A.030, 194A.050, and 205.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:645, Resource standards for Medicaid, to change the resource limits for an eligible family from \$4000 to \$2000, to exclude individual development accounts, and excluding the first vehicle, counting the equity value for additional vehicles.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the resource standards for determining eligibility for Medicaid.

(d) The benefits expected from administrative regulation are: Conformity with KTAP policy for ease of program administration, thereby allowing more families who are eligible for KTAP to also be eligible for Medicaid benefits.

(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.

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

May 15, 1999

(1) **921 KAR 1:390**, Child Support Program, paternity establishment.

(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 June 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 1 person representing an administrative body, or an association having at least 5 members; and

2. A minimum of 5 persons, or 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 National Fire Protection Association 10 calendar days prior to June 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 Coor-

VOLUME 25, NUMBER 12 – JUNE 1, 1999

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 paternity establishment is KRS 186.570(2), 194B.050(1), 205.710-205.800, 213.046(4), (5), (9), (10), 405.430, 405.520, 406.021, 406.025, 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 1:390 to indicate the new vital statistics form (VS-8E) to be used for rescinding voluntary acknowledgement of paternity.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: The amendment to this administrative regulation is necessary due to mandated requirements of 42 USC 651 et seq. and requirements of KRS 213.046(4) and (5).

(d) The benefits expected from administrative regulation are: The amendment to this administrative regulation will maintain the cabinet's 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 Health Services, Department for Public Health, will be responsible for producing form VS-8E and the Cabinet for Families and Children, Department for Community-Based Services and its agent will be responsible for implementing this administrative regulation.

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY
12 KAR 4:170E

The economic hardship imposed on tobacco farmers by the decreased marketing quotas and uncertain prices has prompted the Burley Tobacco Growers Cooperative and the Kentucky Fertilizer and Agricultural Chemical Association (fertilizer manufacturers) to request that the Division of Regulatory Services of the University of Kentucky promulgate an emergency administrative regulation regarding the maximum chlorine in tobacco fertilizers. Enforcement of the requirements of the ordinary administrative regulation, 12 KAR 4:170, relating to maximum chlorine in tobacco fertilizers would intensify that hardship. The ordinary administrative regulation, 12 KAR 4:170, limits the chlorine to two and five-tenths (2.5) percent in all tobacco fertilizers. To achieve this, manufacturers of tobacco fertilizers must limit the amount of muriate of potash to 100 lb. per ton and use sulfate of potash to complete the amount of potash needed in the fertilizer. This 100 lb. of muriate of potash per ton is equivalent to about fifty (50) pounds of chlorine per ton. Rates of application less than one (1) ton per acre result in less than fifty (50) pounds of chlorine per acre. Therefore, if less than one (1) ton per acre is used, the fertilizer can be blended with a higher proportion of muriate of potash to sulfate of potash. This will allow the use of more muriate of potash without jeopardizing the quality of cured tobacco this fall and without creating an adverse economic impact on Kentucky farmers. Because the potash in muriate of potash costs about one-half (1/2) that in sulfate of potash, the ability to make this substitution will decrease farmers' production costs without decreasing market value, thus increasing their profit. An emergency administrative regulation is required to permit fertilizer manufacturers to blend tobacco fertilizers in a manner that will achieve this economic advantage to the state. This emergency administrative regulation will not be replaced by an ordinary administrative regulation because this course of action would discriminate against manufacturers of bagged tobacco fertilizers if implemented permanently and is intended to alleviate a temporary economic problem.

PAUL E. PATTON, Governor
C. ORAN LITTLE, Director

UNIVERSITY OF KENTUCKY
Agricultural Experiment Station

12 KAR 4:170E. Maximum chlorine guarantees for tobacco fertilizers.

RELATES TO: KRS 250.366(7), 250.411(1)
STATUTORY AUTHORITY: KRS 250.421
EFFECTIVE: April 22, 1999 at 1 p.m.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 250.421 requires the Director of the Kentucky Agricultural Experiment Station to enforce the provisions of KRS 250.371 to 250.451 and to promulgate and enforce administrative regulations necessary to implement KRS 250.371 to 250.451. This administrative regulation establishes [To prescribe] the specific format and conditions for maximum chlorine guarantees for tobacco fertilizers which is necessary for production of quality tobacco.

Section 1. (1) All fertilizers, except bagged, (bag, bulk, liquid, custom mixes, etc.) sold for or represented for use on field crop tobacco, shall, [not plant beds, must;] in addition to the other guarantees specified by 12 KAR Chapter 4 [administrative regulation], state a maximum chlorine guarantee not to exceed fifty (50) pounds per acre chlorine (equivalent to 100 pounds of muriate of potash per acre) [two and five-tenths (2.5) percent] in the following format:

Chlorine (Cl), Maximum - 50 lb./acre [2.5%]

- (2) The maximum chlorine guarantee shall be:
 - (a) Placed below the Guaranteed Analysis as required by 12 KAR 4:090; [administrative regulation] and
 - (b) [shall be] Prominently and conspicuously displayed on the invoice or shipping ticket that accompanies bulk sales.
- (3) The invoice or shipping ticket shall state the rate of application expressed in lb./acre of the blended fertilizer.
- (4) Bagged tobacco fertilizers shall:
 - (a) Be exempted from the provisions of this administrative regulation; and
 - (b) Continue to be guaranteed not to exceed two and five-tenths (2.5) percent chlorine.
- (5) The provisions of this administrative regulation shall not apply to fertilizers for use on plant beds.

C. ORAN LITTLE, Dean and Director
R. BRUCE LANKFORD, Legal Counsel

APPROVED BY AGENCY: April 12, 1999

FILED WITH LRC: April 22, 1999 at 1 p.m.

PUBLIC HEARING: A public hearing on the proposed emergency administrative regulation is scheduled for June 21, 1999, at 10 a.m., Eastern Daylight Saving Time, at the Division of Regulatory Services, Room 109, Regulatory Services Building, University of Kentucky, Lexington, Kentucky. Individuals interested in being heard at this hearing must notify the contact person noted below in writing by June 14, 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 emergency regulation. A transcript of the hearing will not be made unless a written request for a transcript is made by June 14, 1999. If you do not wish to be heard at the hearing, you may submit written comments on the proposed emergency regulation to the contact person noted below.

CONTACT PERSON: Wilbur W. Frye, Division of Regulatory Services, 103 Regulatory Services Building, University of Kentucky, Lexington, Kentucky 40546-0275, Telephone (606) 257-2827, Fax (606) 323-9931.

REGULATORY IMPACT ANALYSIS

Contact person: Wilbur W. Frye

- (1) Type and number of entities affected: About 360 fertilizer manufacturing firms in Kentucky.
- (2) Direct and indirect costs or saving on the:
 - (a) Cost of living and employment in the geographical area in which the emergency regulation will be implemented, to the extent available from the public comments received: No effects on cost of living and employment.
 - (b) Cost of doing business in the geographical area in which the emergency regulation will be implemented, to the extent available from the public comments received: The use of less sulfate of potash will lower the cost to manufacture a ton of tobacco fertilizer; therefore, the cost to the farmer should be less.
 - (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 appreciable effect on paperwork and reporting (same as ordinary administrative regulation), but the required statement of fertilizer rate will slightly increase the cost of compliance by the manufacturer.
 - 2. Second and subsequent years: Not applicable; temporary need.
 - (3) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 - 1. First year: Minimal effect; will require an additional step of computerized calculation of chlorine per acre for fertilizer samples

testing greater than 2.5% chlorine in the laboratory.

2. Continuing costs or saving: Not applicable.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None expected.

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

(5) Source of revenue to be used for implementation and enforcement of emergency regulation: Agency funds derived largely from existing inspection fees.

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

(a) Geographical area in which emergency regulation will be implemented: Will be implemented statewide.

(b) Kentucky: A pound of potash (K₂O) costs about \$0.29 from sulfate of potash, and about \$0.136 from muriate of potash. Assuming an average application rate of 300 K₂O per acre for burley tobacco, this emergency administrative regulation has the potential to save burley growers about \$9 per acre in fertilizer costs. With an estimated 200,000 acres of burley tobacco grown in Kentucky in 1999, growers will save about \$1.8 million in production costs.

(7) Assessment of alternative methods; reasons why alternatives were rejected: This is the only effective alternative.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None.

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

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

(10) TIERING: Is tiering applied: Tiering is applied to the extent that firms who manufacture only bagged tobacco fertilizers are exempted from complying with this emergency administrative regulation but are required to comply with the existing ordinary administrative regulation. The emergency administrative regulation applies equally to all other tobacco fertilizer manufacturers.

STATEMENT OF EMERGENCY 109 KAR 2:020E

This emergency administrative regulation establishes a program so that county judge-executives, sheriffs, county clerks, jailers who operate a full service jail, county magistrates and commissioners who serve on fiscal courts may receive approved training concerning various county government subjects. Upon completion and approval of a forty (40) hour training unit the official will receive a training incentive fringe benefit. This emergency administrative regulation is necessary since House Bill 810 (KRS 64.5275) which authorized the training incentive program, was constitutionally challenged in Campbell Circuit Court. The department was initially unable to address the training issues presented by KRS 64.5275 as the Campbell Circuit Court issued a judgment declaring KRS 64.5275 unconstitutional, and enjoining the department from implementing and enforcing the provisions of the law. However, the Supreme Court of Kentucky recently overturned the Campbell Circuit Court decision and dissolved the injunction relating to KRS 64.5275. Since the injunction prohibiting enforcement of KRS 64.5275 was only recently dissolved, the statutory deadline for enforcing the legislation has long since come and gone. The department is therefore authorized to promulgate and emergency administrative regulation pursuant to KRS 13A.190(1)(a)3 and must immediately implement the Training Incentive Program to be in compliance with KRS 64.5275(6)(7). In order to immediately comply with KRS 64.5275(6)(7), so that the various county judge-executives, sheriffs, county clerks, jailers who operate a full service jail, fiscal court magistrates and county commissioners may receive approved training and be eligible for the training incentive, and because the Kentucky Supreme Court dissolved the injunction and only recently rendered its final decision upholding the constitutionality of KRS 64.5275, 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 109 KAR 2:020 was filed with the Regulations Compiler simultaneously with this emergency administrative regulation on April 19, 1999.

PAUL E. PATTON, Governor
BOB ARNOLD, Commissioner

OFFICE OF THE GOVERNOR Department for Local Government

109 KAR 2:020E. Training incentive.

RELATES TO: KRS 64.5275(6), (7)

STATUTORY AUTHORITY: 64.5275(6), (7); *Ashland-Boyd County City-County Health Dept. v. Riggs*, 252 S.W.2d 922 (1952); *Louisville and Jefferson County Board of Health v. Steinfeld*, 308 Ky. 824, 215 S.W.2d 1011 (1948)

EFFECTIVE: April 19, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 64.5275(6) and (7) provides that county judges/executive, clerks, sheriffs, magistrates and commissioners who serve on fiscal courts, and jailers who operate full service jails shall receive an increase of \$100 for each forty (40) hour training unit that is successfully completed as a training incentive fringe benefit. KRS 64.5275 provides that each forty (40) hour training unit shall be certified by the Department for Local Government and shall be available to those officials based upon continuing service in their respective offices. The function of this administrative regulation and of the training incentive fringe benefit is to develop more knowledgeable, professional and competent county officials through enhanced training opportunities. This administrative regulation is necessary to set forth the criteria for receipt of the training incentive fringe benefit, and approval and certification of courses that count toward the forty (40) hour training units.

Section 1. Definitions. (1) "Department" means the Department for Local Government.

(2) "Division" means the Division of Training and Area Development District (ADD) Services, Department for Local Government.

(3) "Director" means the Director of the Division of Training and ADD Services, Department for Local Government.

(4) "Eligible official" means a county judge/executive, sheriff, clerk, jailer who operates a full service jail, county magistrate or commissioner, who is eligible to receive the training incentive fringe benefit pursuant to KRS 64.5275(6) and (7).

(5) "Training incentive" means the training incentive fringe benefit increase of \$100, for a forty (40) hour training unit, adjusted pursuant to KRS 64.5275(1), (2) and (6) from 1948 to present value in accordance with the Consumer Price Index (CPI).

Section 2. Areas of Learning. Courses shall be certified and approved for the training incentive by the director, based on the following primary areas of instruction relating to operation of county government. Those areas of instruction shall include:

(1) County financial reporting, including course instruction in:

- (a) Budget preparation;
- (b) Adoption of tax rates;
- (c) Tax collection policy and enforcement;
- (d) Investment policy; and
- (e) Audits.

(2) Duties and responsibilities of elected county officials, including course instruction in:

- (a) Election law and procedure;
- (b) Conducting meetings of the fiscal court and various local government committees, including:

- 1. Proper keeping of fiscal court minutes;
- 2. Parliamentary procedure; and
- 3. The legal ramifications of the open meetings and open records law;

- (c) Ethics in county government, and ethics codes;
- (d) Dealing appropriately with juveniles;
- (e) Money for roads and the county road plan;

(3) Personnel law and regulation, including course instruction in:

- (a) Labor and wage and hour law and regulation;
- (b) Payroll procedures; and
- (c) Avoiding legal pitfalls in the area of personnel administration, including:

- 1. Harassment and sexual harassment;
 - 2. Equal employment opportunity;
 - 3. Americans with Disabilities Act;
 - 4. Family Medical Leave Act;
 - 5. Political terminations;
 - 6. Personnel policies and procedures; and
 - 7. Other legal issues that may affect county government personnel.
- (4) County legislative issues, including course instruction in:
 - (a) Adopting an effective county administrative code; and
 - (b) Proper adoption of county ordinances and resolutions.
 - (5) The director may certify and approve additional courses or areas of learning in addition to those found in subsections (1) through (4) of this section based on the criteria set forth in this section and Section 3 of this administrative regulation.

Section 3. Approval of Courses or Additional Areas of Learning.

(1) The director shall approve all courses of instruction prior to an elected official attending that course and receiving hourly credit for that course.

(2) Courses shall be approved and certified on an hourly basis, or portion of an hour.

(3) The director shall approve and certify courses pursuant to KRS 64.5275(6) based on the following criteria:

- (a) Relevance of instruction to the statutory duties performed by the official seeking certification and approval;
- (b) Relevance of instruction to the areas of learning outlined in Section 1 of this administrative regulation;
- (c) Organization or entity sponsoring the training event;
- (d) Extent of actual training at the event;
- (e) Ability of the entity sponsoring the training to verify that the official attended the training event;
- (f) Qualifications of the instructor(s) at the training event; and
- (g) Any other information relevant to the approval and certification of the training course or event.

(4) The director may refuse to certify and approve any training course or event that fails to meet any of the criteria outlined in this section and Section 2 of this administrative regulation.

(5) Training courses sponsored by the department shall automatically be certified and approved and the director shall assign appropriate hourly credit in accordance with Section 2(1) of this administrative regulation.

(6)(a) Training courses sponsored by other entities or organizations shall be certified and approved for credit toward the training incentive, if the director determines that the courses or training event meet the criteria set forth in this section and Section 2 of this administrative regulation.

(b) If an organization, entity, or individual wishes to have training approved and certified they shall submit to the director a minimum of fourteen (14) calendar days prior to the scheduled training:

- 1. A description of the proposed training course or event on a Request for Training Credit Form; and
- 2. An outline of the proposed training course or event, including the names and qualifications of the instructors.

(c) The director shall review the proposal and notify the organization or entity of his decision concerning approval of the training course or event prior to the scheduled training.

(d) The director shall not approve training courses or events submitted after the scheduled training course or event, except upon a showing of extreme hardship by the organization, entity or individual.

Section 4. Annual Training Unit Approval. (1) The director shall approve and certify only one (1) training incentive per eligible official per twelve (12) month period, based upon the eligible official's continuing service in office. The training incentive shall be paid annually on the anniversary date of completion of that training incentive only during the eligible official's term of office in which the training incentive was earned.

(2) The twelve (12) month period shall begin with the payment of the eligible official's first forty (40) hour training unit.

(3)(a) Eligible officials may carry forward into the next twelve (12) month period any hours earned in addition to those necessary to receive the training incentive for the twelve (12) month period just completed.

(b) If an eligible official does not receive sufficient hours in a twelve (12) month period to be eligible to receive the training incentive, the official may carry forward any hours earned to that point, into the next twelve (12) month period.

(4) Eligible officials shall receive no more than four (4) training incentives for a four (4) year term of office.

(5)(a) An eligible official shall not carry any training incentives received into a new term of office.

(b) Upon reelection and assuming office for the new term, the eligible official may receive new training incentives based upon his continuing service in that office.

Section 5. Certification by the Department. (1) The division shall keep track of the hours earned by eligible officials and shall certify the hours earned to eligible officials upon request.

(2) Upon successful completion of the forty (40) hour training unit, the director shall certify to the eligible official, the fiscal court, and the county treasurer that the official shall receive the training incentive.

(3)(a) To receive credit at approved courses or training events, the eligible official shall submit the Request for Training Credit Form to the division for processing.

(b) Failure by an eligible official to submit a Request for Training Credit Form for particular training course or event may result in:

1. The eligible official losing credit toward his training incentive; and

2. An inaccurate transcript for that eligible official.

(4) Training incentives shall be included as a part of the county budget.

Section 6. Evaluations. (1) The division shall provide a Workshop Evaluation Form for each participant at any training course or event approved and certified by the division.

(2) Every organization, state agency or entity hosting a training course or event shall assure that each participant completes and turns in the Workshop Evaluation Form prior to leaving the training.

(3) The department shall use the completed evaluation forms to:

(a) Measure the success of the training program;

(b) Expand the training curriculum; and

(c) Identify additional areas of potential training.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The Course Descriptions, April 1999, edition;

(b) The Department for Local Government Request for Training Credit-Individual, April 1999, edition;

(c) The Workshop Evaluation, April 1999 edition; and

(d) The Department for Local Government Request for Training Credit-Organization, April 1999 edition;

(2) This material may be inspected, copied or obtained at the offices of the Department for Local Government, 1024 Capital Center Drive, Suite 340 Monday through Friday, 8 a.m. to 4:30 p.m.

BOB ARNOLD, Commissioner

THOMAS M. TROTH, Legal Counsel

APPROVED BY AGENCY: April 15, 1999

FILED WITH LRC: April 19, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact person: Dan Tuttle

(1) Type and number of entities affected: 120 counties and eligible county officials.

(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 as there have been no

public comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None as there have been no public comments received.

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

1. First year following implementation: Constitutional officers must seek approval for certification of various training events, then must provide proof of attendance. The Department for Local Government must maintain records on each officer in regard to their training history, and notify the necessary parties of completion of training units.

2. Second and subsequent years: Records are continual and perpetual.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Major direct and indirect costs associated with necessary travel, materials development, software acquisition and support. These costs are currently being absorbed in the department's operating budget.

2. Continuing costs or savings: Costs will increase as travel and expenses increase.

3. Additional factors increasing or decreasing costs: Any increase in eligible officials will increase cost accordingly.

(b) Reporting and paperwork requirements: Parallel to increase of officials.

(4) Assessment of anticipated effect on state and local revenues: Local government revenues could increase with the further education of officials.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State dollars pay for program administration; local tax dollars pay for incentive benefit.

(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 have been received at this time.

(b) Kentucky: No public comments have been received at this time.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The statute mandates the method being utilized.

(8) Assessment of expected benefits: Better educated officials can provide better services.

(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: There will be no detrimental effect.

(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:

(a) Necessity of proposed regulation if in conflict: There is no conflict.

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

(10) Any additional information or comments:

(11) TIERING: Tiering was not applied to this administrative regulation because it was intended that these administrative regulations apply equally to all eligible local government officials. Failure to apply this administrative regulation equally and fairly might lead to accusations of equal protection and due process violations.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate for this program.

2. State compliance standards. KRS 64.5275

3. Minimum or uniform standards contained in the federal mandate. Not applicable see 1 above.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Not applicable, see 1 above.

5. Justification for the imposition of the stricter standard, or addi-

tional or different responsibilities or requirements. Not applicable, see 1 above.

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. Constitutional officers of county government, including county judges/executive, county clerks, county sheriffs, county jailers who operate full service jails, and county magistrates and commissioners who serve on fiscal courts.

3. State the aspect or service of local government to which this administrative regulation relates. Continuing education of constitutional officers.

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 (+/-): Undetermined. It will depend upon the number of officers in each county who receive the 40 hour training unit.

Expenditures (+/-): Approximately \$687 for each eligible official.

Other Explanation: Number of officers vary from county to county.

STATEMENT OF EMERGENCY 109 KAR 15:020E

This emergency administrative regulation will incorporate by reference the Instructional Guide for County Budget Preparation and State Local Finance Officer Policy Manual. This measure is necessary as the 120 county budgets are required to be adopted by July 1, 1999. There will be insufficient time to promulgate an ordinary administrative regulation before the statutory deadline for approval of county budgets. The various state local finance officer policy requirements, as authorized by statute and as set out in the above referenced manual, must be complied with prior to adoption of the county budgets. Additionally, certain counties in the Commonwealth are in need of enhanced monitoring and review as a result of expenditures made by the previous administration. Incorporation of this manual will allow the State Local Finance Officer to better assist those counties which are currently in violation of KRS 68.310. This emergency administrative regulation is authorized pursuant to KRS 13A.190(1)(a)1, 3. In order to provide enhanced and immediate review, monitoring and assistance on an emergency and as needed basis to those counties in violation of KRS 68.310 it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation will help both the department and counties come into compliance with the relevant statutory law and sound fiscal practice. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for 109 KAR 15:020 was filed with the Regulations Compiler on April 19, 1999.

PAUL E. PATTON, Governor
BOB ARNOLD, Commissioner

OFFICE OF THE GOVERNOR Department for Local Government

109 KAR 15:020E. State Local Finance Officer Policy Manual.

RELATES TO: KRS 46.010, 46.020, 65.944, 66.045, 68.020, 68.210, 68.245, 68.250, 68.350, 132.585

STATUTORY AUTHORITY: KRS 46.010, 65.944, 66.045, 68.210

EFFECTIVE: April 19, 1999

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessary to implement KRS 46.010, 65.944, 66.045 and 68.210 and mandates uniform minimum requirements

relating to budgeting, reporting and recordkeeping for debt, receipts, and disbursements for local governments and local government officials handling public funds.

Section 1. Incorporation by Reference. (1) The "Instructional Guide for County Budget Preparation and State Local Finance Officer Policy Manual, revised 1999" is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the office of the Department for Local Government, 1024 Capital Center Drive, Suite 340, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

BOB ARNOLD, Commissioner

THOMAS M. TROTH, Legal Counsel

APPROVED BY AGENCY: April 15, 1999

FILED WITH LRC: April 19, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact person: Tom Troth

(1) Type and number of entities affected: Counties, urban county governments, charter counties, cities and special districts

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There should be no cost of living and employment costs associated with these programs.

(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: Cannot be determined at this time as there have been 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: The extensive reporting and paperwork necessary to comply with the administrative regulation will not increase or decrease in the first year following implementation as local governments are presently in compliance.

2. Second and subsequent years: There are no additional reporting or paperwork requirements.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will be no direct or indirect costs or savings to the promulgating administrative body.

2. Continuing costs or savings: There will be no direct or indirect costs or savings to the promulgating administrative body.

3. Additional factors increasing or decreasing costs: No other additional factors known at this time.

(b) Reporting and paperwork requirements:

(4) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: DLG employees are utilized and paid through the general operating budget.

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

(a) Geographical area in which administrative regulation will be implemented: Cannot be determined at this time as there have been no comments received.

(b) Kentucky: Cannot be determined at this time as there have been no comments received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The administrative regulation aims at simplicity and understandability. The promulgating body was unable to devise alternative methods as easily understandable but still providing minimum public accountability.

(8) Assessment of expected benefits: The expected benefit is clarification of local government requirements resulting in improved compliance and enforceability.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There are no discernable effects.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There will be no detrimental effect.

(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 424.220 requires an additional annual financial statement; however, it has specific reporting and publication requirements which do not exist elsewhere.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not appropriate because this administrative regulation clarifies and establishes only the minimum requirements for local governments.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate for this administrative regulation, except to the extent that the United States Census Bureau will use the fourth quarter financial statement for fiscal courts in performing the year 2000 census.

2. State compliance standards. (UFIR statutes.) (KRS 68.360(2), KRS 68.210)

3. Minimum or uniform standards contained in the federal mandate. The Bureau of Census has approved the fourth quarter financial statement for fiscal courts.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? Not applicable, see 1 above.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable, see 1 above.

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. Cities, counties, urban-county governments, charter county governments and special districts.

3. State the aspect or service of local government to which this administrative regulation relates. KRS 46.010 mandates the Department for Local Government to prescribe a uniform system of accounting and reporting on the receipt, use and handling of funds other than taxes payable to the state by local governments. This administrative regulation establishes minimum requirements for handling of public funds. KRS 65.944(1)(a) mandates the provision of specific information to the state local debt officer regarding leases, authorizes the state local debt officer to require additional information on proposed leases and authorizes the state local debt officer to prescribe a form for providing the information. This administrative regulation establishes the required information and prescribes a form. KRS 65.944(2)(b) mandates approval by the state local debt officer of certain leases and authorizes the state local debt officer to prescribe procedures and adopt regulations for granting approval. This administrative regulation prescribes the procedures and regulations. KRS 66.045 mandates the provision of specific information to the state local debt officer regarding the issuance of bonds and other obligations and authorizes the state local debt officer to require other information required to provide a complete file on local government debt. This administrative regulation establishes the required information and prescribes a form. KRS 68.020 mandates the county treasurer to keep financial records as required by the uniform system of accounts prescribed by the state local finance officer. This administrative regulation prescribes the uniform system of accounts as it applies to the county treasurer. KRS 68.210 mandates the state local finance officer to supervise the county uniform budget system and the administration of accounts and financial operations and mandates the installation of a uniform system of accounts for all counties and county

officials. This administrative regulation outlines the county uniform budget system as required for the fiscal court, county clerk and sheriff, and prescribes the required financial records, reports, and chart of accounts for county government. KRS 68.210 authorizes the state local finance officer to require the submission of financial reports from all officials of local governments and taxing districts. This administrative regulation requires quarterly financial reports from the county clerk, sheriff, county treasurer, and county judge/executive. KRS 68.210 authorizes the state local finance officer to investigate, examine, and supervise the accounts and operations of all local government officers. This administrative regulation establishes minimum basic requirements for the handling of public funds by local government officers and employees. KRS 68.250(1) mandates the state local finance officer to approve all county budget forms and classifications and authorizes the state local finance officer to change any form or classification before making such approval. This administrative regulation prescribes the form for the budgets of the fiscal court, county clerk and sheriff. KRS 68.250(4) authorizes the state local finance officer to refuse to approve a proposed budget that fails to comply with any requirements of law until the county judge/executive authorizes the state local finance officer to make changes as the state local finance officer deems to be required by law. This administrative regulation lists those statutorily mandated items for which each proposed budget ordinance will be reviewed for compliance prior to approval by the state local finance officer. KRS 68.350 mandates the state local finance officer to prescribe the books, blanks and forms to be used by county officials in the administration of the fiscal affairs of the county under the budget laws. This administrative regulation prescribes forms for the county budget, amendments to the county budget, budget hearing advertisements, tax rate hearing advertisement, receipts records, disbursement records, receipt forms, inventory records, jail commissary fund records, annual standing order to preapprove certain recurring expenses, road cost allocation worksheet, reporting of tax rates, and quarterly financial statements.

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: This administrative regulation has been filed to comply with KRS 13A.100(1). There is no fiscal impact as local governments are currently in compliance with the administrative regulation.

STATEMENT OF EMERGENCY 201 KAR 2:020E

The Kentucky Board of Pharmacy has adopted the Multistate Pharmacy Jurisprudence Examination (MPJE) administered through the National Association of Boards of Pharmacy as its method to evaluate the competence in Kentucky pharmacy and drug law of applicants for licensure in the Commonwealth as a pharmacist. The current administrative regulation establishes the passing score on the jurisprudence examination as eighty (80). The MPJE is psychometrically validated with a passing score at seventy-five (75). The failure to adopt this change would jeopardize the public health in that applicants who otherwise are minimally competent would be precluded from obtaining licensure in the Commonwealth by virtue of a standard that could not be justified psychometrically, thereby delaying the access to a pharmacist's services by the citizens until a score of eighty (80) was obtained. This emergency amendment to this administrative regulation will be replaced by an ordinary administrative regulation as soon as possible. The Notice of Intent to promulgate an amendment to this administrative regulation will be filed with the Regulations Compiler on or before June 15, 1999.

PAUL E. PATTON, Governor
RODNEY C. STACEY, President

GENERAL GOVERNMENT CABINET Kentucky Board of Pharmacy

201 KAR 2:020E. Examinations.

RELATES TO: KRS Chapter 315

STATUTORY AUTHORITY: KRS 315.050(2), 315.191(1), (2), (4)

EFFECTIVE: April 22, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Kentucky Board of Pharmacy is directed by KRS 315.191(4) to prescribe the time, place, method, manner, scope and subjects of examination of applicants for license to practice pharmacy in the Commonwealth. This administrative regulation will establish continued fair and impartial examinations.

Section 1. No license to practice pharmacy, other than one issued by reciprocity, shall be issued except upon the successful passage of an examination prescribed by the Kentucky Board of Pharmacy.

Section 2. All examinations held by the Kentucky Board of Pharmacy shall be conducted at such locations within the state as may be designated by the board and shall be held at least twice annually. Detailed information as to the time and place of examinations may be procured from the executive director of the board.

Section 3. Examinations shall be adequate to test the knowledge, education and competency of applicants and shall consist of three (3) tests: the North American Pharmacist Licensure Examination, an operative/practical examination, and jurisprudence.

Section 4. No person shall be deemed to have successfully passed an examination conducted by the Kentucky Board of Pharmacy unless he obtains the following scores:

(1) At least seventy-five (75) on the basis of the North American Pharmacist Licensure Examination in order to meet the requirements of Article II, Section 4, (A)(3), of the National Association of Boards of Pharmacy Bylaws. The operative/practical and jurisprudence grades shall not be used in computing the National Association of Boards of Pharmacy Licensure Examination score;

(2) At least seventy-five (75) on any operative/practical examination;

(3) At least seventy-five (75) (~~eighty (80)~~) on the Multistate Pharmacy Jurisprudence Examination [~~jurisprudence~~].

Section 5. If an applicant fails to obtain the necessary scores in any of the three (3) tests described in Section 3 of this administrative regulation, he may upon proper application retake such tests upon the payment of the fee set forth in 201 KAR 2:050 plus any direct costs for test materials and supplies. If subsequent reexamination is required, an additional fee equal to the original examination fee must be submitted. An applicant for reexamination must sit for such examination within one (1) year from the date he first fails the examination.

Section 6. All results of examinations shall be preserved. The questions shall be prepared or approved by the board. Written examinations shall be conducted in such manner that the results shall be entirely fair and impartial, the applicant being known only by numbers so that no examiner or member of the board may identify the paper of the applicant until after the examiners certify the results.

Section 7. An examination fee shall not be refunded after an application has been accepted by the board.

RODNEY C. STACEY, President

CHERYL LALONDE-MOONEY, J. D., Assistant Attorney General

APPROVED BY AGENCY: April 21, 1999

FILED WITH LRC: April 22, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Contact person: Mr. Michael A. Moné

(1) Type and number of entities affected: All applicants for licensure as a pharmacist.

- (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 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: Processing of the applications.
 2. Continuing costs or savings: Biennial applications and periodic license transfer applications.
3. Additional factors increasing or decreasing costs: None
- (b) Reporting and paperwork requirements: Application for licensure.
- (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: Appropriated budget from the Kentucky Board of Pharmacy Trust 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: None appropriate.
- (8) Assessment of expected benefits:
- (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The public should accrue a benefit in that a psychometrically valid examination will be provided to test the competencies of applicants for licensure as a pharmacist in the Commonwealth. Costs for the board associated with the implementation should decrease since the applicants will be taking a national examination that the board will not be required to prepare.
- (b) State whether a detrimental effect on environment and public health would result if not implemented: The failure to adopt this proposed amendment to this administrative regulation could result in increased costs for the board as a result of litigation associated with an allegedly arbitrary cut score.
- (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: None
- (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
- (10) Any additional information or comments: None
- (11) TIERING: Is tiering applied? No. All persons in each class are treated identically.

STATEMENT OF EMERGENCY
501 KAR 6:020E

In order to continue to operate the Department of Corrections in accordance with KRS Chapters 196, 197, 439, 503 and 501 KAR 1:050, the department needs to implement this emergency administrative regulation. An ordinary administrative regulation will not suffice as this administrative regulation shall be effective immediately. I am requesting that this administrative regulation be declared an emergency so the Department of Corrections may implement the use of chemical agents to prevent an escape, make an arrest or enforce an administrative regulation. Use of chemical agents by probation and parole officers is intended to provide the officer with the necessary tools to meet threats to the safety of the public and themselves. This emergency administrative regulation shall be re-

placed by the ordinary administrative regulation in accordance with KRS Chapter 13A. The Notice of Intent for the ordinary administrative regulation is being filed with the Regulations Compiler at the same time the emergency administrative regulation is being filed.

PAUL E. PATTON, Governor
DOUG SAPP, Commissioner

JUSTICE CABINET
Kentucky Department of Corrections

501 KAR 6:020E. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: May 14, 1999

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":

- | | |
|----------|--|
| 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 |
| 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 |

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13.3	Medical Alert System	III, May 14, 1999 (July 13, 1998)”:
13.4	Health Program Audits	
13.6	Sex Offender Treatment Program	27-01-01 Probation and Parole Procedures
13.7	Involuntary Psychotropic Medication Policy	27-02-01 Duties of Probation and Parole Officers
13.8	Substance Abuse Treatment Program	27-03-01 Workload Formula Supervisor/Staff Ratio
13.9	Dental Services	27-05-01 Testimony, Court Demeanor and Availability of Legal Services
13.10	Serious Infectious Disease {(Added 3/15/99)}	
13.11	Employee Tuberculosis Program {(Added 3/15/99)}	27-06-01 Availability of Supervision Services
14.1	Investigation of Missing Inmate Property	27-06-02 Equal Access to Services
14.2	Personal Hygiene Items	27-07-01 Cooperation with Law Enforcement Agencies
14.3	Marriage of Inmates	27-08-01 Use of Force
14.4	Legal Services Program	27-09-01 Kentucky Community Resources Directory
14.6	Inmate Grievance Procedures	27-10-01 Pretrial Diversion
15.1	Hair and Grooming Standards	27-11-01 Intensive Supervision
15.2	Offenses and Penalties	27-11-02 Prerelease Probation {(Amended 3/15/99)}
15.3	Meritorious Good Time	27-12-01 Supervision: Case Classification
15-05-01	Restoration of Forfeited Good Time	27-12-02 Risk Assessment
15.6	Adjustment Procedures and Programs	27-12-03 Initial Interview
15.7	Inmate Account Restriction	27-12-04 Conditions of Regular Supervision/Request for Modification
15.8	Unauthorized Substance Abuse Testing	
16.1	Inmate Visits	27-12-05 Releasee's Report
16.2	Inmate Correspondence	27-12-06 Grievance Procedures for Offenders
16.3	Telephone Calls	27-12-07 Employment, Education/Vocational Referral
16.4	Inmate Packages	27-12-08 Supervision Plan
17.1	Inmate Personal Property	27-12-09 Casebook
17.2	Assessment Center Operations	27-12-10 Guidelines for Monitoring Supervision Fee
17.3	Controlled Intake of Inmates	27-12-11 Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority
(b) "Department of Corrections Policies and Procedures, Volume II, July 13, 1998":		27-12-12 Other Financial Obligations (Not Ordered by Releasing Authority)
18.1	Classification of the Inmate	27-12-13 Community Service Work
18.5	Custody and Security Guidelines	27-12-14 Client Travel Restrictions
18.7	Transfers	27-13-01 Drug and Alcohol Testing of Offenders
18.9	Out-of-state Transfers	27-13-02 Alcohol Detection
18-10-01	Preparole Progress Reports	27-14-01 Interstate Compact Transfers
18.11	Kentucky Correctional Psychiatric Center Transfer Procedures	27-14-02 Interstate Compact Out-of-state Probation and Parole Violation
18.12	Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill	27-15-01 Supervision Report; Violations, Unusual Incidents
18.13	Population Categories	27-15-02 Community Confinement Program Subject: Electronic Monitoring
18.15	Protective Custody	27-16-01 Search; Seizure; Chain of Custody; Disposal of Evidence
18.17	Interstate Agreement on Transfers	27-17-01 Absconder Procedures
18.18	International Transfer of Inmates	27-18-01 Probation and Parole Issuance of Detainer/Warrant
19.1	Government Services Projects	27-19-01 Preliminary Revocation Hearing
19.2	Community Services Projects	27-20-01 Division of Probation and Parole Controlled Intake Program
19.3	Inmate Wage Program	27-20-02 Prisoner Intake Notification
20.1	Educational Programs and Educational Good Time	27-20-03 Prisoner Status Change
21.1	Staffing Pattern for the First Incarceration Shock Treatment Program (FIST)	27-21-01 Apprehension and Transportation of Probation and Parole Violators
21.2	Phase I: Program Selection Assessment Criteria	27-22-01 Fugitive Unit - Apprehensions
21.3	Program Schedule - Phase II and Phase III	27-22-02 Fugitive Unit - Transportation of Fugitives
21.4	Platoon Size and Composition	27-23-01 In-state Transfer
21.5	Physical Conditions Program Component	27-24-01 Closing Supervision Report
21.6	Group and Individual Counseling	27-24-02 Reinstatement of Clients to Active Supervision
21.7	Drug and Alcohol Abuse Counseling and Treatment	27-26-01 Assistance to Former Clients and Dischargees
21.8	Work Programs Component	27-27-01 Restoration of Civil Rights
21.9	Education and Life Management	27-28-01 Firearms/Explosives: Application for Relief from Disability
21.10	Auxiliary Services	27-29-01 Parole Review Dates Modification
21.11	Offenses and Penalties	27-30-01 Sex Offender Registration
22.1	Privilege Trips	27-31-01 Use of Chemical Agents in Probation and Parole (Added 5/14/99)
23.1	Religious Programs	
25.1	Gratuities	28-01-01 Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments)
25.2	Public Official Notification of Release of an Inmate	
25.3	Prerelease Program	
25.4	Inmate Furloughs	28-01-02 Probation and Parole Investigation Reports (Administrative Responsibilities)
25.6	Community Center Program	
25.7	Expedient Release	28-01-03 Presentence, Postsentence, Supplemental and Partial Investigations
25.8	Extended Furloughs	
25.10	Administrative Release of Inmates	28-01-08 Probation Parole Investigation Reports (Partial Investigation Reports and Submission Schedule)
25.11	Victim Notification	28-01-09 Release of Information of Factual Content on Presentence/Postsentence Investigation Reports
(c) "Department of Corrections Policies and Procedures, Volume		

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: May 12, 1999

FILED WITH LRC: May 14, 1999 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs

(1) Type and number of entities affected: 293 employees of the Division of Probation and Parole, and 14,211 parolees and probationers.

(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.

STATEMENT OF EMERGENCY 501 KAR 6:999E

In order to continue to operate the Department of Corrections in accordance with KRS Chapters 196 and 197, the department needs to implement this emergency administrative regulation. An ordinary administrative regulation will not suffice as this administrative regulation shall be effective immediately. I am requesting that this administrative regulation be declared an emergency so the Department of Corrections may begin addressing, in an aggressive manner, the threat of gang activity in its institutions by providing guidelines for the identification of gang members, as well as, the sharing of relevant information regarding membership and activity between institutions and other branches of law enforcement. The administrative regulation also sets forth the procedures for the storage, use, inventory and accountability of flammable, toxic and caustic materials at Roederer Correctional Complex. This emergency administrative regulation shall be replaced by the ordinary administrative regulation in accordance with KRS Chapter 13A. The Notice of Intent for the ordinary administrative regulation is being filed with the Regulations Compiler at the same time the emergency administrative regulation is being filed.

PAUL PATTON, Governor

DOUG SAPP, Commissioner

JUSTICE CABINET Kentucky Department of Corrections

501 KAR 6:999E. Corrections secured policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

EFFECTIVE: May 14, 1999

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: "Department of Corrections Secured Policies and Procedures, May 14, 1999 [February 12, 1998]."

BCC 09-01-01	Inclement Weather/Emergency Condition Operation
BCC 09-02-01	Restricted Areas [(Amended 11/12/98)]
BCC 09-02-02	Inmate Pass System to Restricted Areas
BCC 09-02-03	Regulation of Inmate Movement
BCC 09-04-01	Construction Crew Entry, Exit and Regulations [(Added 11/12/98)]
BCC 09-04-02	Complex Entry and Exit [(Amended 11/12/98)]
BCC 09-05-01	Key Control
BCC 09-06-02	Transportation to Courts [(Amended 11/12/98)]
BCC 09-07-01	Drug Abuse and Intoxicants Testing (Amended 11/12/98)]
BCC 09-09-01	Population Counts and Count Documentation [(Amended 11/12/98)]
BCC 09-15-01	Search Policy and Disposition of Contraband [(Amended 11/12/98)]
BCC 09-16-01	Security Activity Logs [(Amended 11/12/98)]
BCC 09-17-01	Institutional Supervisor Inspections [(Amended 11/12/98)]
BCC 09-20-01	Inmate Death
BCC 09-21-01	Tool Control
BCC 09-22-01	Emergency Communication System
CPP 8.3	Emergency Planning

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CPP 8.4	Emergency Preparedness
CPP 8.5	Emergency Squads
CPP 9.1	Use of Force
<u>CPP 9.3</u>	<u>Security Threat Groups (Added 5/14/99)</u>
CPP 9.7	Storage, Issue and Use of Weapons Including Chemical Agents
CPP 9.9	Transportation of Inmates
CPP 9.10	Security Inspections
CPP 9.11	Tool Control
FCDC 09-01-02	Institutional Entry and Exit Surveillance and Perimeter Security Procedures
FCDC 09-03-01	Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials
GRCC 08-03-01	Escape Plan
GRCC 08-05-01	Emergency Squad: Selection, Training and Evaluation
GRCC 08-06-01	Response Units
GRCC 09-03-01	Procedure for Operation in Event of Dense Fog, Inclement Weather or Loss of Power
GRCC 09-04-01	Inmate Death
GRCC 09-06-01	Entry and Exit Procedures
KSP 09-08-01	Searches and Preservation of Evidence
KSR 09-00-04	Horizontal Gates/Box 1 Entrance and Exit Procedure
KSR 09-00-09	Contraband, Dangerous Contraband and Search Policy
KSR 09-00-27	Construction Crew Entry/Exit
RCC 08-08-01	Control and Use of Flammable, Toxic, and Caustic Materials
RCC 09-06-01	Search Policy/Disposition of Contraband

(2) 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.

DOUG SAPP, Commissioner
TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: May 12, 1999

FILED WITH LRC: May 14, 1999 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs

(1) Type and number of entities affected: 2,948 employees of the correctional institutions, 8,729 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.

STATEMENT OF EMERGENCY 907 KAR 1:013E

This emergency administrative regulation is being promulgated to comply with provisions of HB 785 of the 1998 GA, to clarify the method by which outpatient costs for a hospital are determined and to include the disproportionate share hospital budgeted funds for fiscal year 2000. This action must be taken on an emergency basis to ensure that hospitals with less than 200 acute care beds are provided with all available federal funds. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of indigent Kentuckians because these hospitals would not be able to afford to provide indigent care to all eligible persons who go to them for medical care. This emergency administrative regulation differs from the emergency administrative regulation on the same subject matter that was filed on September 29, 1998, as follows: since the promulgation of the previous emergency administrative regulation, the distribution methodology for disproportionate share hospital payments has been clarified and the budget funds for fiscal year 2000 have been included. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

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

CABINET FOR HEALTH SERVICES Department for Medicaid Services Division of Member and Provider Services

907 KAR 1:013E. Payments for hospital inpatient services.

RELATES TO: KRS 205.520, 205.565, 205.640[~~1996 Ky. Acts ch. 380, Part I, GB, 51, 5~~]

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.560(2), 205.637, 205.640, 20 CFR 405.402 through 405.488, 42 CFR 440.10, 440.140, 447.250 through 447.280, 42 USC 1396a, b, d, r-4[~~EO 96-862~~]

EFFECTIVE: April 21, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. [~~Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services.~~] KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented by federal law for the

provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the method for determining the amount payable by the Medicaid Program for a hospital inpatient service.

Section 1. Definitions. (1) "Acute care hospital" means a hospital licensed and certified to provide acute care hospital services in accordance with 902 KAR 20:016.

(2) "Base year" means the cost reporting period upon which a rate is based.

(3) "Capital costs" means capital related expenses including insurance, taxes, interest, and depreciation related to plant and equipment.

(4) "Charity care" means a service provided to a recipient by a provider without expectation on the part of the provider to receive payment, but shall not include bad debt.

(5) "Cost basis" means the total allowable Medicaid inpatient cost incurred by the provider in the base year.

(6) "Department" means the Department for Medicaid Services or its agent.

(7) "Disproportionate share hospital" (DSH) means a hospital that:

(a) ~~Has an inpatient Medicaid utilization rate of one (1) percent or higher; and~~

(b) ~~Meets the criteria established in 42 USC 1396r-4(d); and~~

(b) ~~Meets the criteria established in 42 USC 1396r-4(b); or~~

2. ~~Has a Medicaid utilization of one (1) percent or higher].~~

(8) "DRI" means Data Resources, Incorporated.

(9) "Indexing factor" means the amount that the cost of providing a service is expected to increase during the universal rate year.

(10) "Indigent care" means ~~hospital charges attributable to Medicaid recipients in excess of fourteen (14) covered days and to individuals eligible for the Kentucky Hospital Care Program [days] means days in excess of fourteen (14) covered days for a Medicaid recipient and days of service provided to an individual eligible for the Kentucky Hospital Care Program, including outpatient equivalent care days], with eligibility determined in accordance with criteria established in 907 KAR 1:635, and which are uninsured or unreimbursed by another source].~~

(11) "Inflation factor" means the amount that the cost of providing a service has increased, or is expected to increase, for a specific period of time.

(12) "Pediatric teaching hospital" is defined in KRS 205.565.

(13) "Professional component cost" means a physician compensation cost paid by the provider for a service to a patient and includes the following categories of practice:

(a) Anesthesiology;

(b) Cardiology;

(c) Electroencephalography;

(d) Pathology;

(e) Radiology; and

(f) Psychiatry in a psychiatric hospital.

(14) "Psychiatric hospital" means a hospital which meets the minimum licensure requirements established in 902 KAR 20:180.

(15) "Rehabilitation hospital" means a hospital meeting the minimum licensure requirements established in 902 KAR 20:240.

(16) "State university teaching hospital" means:

(a) A hospital which is owned or operated by a Kentucky state supported university with a medical school; or

(b) A hospital in which three (3) or more departments or major divisions of the University of Kentucky or University of Louisville medical school are physically located and which are used as the primary (greater than fifty (50) percent) medical teaching facility for the medical students at the University of Kentucky or the University of Louisville; however, this shall not include a hospital having a residency program or rotation agreement.

(17) "Trending factor" means the inflation factor as applied to that period of time between a facility's base fiscal year end and the beginning of the universal rate year.

(18) "Type I hospital status" means an in-state disproportionate share hospital with 100 beds or less that participates in the Medicaid Program.

(19) "Type II hospital status" means an in-state disproportionate share hospital with 101 beds or more that participates in the Medicaid

Program, except for a hospital that meets the criteria established in this administrative regulation for a Type III or Type IV status hospital.

(20) "Type III hospital status" means an in-state disproportionate share state university teaching hospital, owned and operated by either the University of Kentucky or the University of Louisville medical school, that has requested a Type III status which has been approved by the Department for Medicaid Services.

(21) "Type IV hospital status" means an in-state disproportionate share hospital participating in the Medicaid Program that is a state owned psychiatric hospital.

(22) ~~"Type V hospital status" means an out-of-state disproportionate share hospital participating in the Medicaid Program.~~

(23) "Universal rate year" means the twelve (12) month period under the prospective payment system, beginning July 1 of each year for which payment rates are established for a hospital regardless of the hospital's fiscal year end.

(23) [(24)] "Upper payment limit" means the maximum amount the Medicaid program shall pay for an inpatient day of care with the maximum varying based on specified circumstances as follows:

(a) Utilization factors;

(b) Teaching hospital status; and

(c) Age of patient.

(24) [(25)] "Weighted median" means the cost per diem associated with the median point of cumulative inpatient days calculated by arraying cost per diems within a specified peer group from lowest to highest.

Section 2. Acute Care Hospital, Rehabilitation Hospital and Psychiatric Hospital Inpatient Services. The Department for Medicaid Services shall pay for inpatient hospital services provided to an eligible Medicaid recipient through the use of a rate that meets the requirements of 42 USC 1396a(a)(13) [is reasonable and adequate to meet the cost that is required to be incurred by an efficiently and economically operated hospital to provide a service in conformity with applicable state and federal laws, regulations, and quality and safety standards].

Section 3. Use of a Prospective Rate. (1) A hospital shall be paid using a prospective payment rate based on allowable Medicaid inpatient costs and Medicaid inpatient days.

(a) The prospective rate shall include both routine and ancillary costs.

(b) If a base year is selected for setting a rate, that base year shall not change.

(c) The prospective rate shall not be subject to retroactive adjustment, except for a facility with a rate based on unaudited data. This facility shall have its rate appropriately revised for the rate year when the audited cost report for the base year becomes available to the department.

(d) Total prospective payments shall not exceed the total customary charges in the prospective year.

(2) An overpayment shall be recouped by:

(a) Payment from the provider for the amount of the overpayment; or

(b) The withholding of the overpayment amount from a future payment due the provider.

Section 4. Use of a Universal Rate Year. (1) A universal rate year shall be set for a facility with the universal rate year established as July 1 through June 30 of each year to coincide with the state fiscal year.

(2) A hospital shall not be required to change its fiscal years to conform with a universal rate years.

Section 5. Trending of a Cost Report. The following policies shall be used for the trending of a cost report:

(1) An allowable Medicaid cost, excluding capital cost, as shown in a cost report on file in the department, both audited and unaudited, shall be trended to the beginning of the rate year to update a hospital's Medicaid cost.

(2) The trending factor to be used shall be the inflation factor prepared by DRI for the period being trended.

Section 6. Indexing for Inflation. (1) After an allowable cost has been trended to the beginning of the rate year, an indexing factor shall be applied to project inflationary cost in the universal rate year.

(2) The indexing factor to be used shall be the inflation factor prepared by DRI for the universal rate year.

Section 7. Peer Grouping. For rate setting purposes, a hospital shall be grouped with other hospitals in accordance with the following provisions:

(1) The peer grouping shall be based on the number of beds licensed, as of May 1 preceding the universal rate year, which provide Medicaid covered services and shall meet minimum licensure requirements in accordance with 902 KAR 20:009, 902 KAR 20:006, 902 KAR 20:170, 902 KAR 20:180, 902 KAR 20:230 and 902 KAR 20:240.

(2) The peer groupings shall be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds or more.

(3) A Type III hospital shall not be included in the array for a facility with 401 beds or more, but shall be subject to the upper limit for a facility with 401 beds or more.

(4) A psychiatric hospital shall not be peer grouped but shall be in a separate array of psychiatric hospitals.

(5) A rehabilitation hospital and an acute care hospital that is restricted to providing rehabilitation services shall not be:

- (a) Peer grouped;
- (b) Arrayed; or
- (c) Subject to the operating cost upper limit.

Section 8. Minimum Occupancy Factor. Allowable Medicaid capital cost shall be reduced if one (1) of the following minimum occupancy factors are not met:

(1) A sixty (60) percent occupancy factor shall apply to hospitals with 100 or fewer beds; or

(2) A seventy-five (75) percent occupancy factor shall apply to a hospital with 101 or more beds.

Section 9. Reduced depreciation allowance shall be applicable, as follows:

(1) The allowable amount for depreciation on building and fixtures, excluding major movable equipment, shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports.

(2) The use of a reduced depreciation allowance shall not be applicable with regard to a psychiatric hospital.

Section 10. Upper limits and payment principles shall apply to a hospital, with additional limitations for a disproportionate share hospital established in Section 11 of this administrative regulation, as follows:

(1) An acute care hospital with 101 beds or more shall have an upper limit established on all costs (except Medicaid capital costs and professional component costs) at the weighted median per diem cost for a hospital in each peer group.

(2) An acute care hospital with 100 beds or less shall have the upper limit on all costs (except Medicaid capital costs and professional component costs) established at 110 percent of the weighted median per diem for a hospital in its peer group.

(3) A state university teaching hospital shall have an upper limit on all costs (except Medicaid capital costs and professional component costs) established at 106 percent of the weighted median per diem for a hospital in its peer group;

(4) A psychiatric hospital:

(a) Shall have an upper limit established on all costs (except Medicaid capital costs and professional component costs) at the weighted median per diem cost for a hospital in the array;

(b) Designated by the department as a primary referral and services resource for a child in the custody of the Cabinet for Families and Children shall be exempt from the upper limit for the array and shall be paid at actual projected cost with no year end settlement to actual cost; and

(c) May have the projected cost adjusted for usual cost of living increases using the DRI Index.

(5) Except as provided in subsection (10) of this section the following principles shall apply:

(a) The most recent Medicaid cost report available as of May 1 of each year preceding the universal rate year shall be used for rate setting.

(b) If a desk review or audit of the most current cost report is completed after May 1, but prior to the universal rate setting for the year, the desk review or audited data shall be utilized for rate setting.

(c) An audit and desk review shall be conducted in accordance with the Medicaid Reimbursement Manual for Hospital Inpatient Services.

1. Except as provided in subparagraph 2 of this paragraph, the manual shall govern the Medicaid reimbursement for a hospital inpatient service.

2. If a reimbursement issue or area is not specified in the manual, the department shall apply Medicare standards and principles, excluding the Medicare inpatient routine nursing salary differential.

(6) After being set, the arrays and upper limits shall not be altered due to a revision or correction of data.

(7) Professional component costs shall be trended and indexed separately in the same manner as operating costs, except an upper limit shall not be established.

(8) A provider tax shall be considered an allowable cost. The portion attributable to Medicaid utilization shall be included in the per diem rate.

(9) Except as provided in subsection (10) of this section, the following controls shall be applied to the per diem rate increases for an acute care hospital excluding a hospital restricted to rehabilitative services:

(a) Allowable rate growth from the prior rate year to the new rate year shall be limited to not more than one and one-half (1 1/2) times the DRI inflation amount for the same time period;

(b) Limits shall be applied to the capital and operating cost per diem components;

(c) Rate growth beyond the allowable amounts shall be considered an unallowable cost for rate setting purposes; and

(d) Unallowable costs resulting from the use of control of rate increase limits shall not be included in the base for future rate setting purposes.

(10) For the rate period beginning July 1, 1997, the rate shall be the rate in effect for January 1, 1996 with the following modifications:

(a) The operating and professional components of the rate shall be indexed forward for the 1998 rate period using the inflation factor prepared by DRI for the same period;

(b) There shall be an add on to the rate, computed as fifteen (15) percent of the amount between the lesser of:

1. The operating cost per diem or the maximum operating per diem, whichever is less; or

2. The operating per diem as limited by the rate of increase control (one and one-half (1 1/2) times the DRI); and

(c) The capital component shall not be indexed. The capital component of the rate shall be the amount computed for capital cost in the 1996 individual hospital rate notice, excluding the application of the rate of increase control (one and one-half (1 1/2) times the DRI).

(11) For a medically necessary hospital inpatient service provided for an exceptionally high cost or long length of stay, the payment rate shall be set at 110 percent of the per diem payment rate, without regard to length of stay or number of admissions of the infant. Exceptionally high cost or long length of stay shall be, in a nondisproportionate share hospital, those cost and days of stay for a child under age one (1) that:

(a) For a newborn, is thirty (30) days from the date of discharge for the mother; or

(b) For another child, is after thirty (30) days from the date of admission.

Section 11. The following upper limits and payment principles shall apply to a disproportionate share hospital:

(1) An acute care hospital with Medicaid utilization of twenty (20) percent or higher, or a hospital having twenty-five (25) percent or more nursery days resulting from Medicaid covered deliveries as compared to the total number of paid Medicaid days, shall have an upper limit set at 120 percent of the weighted median per diem cost for a hospital in that peer grouping.

(2) A state university teaching hospital, having Medicaid utilization

of twenty (20) percent or higher, or having twenty-five (25) percent or more nursery days resulting from Medicaid covered deliveries as compared to the total number of paid Medicaid days, shall have an upper limit set at 126 percent of the weighted median per diem cost for a hospital of 401 beds and up.

(3) A designated state pediatric teaching hospital meeting the criteria in subsection (2) of this section shall:

(a) Have an upper limit set at 126 percent of the weighted median per diem cost of its appropriate peer group; and

(b) In addition to the hospital's base rate, be paid an amount which is equal to two (2) percent of the base rate for each one (1) percent of Medicaid occupancy but this amount shall not exceed the prospective reasonably determined uncompensated Medicaid cost to the hospital.

(4) Psychiatric hospitals with Medicaid utilization of thirty-five (35) percent or higher shall have an upper limit set at 115 percent of the weighted median per diem cost for a hospital in the array.

(5) An acute care hospital with 100 beds or less shall have an upper limit set at 110 percent of the weighted median per diem for a hospital in the array.

(6) Another disproportionate share acute care hospital shall have its upper limit set at the weighted median per diem of the cost for a hospital in the peer grouping.

(7) A hospital shall be reimbursed an additional amount equal to 110 percent of a hospital's per diem rate for medically necessary hospital inpatient days of service provided for an exceptionally high cost or long length of stay, without regard to length of stay or number of admissions of the child. Exceptionally high cost or long length of stay shall be, in a disproportionate share hospital, those costs and days of stay for a child under the age of six (6) that:

(a) With the exception of a newborn, is after thirty (30) days from the date of admission [For a newborn, is thirty (30) days beyond the date of discharge for the mother]; or

(b) For a newborn, is thirty (30) days beyond the date of discharge for the mother [For another child, is after thirty (30) days from the date of admission].

(8) The disproportionate share hospital payment ~~[for the period beginning February 20, 1995]~~ shall be made as follows:

(a) The disproportionate share hospital payment for a Type I or ~~[and] Type II~~ hospital shall be based on the costs of providing indigent care, ~~[include a volume adjustment:]~~

1. Payment made to a hospital meeting the criteria in this paragraph shall be based on its proportion of the costs of providing inpatient and outpatient indigent care. [The adjustment shall be made by paying for each indigent care day, including equivalent days based on outpatient services actually provided, at the hospital's Medicaid per diem rate.]

2. Total disproportionate share ~~hospital [volume adjustment]~~ payments to a Type I and Type II hospital ~~[for indigent care services]~~ provided during the 1999 fiscal year shall not exceed \$93,000,000; and for the 2000 fiscal year, shall not exceed \$94,000,000. ~~[1998 fiscal year shall not exceed \$91,900,000. If a payment will cause the limit to be exceeded, each hospital's volume adjustment amount shall be adjusted proportionately.]~~

a. The costs of indigent care for purposes of making payments to a Type II hospital with 200 beds or more licensed acute care beds [3: The inpatient equivalent care days for a hospital] shall be determined by:

(i) Calculating the costs of inpatient indigent care by multiplying each day of indigent care provided by the facility by its Medicaid rate; and

(ii) Calculating the costs of outpatient indigent care by applying the ratio determined by dividing a hospital's average Medicaid outpatient payment per visit by its Medicaid inpatient rate to the number of outpatient visits payable at its Medicaid rate.

b. Effective October 1, 1998, the costs of indigent care for a Type I or a Type II hospital with less than 200 licensed acute care beds shall be determined by applying the hospital's cost-to-charge ratio to allowable indigent charges as follows:

(i) By July 1 of each year, the department shall calculate the cost-to-charge ratio for a hospital by dividing the hospital's total allowable operating expenses by the hospital's total gross patient charges, using the Medicare cost report as of July 1 of that fiscal

year.

(ii) To determine the cost-to-charge ratio, the department shall use the total cost from Worksheet B, Part 1, Column 25 and total charges from Worksheet C, Part 1, Column 8. The ratio is the total cost divided by the total gross patient charges.

3. If a payment made in accordance with this paragraph will cause the limit established in subparagraph 2 of this paragraph to be exceeded, each hospital's payment shall be adjusted proportionately prior to the final quarterly payment. [dividing the hospital's average Medicaid allowable outpatient payment per visit by the Medicaid allowable inpatient payment per day and multiplying the result by the number of indigent care outpatient visits for the specified period of time:]

(b) The disproportionate share hospital payment for a Type III ~~[and IV]~~ hospital shall be equal to 100 percent of the cost of services to a Medicaid patient, minus [less] the amount paid by Medicaid as a usual Medicaid per diem [payment], plus the cost of services to an uninsured patient, minus [less] any cash payment made by an uninsured patient.

1. Total disproportionate share hospital payments made to Type III hospitals in accordance with this paragraph shall be based upon available funds. Available funds shall not exceed the limits established in 42 USC 1396r-4(f), minus funds distributed in accordance with paragraph (a) of this subsection, minus funds distributed under paragraph (c) of this subsection. If payments made in accordance with this paragraph exceed available funds, payments shall be proportionately adjusted.

2. Type III status shall be granted to a state university teaching hospital if the hospital agrees as a part of its request for a Type III status to:

1. ~~Forego a local or state government contribution for charity care; and~~

2. provide up to 100 percent of the state matching funds necessary to secure federal financial participation for a Medicaid disproportionate share hospital payment to be made during the period of time the hospital is designated as a Type III status hospital.

(c) The disproportionate share hospital payment for a Type IV hospital shall be equal to 100 percent of the costs of services provided to Medicaid patients, minus the amount paid by Medicaid as a usual Medicaid per diem, plus the costs of services to uninsured patients, minus any cash payments made by an uninsured patient. Total disproportionate share hospital payments made to Type IV hospitals in accordance with this paragraph shall be based upon available funds. Available funds shall not exceed the limits established in 42 USC 1396r-4(h), minus funds distributed to psychiatric hospitals under paragraph (a) of this subsection. If payments made in accordance with this paragraph exceed available funds, payments shall be proportionately adjusted. [V-hospital shall be one (1) dollar per Medicaid day plus an earned adjustment which is equal to ten (10) cents for each one (1) percent of Medicaid occupancy above one (1) standard deviation.]

(d) Further adjustments shall not be made to payments described in this subsection except for errors identified by the department when computing the payment. A hospital shall be allowed thirty (30) days from the time that the payment calculation is finalized to submit verifiable data to correct the department's calculation.

Section 12. ~~[In accordance with KRS 205.640, except for none-emergency care rendered through a hospital emergency room, an in-state nondisproportionate share hospital shall be compensated in the manner described in Section 11(8)(a) of this administrative regulation for services provided by the hospital to a Medicaid recipient beyond the covered days and to an individual and family with a total annual income and resources up to 100 percent of the federal poverty level:~~

Section 13. ~~Payment to a Participating Out-of-state Hospital. (1) A participating out-of-state hospital shall be reimbursed for covered inpatient services rendered to an eligible Kentucky Medicaid recipient at the lesser of seventy-five (75) percent of usual and customary charges or the in-state per diem upper limit for a comparable size hospital, plus a provision for capital cost. The capital cost provision shall be computed by using the mean value of the capital cost per diem paid per peer group for an in-state hospital.~~

(2) A participating out-of-state hospital shall be reimbursed at the

lesser of eighty-five (85) percent of usual and customary charges or 110 percent of the in-state per diem upper limit for a comparable size hospital for an exceptionally high cost or long length of stay related to an infant under the age of one (1) in a nondisproportionate share hospital; or a child under age six (6) in disproportionate share hospitals, without regard to length of stay or number of admissions of the infant or child. Exceptionally high cost or long length of stay shall be those cost and days of stay:

(a) In a nondisproportionate share hospital, as defined in Section 10(11) of this administrative regulation; and

(b) In a disproportionate share hospital, as defined in Section 11(7) of this administrative regulation.

(3) ~~[Except as provided in subsection (2) of this section, disproportionate status shall be reimbursed in accordance with Section 11(1) and (8)(c) of this administrative regulation.]~~

(4) Professional costs for covered days of stay shall be paid at seventy-five (75) percent of the usual and customary charges of the provider.

(5) The disproportionate share hospital payment for an out-of-state hospital shall be one (1) dollar per Medicaid day plus an earned adjustment which is equal to ten (10) cents for each one (1) percent of Medicaid occupancy above one (1) standard deviation

Section 13. [14:] Provider Appeal Rights. If appealed, negative action shall be appealed in accordance with 907 KAR 1:671.

Section 14. [15:] Incorporation by Reference. (1) "Medicaid Reimbursement Manual for Hospital Inpatient Services", April 1999 [July 1997] edition, Department of Medicaid Services, is incorporated by reference.

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

DENNIS BOYD, Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY; April 13, 1999

FILED WITH LRC: April 21, 1999 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Trish Howard or Karen Doyle

(1) Type and number of entities affected: All hospitals with less than 200 acute care beds.

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

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

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

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$0

2. Continuing costs or savings: \$0

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Although paperwork will need to be revised as a result of the change in distribution methodology for the affected hospitals, no additional paperwork is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds.

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

(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide.

(b) Kentucky: None

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Promulgation of this regulation would ensure that indigent Kentuckians who require medical services from hospitals which contain less than 200 acute care beds would be able to access these services since the affected hospitals would be ensured of receiving reimbursement for the provision of the services.

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

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety, or welfare of indigent Kentuckians because they would not be able to access indigent care from the affected hospitals since they would not be reimbursed for their costs.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: This regulation is considered budget neutral because current information available to the Department indicates that the maximum funds allotted for the disproportionate share hospital program will be accessed. Therefore, the changes to this regulation will not affect the amount of funds expended.

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation does not set minimum or uniform standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation does not set stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee

COUNCIL ON POSTSECONDARY EDUCATION
(As Amended at ARRS, May 11, 1999)

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

RELATES TO: KRS Chapter 13B, 164.020, 164.030, 164A.330(9)
STATUTORY AUTHORITY: KRS 164.020(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.020(8) requires the Council on Postsecondary Education to determine tuition and approve the minimum qualifications for admission to a state-supported postsecondary education institution and authorizes the Council to set different tuition amounts for residents of Kentucky and for nonresidents. This administrative regulation establishes the procedure and guidelines for determining the residency status of a student who is seeking admission to, or who is enrolled at, a state-supported postsecondary education institution.

Section 1. Definitions. (1) "Academic term" means a division of the school year during which a course of studies is offered, and includes a semester, quarter, or single[;] consolidated summer term as defined by the institution.

(2) "Continuous enrollment" means enrollment in a state-supported postsecondary education institution at the same degree level for consecutive terms, excluding summer term, since the beginning of the period for which continuous enrollment is claimed unless a sequence of continuous enrollment is broken due to extenuating circumstances beyond the student's control, including serious personal illness or injury, or illness or death of a parent.

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

- (a) Certificate, diploma or other program award at an institution;
- (b) Baccalaureate degree or lower including enrollment in a course by a nondegree-seeking postbaccalaureate student;
- (c) Graduate degree or graduate certification other than a first professional degree in law, medicine, dentistry or "Pharm. D"; or
- (d) Professional degree in law, medicine, dentistry, or "Pharm. D".

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

(5) "Dependent person" means a person who cannot demonstrate financial independence from parents or persons other than a spouse and who does not meet the criteria established in Section 5 of this administrative regulation.

(6) "Determination of residency status" means the decision of a postsecondary education institution that may include a formal hearing ~~[and a subsequent decision by the Council on Postsecondary Education including an administrative hearing, if appropriate;]~~ that results in the classification of a person as a Kentucky resident or as a nonresident for admission and tuition assessment purposes.

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

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

(9) "Independent person" means a person who demonstrates financial independence from parents or persons other than a spouse and who can meet the criteria established in Section 5 of this administrative regulation.

(10) "Institution" means an entity defined in KRS 164.001(10) if the type of institution is not expressly stated and includes the Kentucky Commonwealth Virtual University.

(11) "Kentucky residency" or "Kentucky resident" means the result

of a determination by an institution ~~[or by the Council on Postsecondary Education]~~ that a person is a resident of Kentucky as determined by this administrative regulation ~~[for the purpose of tuition assessment and for the purpose of admission to that institution, if applicable].~~

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

(13) "Preponderance of the evidence" means the greater weight of evidence, or evidence which is more credible and convincing to the mind.

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

- (a) A person's father or mother; or
- (b) A court-appointed legal guardian if:

1. The guardianship is recognized by an appropriate court within the United States;

2. There was a relinquishment of the rights of the parents; and

3. The guardianship was not established primarily to confer Kentucky residency on the person.

(15) "Residence" or "residency" means the place of abode of a person and the place where the person is physically present most of the time for a noneducational purpose in accordance with Section 3 of this administrative regulation.

(16) "Student financial aid" means all forms of payments to a student if ~~[by an institution where]~~ one (1) condition of receiving the payment is the enrollment of the [a] student at the institution.

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

Section 2. Scope. (1) State-supported postsecondary education institutions were established and are maintained by the Commonwealth of Kentucky primarily for the benefit of qualified residents of Kentucky. The substantial commitment of public resources to postsecondary education is predicated on the proposition that the state benefits significantly from the existence of an educated citizenry. As a matter of policy, access to postsecondary education shall be provided so far as feasible at reasonable cost to an individual who is domiciled in Kentucky and who is a resident of Kentucky.

(2) The Council on Postsecondary Education requires a student who is neither domiciled in nor a resident of Kentucky to meet higher admission standards and to pay a higher level of tuition than resident students.

(3) This administrative regulation applies to all student residency determinations regardless of circumstances, including the Southern Regional Education Board contract spaces; [;] reciprocity agreements, where appropriate; [;] the Kentucky Commonwealth Virtual University and academic common market programs.

Section 3. Determination of Residency Status; General Rules. (1) A determination of residency shall include:

(a) An initial determination of residency status by an institution during the admission process or upon enrollment in an institution for a specific academic term or for admission into a specific academic program;

~~(b) [Each administrative and residency review committee determination made by an institution;~~

~~(c) A reconsideration of a determination of residency status by an institution based upon a changed circumstance; and~~

~~(d) A formal hearing conducted by an institution upon request of a student after other administrative procedures have been completed.~~

~~[(d) An intermediate review by the Appeals Officer of the Council on Postsecondary Education if requested by the student; and~~

~~(e) An administrative hearing conducted in accordance with the provisions of KRS Chapter 13B and 13 KAR 2:070, if requested by the student.]~~

(2)(~~1~~) An initial determination of residency status shall be based upon:

(a) The facts in existence when the credentials established by an institution for admission for a specific academic term have been received and during the period of review by the institution;

(b) ~~[An initial determination of residency status shall be based on:~~

~~1.] Information derived from admissions materials;~~

(c) ~~[2.] Other materials required by an institution and which are consistent with this administrative regulation; or~~

(d) ~~[3.] Other information available to the institution from any source.~~

(3) An individual seeking a determination of Kentucky residency status shall demonstrate that status by a preponderance of the evidence.

(4) A determination of residency status shall be based upon verifiable circumstances or actions.

(5) Evidence and information cited as the basis for Kentucky domicile and residency shall accompany the application for a determination of residency status.

(6) A student classified as a nonresident shall retain that status until the student is officially reclassified by an institution ~~[or the Council on Postsecondary Education, as appropriate].~~

(7) A student may apply for a review of a determination of residency status once for each academic term.

(8) If an institution has information that a student's residency status may be incorrect, the institution shall review and determine the student's correct residency status.

(9) If the Council on Postsecondary Education has information that an institution's determination of residency status for a student may be incorrect, it may require the institution to review the circumstances and report the results of that review.

(10) An institution shall impose a penalty or sanction against a student who gives incorrect or misleading information to an institutional official, including payment of nonresident tuition for each academic term for which resident tuition was assessed based on an improper determination of residency status. The penalty may also include:

(a) Student discipline by the institution through a policy written and disseminated to students; or

(b) Criminal prosecution.

Section 4. Presumptions Regarding Residency Status. (1) In making a determination of residency status, it shall be presumed that a person is a nonresident if:

(a) A person is, or seeks to be, an undergraduate student and ~~[whose]~~ admissions records show the student to be a graduate of an out-of-state high school;

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

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

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

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

(2) A presumption arising from subsection (1) of this section shall be overcome by a demonstration of Kentucky domicile and residency.

Section 5. Determination of Whether a Student is Dependent or Independent. (1) In a determination of residency status, an institution shall first determine whether a student is dependent or independent. This provision is predicated on the assumption that a dependent person lacks the financial ability to live independently of the person upon whom the student is dependent and therefore lacks the ability to form the ~~[their]~~ requisite intent to establish domicile.

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

(a)1. That the person has not been claimed as a dependent on the federal or state tax returns of a parent or other person for the year preceding the date of application for a determination of residency status; or

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

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

(3) An individual who enrolls at ~~[in]~~ an institution immediately following graduation from high school and remains enrolled shall be presumed to be a dependent person unless the contrary is evident from the information submitted.

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

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

(6) Financial assistance ~~[A gift]~~ from or a loan ~~[:]~~ made~~[, or co-~~signed] by a parent or family member other than an independent spouse, if used for sustenance of the student:

(a) Shall not be considered in establishing a student as independent; and

(b) Shall be a factor in establishing that a student is dependent.

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

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

(b) The domicile and residency of a dependent person whose parents are divorced, separated, or otherwise living apart shall be Kentucky if either parent is domiciled in and is a resident of Kentucky regardless of which parent has legal custody or is entitled to claim that person as a dependent pursuant to Kentucky income tax provisions.

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

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

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

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

(a) During the time of active service; or

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

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

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

2. On temporary assignment of less than one (1) year.

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

(3) Membership in the National Guard or civilian employment at a military base alone shall not qualify a person for Kentucky residency status under the provisions of subsections (1) and (2) of this section.

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

Section 8. Status of Nonresident Aliens; Visas and Immigration.

(1)(a) A person holding a permanent residency visa or classified as a political refugee shall establish domicile and residency in the same manner as another person:

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

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

(3)(a) An independent person holding a nonimmigrant visa with designation [designations] B, C, D, F, J, K, M, or Q shall not be classified as a Kentucky resident, because that person does not have the capacity to remain in Kentucky indefinitely and therefore cannot form the requisite intent necessary to establish domicile within the meaning of this administrative regulation.

(b) A dependent person holding a visa as described in paragraph (a) of this subsection, but who is a dependent of a parent holding a visa as described in subsection (2) of this section, shall be considered as holding the visa of the parent.

(c) A dependent person holding a visa described in subsection (2) of this section or paragraph (a) of this subsection, if a parent is a citizen of the United States and is a resident of and domiciled in Kentucky, shall be a resident of Kentucky for the purposes of this administrative regulation.

Section 9. Beneficiaries of a Kentucky Educational Savings Plan Trust. A beneficiary of a Kentucky Educational Savings Plan Trust shall be granted residency status if the beneficiary meets the requirements of KRS 164A.330(9).

Section 10. Criteria Used in a Determination of Residency Status.

(1) A determination of Kentucky domicile and residency shall be based upon verifiable circumstances or actions. A single fact shall not be paramount, and each situation shall be evaluated to identify those facts [which are] essential to the determination of domicile and residency.

(2) The following facts, although not conclusive, shall have probative value in their entirety and shall be individually weighted, appropriate to the facts and circumstances in each determination of residency:

(a) Acceptance of an offer of full-time employment or transfer to an employer in Kentucky or contiguous area while maintaining residence and domicile in Kentucky;

(b) Continuous physical presence in Kentucky while in a nonstudent status for the twelve (12) months immediately preceding the start of the academic term for which a classification of Kentucky residency is sought;

(c)1. Filing of Kentucky resident income tax return for the calendar year preceding the date of application for a change in residency status; or

2. Payment of Kentucky withholding taxes while employed during the calendar year for which a change in classification is sought;

(d) Full-time employment of at least one (1) year while living in Kentucky;

(e) Attendance as a full-time, nonresident student at an out-of-state institution based on a determination by that school that the person is a resident of Kentucky;

(f) Abandonment of a former domicile or residence and establishing domicile and residency in Kentucky with application to or attendance at an institution following and incidental to the change in domicile and residency;

(g) Obtaining licensing or certification for a professional and occupational purpose in Kentucky;

(h) Payment of real property taxes in Kentucky;

(i) Ownership of real property in Kentucky, if the property was used by the student as a residence preceding the date of application

for a determination of residency status;

(j) Long-term lease of at least twelve (12) consecutive months of noncollegiate housing;

(k) Marriage of an independent student to a Kentucky resident;

(l) Continued presence in Kentucky during academic breaks; and

(m) The extent to which a student is dependent on student financial aid in order to provide basic sustenance.

(3) Except as provided in subsection (4) of this section, the following facts, because of the ease and convenience in completing them, shall have limited probative value in a determination that a person is domiciled in and is a resident of Kentucky:

(a) Kentucky automobile registration;

(b) Kentucky driver's license; and

(c) Registration as a Kentucky voter.

(4) The absence of a fact contained in subsection (3) of this section shall have significant probative value in determining that a student is not domiciled in or is not a resident of Kentucky.

(5) Kentucky residency status shall not be conferred by the performance of an act which is incidental to fulfilling an educational purpose or by an act which is performed as a matter of convenience. Mere physical presence in Kentucky, including living with a relative or friend, shall not be sufficient evidence of domicile and residency.

Section 11. Effect of a Change in Circumstances on Residency Status. (1) If a person becomes independent or if the residency status of a parent or parents of a dependent person changes, an institution shall reassess residency either upon a request by the student or a review initiated by an institution.

(2) Upon transfer to a Kentucky institution, a student's residency status shall be reassessed by the receiving institution.

(3) A reconsideration of a determination of residency status for a dependent person shall be subject to the provisions for continuous enrollment, if applicable.

Section 12. [Institutional Requirements; Designation of a Residency Appeals [Office and] Officer and Publication of the Administrative Regulation. (1) Each institution shall designate a residency appeals officer with:

(a) [A person or office at the institution with] Responsibility for a determination of residency status at that institution; and

(b) [An administrative office or person with] Delegated day-to-day responsibility for administration of this administrative regulation.

(2) The designation of a residency appeals officer [an administrative office or person] pursuant to subsection (1) of this section shall be in writing setting forth the duties and responsibilities. A copy shall be provided to the Council on Postsecondary Education.

(3) An [Each] institution shall establish an operational policy for the determination of residency status which shall be filed with the Council on Postsecondary Education and which shall include:

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

(b) Designated responsibilities of each institutional official involved in a determination of residency;

(c) Responsibilities of a person requesting:

1. Admission to an institution or to an academic program; or

2. A change in residency status;

(d) Procedures for the operation of a residency review committee created pursuant to Section 13 of this administrative regulation;

(e) Timetables and deadlines for student and institutional responses to a request for a review of an institutional determination of residency status;

(f) Training of institutional officials responsible for a determination of residency status; [and]

(g) The role of the residency review committee; and

(h) The method of selection of a hearing officer and the procedures for conducting a formal hearing that provide due process guarantees substantially equivalent to those provided under KRS Chapter 13B.

(4) This [The] administrative regulation shall be published in its entirety in all of each institution's catalogs and disseminated to each student.

(5) Copies of the administrative regulation shall be [maintained in the office designated pursuant to subsection (1) of this section and

shall be made available to each student requesting a [Council on Postsecondary Education review of an institution's initial] determination [review or reconsideration] of residency status.

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

(a) A student appeal of a determination of residency status by an officer designated by an institution pursuant to subsection (1) of this section; or

(b) [related to an initial determination of residency status];

(b) A recommendation of the administrative office or person designated pursuant to Section 12 of this administrative regulation, that the residency review committee review, evaluate, and act upon an initial determination of residency status; and

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

(2) The Kentucky Community and Technical College System may establish uniform operating policies and procedures for each branch within the system as defined in KRS 164.001(11) including a provision for separate institutional residency review committees.

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

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

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

Section 14. Student Responsibilities. (1) A student shall register under the proper residency classification which includes the following actions:

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

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

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

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

(3)(a) If a student fails to provide, by the date specified by the institution [in a timely manner], information required by an institution in a determination of residency status [or by the Council on Postsecondary Education in an appeal of a determination of residency status], the student shall be notified by the institution [or by the Council on Postsecondary Education, as appropriate,] that the review has been canceled and that a determination has been made.

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

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

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

Section 13. Institutional Responsibilities. Each institution shall:

(1) Provide for an administrative appeals process that includes a residency appeals officer to consider student appeals of an initial residency determination and which shall include a provision of fourteen (14) days for the student to appeal the residency appeals officer's determination.

(2) Establish a residency review committee to consider appeals of residency determinations by the residency appeals officer. The residency review committee shall make a determination of student residency status and notify the student in writing within forty-five (45)

days after receipt of the student appeal.

(3) Establish a formal hearing process as described [describe] in Section 14 of this administrative regulation.

(4) Establish written policies and procedures for administering the responsibilities established in subsections (1), (2), and (3) of this section and that are:

(a) Approved by the institution's governing board;

(b) Made available to all students; and

(c) Filed with the council.

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

(2) The application, with supporting documentation, shall be made by the student no later than thirty (30) calendar days after the first day of classes of the academic term for which a review of a determination of residency status is sought.

(3) An application shall consist of:

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

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

(4)(a) An application shall be first reviewed by the residency appeals officer [office or person designated by the institution pursuant to Section 12 of this administrative regulation.

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

(b) [(c)] An application for a review of residency status which is not submitted in a timely manner shall result in a determination of residency status consistent with an initial determination of residency status.

(5) The decision of the residency appeals officer [designated office or person, or of the residency review Committee] shall be set forth in a letter that includes:

(a) Findings of fact;

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

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

(d) A citation of the specific section of the administrative regulation that provided the basis for the institutional determination.

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

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

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

(9) An institution shall, by written policy, establish deadlines for the submission of written documentation by a person seeking a review of an initial determination of residency status and shall not consider an appeal which does not conform to the timetable requirements for documentation and for the process established in the institution's operational policy.

Section 16. Procedure for [Appeal to the Council on Postsecondary Education]

dary Education and] Intermediate Review by an Institution's Residency Review Committee. (1) The [the Council on Postsecondary Education Appeals Officer. (1) The President of the Council on Postsecondary Education shall designate a person on the staff of the Council on Postsecondary Education to serve as an appeals officer.

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

(2) [(3)] Upon receipt of notice from the residency appeals officer [residency review committee] of an institution's decision by certified or registered mail, the student shall have fourteen (14) calendar days to appeal that decision to a residency review committee [the Council on Postsecondary Education] by giving notice in writing to the [office or] person designated by the institution to administer this administrative regulation.

(3) [(4)] An appeal filed more than fourteen (14) calendar days after receipt of the decision of the residency appeals officer [review committee] shall be dismissed and the decision of the residency appeals officer [review committee] shall be final.

(4) A residency review committee shall have twenty-one (21) calendar days following notice of a student's appeal to make a determination of residency status. Notice to the student shall be provided by certified or registered mail, return receipt requested.

(5) The determination of residency status by a residency review committee shall be in writing and shall state the reason for the decision including reference to relevant sections of this administrative regulation which were used to support the decision.]

Section 14. [17:] Formal Institutional Hearing. (1) A student who appeals a determination of residency by a residency review committee shall be granted a formal hearing by an institution if the request is made by a student in writing within fourteen (14) calendar days after notification of a determination by a residency review committee.

(2) If a request for a formal hearing is received, an institution shall appoint a hearing officer to conduct a formal hearing. The hearing officer:

(a) Shall be a person not involved in determinations of residency at an institution except for formal hearings; and

(b) Shall not be an employee in the same organizational unit as the residency appeals officer.

(3) An institution shall have written procedures for the conduct of a formal hearing that have been adopted by the board of trustees or regents, as appropriate, and that provide for:

(a) A hearing officer to make a recommendation on [final determination of] a residency appeal;

(b) Guarantees of due process to a student that include [are substantially equivalent to those provided in KRS Chapter 13B including]:

1. The right of a student to be represented by legal counsel; and

2. The right of a student to present [new] information and to present testimony and information in support of a claim of Kentucky residency.

(c) A [final written decision or] recommendation to be issued by the hearing officer.

(4) An institution's formal hearing procedures shall be filed with the Council on Postsecondary Education and shall be available to a student requesting a formal hearing.

Section 15. [18:] Cost of Formal Hearings. (1) An institution shall pay the cost for all residency determinations including the cost of a formal hearing.

(2) A student shall pay for the cost of all legal representation in support of the student's claim of residency.

[(5) The office or person designated by the institution pursuant to Section 12 of this administrative regulation shall be responsible for forwarding to the Council on Postsecondary Education a complete copy of the student's file within fourteen (14) calendar days of the receipt of a notice of appeal. The student may review the content of the file before it is forwarded to the Council on Postsecondary Education.]

tion:

Section 17. Determination of the Council on Postsecondary Education Appeals Officer. (1) Except as provided in subsection (2) of this section, the appeals officer shall make a determination, based solely on the written record submitted, to affirm or reverse the residency review committee's decision.

(2) The appeals officer may order the appeal remanded to the residency review committee for further proceedings before the appeals officer renders a final determination if the appeals officer determines that:

(a) The residency review committee failed to consider all information and evidence submitted;

(b) The residency review committee failed to follow institutional policies and procedures; or

(c) The information provided by an institution does not support a determination of residency status.

(3)(a) New information provided by the student that was not available to the institution at the time of the institution's determination of residency status shall result in a decision by the appeals officer to remand the case to the residency review committee for further action.

(b) A remand by the appeals officer shall require the residency review committee to reconsider the determination of residency status in light of the new information.

(c) An institution shall notify a student in writing of additional information required and shall establish a deadline for the receipt of that information.

(d) The residency review committee shall consider the new information or evidence and shall forward a written recommendation to the appeals officer within twenty-one (21) calendar days after receipt of the notice of remand.

(e) A copy of the residency review committee recommendation shall be provided to the student.

(f) A remand shall be part of the appeal to the Council on Postsecondary Education and shall not constitute a determination by the appeals officer.

(4) The determination of the appeals officer shall be in writing and shall state the reason for the decision.

(5)(a) Except as provided in paragraph (b) of this subsection, within twenty-one (21) calendar days after receipt of the student's file, the recommendation of the appeals officer shall be forwarded to the student by certified or registered mail with a copy to the office or person designated by the institution to administer this administrative regulation.

(b) If the appeals officer remands an appeal under subsection (2) of this section, the twenty-one (21) days shall not include the time the order was made until the time the residency review committee's written recommendation was received by the appeals officer.

(6) The student shall have ten (10) calendar days after receipt of the appeals officer's recommendation to file a written appeal by registered or certified mail with the Council on Postsecondary Education requesting a formal adjudicatory hearing pursuant to KRS Chapter 13B and 13 KAR 2:070.

Section 18. Administrative Hearing to be Held If Requested by Student. (1) An administrative hearing on a request for a change in a determination shall be held in accordance with the provisions of KRS Chapter 13B and 13 KAR 2:070.

(2) The recommended order shall be received by the President of the Council on Postsecondary Education who shall issue a final decision on the appeal.

(a) The decision of the president shall be in writing and in accordance with KRS 13B.120.

(b) The decision of the president shall be provided to the student and the institution within twenty-one (21) calendar days after receipt of the hearing officer's decision.

(3) Upon receipt of the notification of the final decision of the president, the student shall have the right to appeal the decision to the appropriate court in accordance with KRS 13B.140.

Section 19. Charges to Institutions for Administrative Hearings. The Council on Postsecondary Education, upon receipt of a bill for the conduct of an administrative hearing on an appeal of a determination:

~~nation of residency status, shall assign one-half (1/2) of the cost of the administrative hearing to the institution from which the appeal is taken. An institution shall provide payment to the Council on Postsecondary Education or to the office or administrative entity so designated by the Council on Postsecondary Education within thirty (30) calendar days of receipt of the notice of payment.]~~

LEONARD V. HARDIN, Chair
DENNIS L. TAULBEE, General Counsel
APPROVED BY AGENCY: March 31, 1999
FILED WITH LRC: April 5, 1999 at 4 p.m.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy
(As Amended at ARRS, May 11, 1999)**

201 KAR 2:030. License transfer.

RELATES TO: KRS 315.191(1)(c), (d), ~~(f)~~
STATUTORY AUTHORITY: KRS 315.191(1)(a), (c), (d), ~~(f)~~;
315.210

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.210 requires the board to establish conditions for licensure by reciprocity. This administrative regulation establishes conditions, forms, and examination, for licensure by reciprocity.

Section 1. Definitions. (1) "Board" means the Kentucky Board of Pharmacy.

(2) "NABP" means the National Association of Boards of Pharmacy.

(3) "License transfer" means a license to practice pharmacy in Kentucky issued by the board to a pharmacist licensed in another jurisdiction.

Section 2. An applicant licensed in another jurisdiction shall be eligible for license transfer, if ~~the~~:

(1) ~~[The]~~ Requirements for initial licensure of the jurisdiction that granted his license met or exceeded Kentucky requirements for licensure at the time the license in the other jurisdiction was granted;

(2) ~~[The]~~ Applicant has not failed a board licensure examination;

(3) ~~[The]~~ Applicant has:

(a) Completed and certified the "NABP Preliminary Application for Transfer of Pharmaceutic Licensure" form; and

(b) Received an "NABP Official Application for Transfer of Pharmaceutic Licensure";

(4) ~~[The]~~ Applicant is in good standing in the jurisdiction from which he has applied;

(5) ~~[The]~~ Applicant has successfully completed an examination in jurisprudence; and

(6) ~~[The]~~ Applicant has met the requirements established by the provisions of this administrative regulation.

Section 3. Required Information. An applicant shall provide the information required by the "NABP Preliminary Application for Transfer of Pharmaceutic Licensure" ~~form~~, including:

(1) Name, maiden, and other names used currently or previously;

(2) Address, telephone number;

(3) Date and place of birth, and current age;

(4) Social Security number;

(5) Citizenship;

(6) Gender;

(7) State of original license by examination, including:

(a) License number;

(b) Original date of issue;

(c) Current status of original licensure; and

(d) State for which license transfer is requested;

(8) Pharmacy education, including:

(a) Name and location of pharmacy school;

(b) Name of pharmacy degree;

(c) Date degree was received;

(d) Other professional degrees, including the information specified by paragraphs (a) to (c) of this subsection;

(9) Whether the applicant has earned certification by the Foreign Pharmacy Graduate Examination Committee, and, if so, the examination equivalency number assigned;

(10) Total hours of practical experience prior to licensure as a pharmacist, including the State Board of Pharmacy with which the hours are filed;

(11) States, dates, and results of pharmacist licensure examinations;

(12) Pharmacist licenses obtained by:

(a) Score transfer; and

(b) Licensure transfer;

(13) Practice and employment, including nonpharmacist employment, from initial licensure to date of filing application; and

(14) Record of charges, convictions, and fines imposed, or certification that the applicant has not been convicted, fined, disciplined, or had a license revoked.

Section 4. The board shall accept a license transfer from a jurisdiction that:

(1) Is an active member of the NABP; and

(2) Grants license transfer to a pharmacist pursuant to conditions and requirements that are the equivalent of conditions and requirements established by the board.

Section 5. An applicant shall take and pass the Multistate Pharmacy Jurisprudence Examination administered by the NABP. ~~[appear in person before the board or a member thereof for the jurisprudence examination].~~

Section 6. An applicant who has not actively engaged in the practice of pharmacy as a registered pharmacist during the year preceding the time of filing the application shall take a practical examination.

Section 7. Fee. An applicant shall include the fee specified by 201 KAR 2:050, Section 1(3).

Section 8. Incorporation by Reference. (1) "NABP Preliminary Application for Transfer of Pharmaceutic Licensure", is incorporated by reference.

(2) It may be inspected, copied, or obtained at Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601-8204, Monday through Friday, 8 a.m. to 4:30 p.m.

RODNEY C. STACEY, President

CHERYL LALONDE-MOONEY, J.D., Assistant Attorney General

APPROVED BY AGENCY: February 15, 1999

FILED WITH LRC: February 15, 1999 at noon

**GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy
(As Amended at ARRS, May 11, 1999)**

201 KAR 2:040. Registration of pharmacist interns.

RELATES TO: KRS 315.010(16), 315.020(3), (4), 315.050(4), (5), 315.191(1)(h) ~~[Chapter 315]~~

STATUTORY AUTHORITY: KRS 315.050(4), (5), 315.191(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Kentucky Board of Pharmacy is required by KRS 315.050(4) to establish standards for pharmacy intern certification. KRS 315.191(1)(h) authorizes the board to establish an apprentice program for training, qualifications, and registration of applicants for registration of pharmacist interns. This administrative regulation establishes the standards for training, qualifications, and registration of pharmacist interns. ~~[authorized by KRS 315.050(1) to determine the minimum experience internship required to qualify for examination as a registered pharmacist. KRS 315.191 also authorizes the board to establish requirements and standards for educational, technical and professional qualifications of applicants for license to practice pharmacy. This administrative regulation is to assure uniformity of the minimum experience internship.]~~

Section 1. Definitions. "Preceptor" means the pharmacist who is the immediate supervisor of a pharmacist intern.

Section 2. (1) An applicant for registration as a pharmacist intern shall register with the board by filing an "Application for Registration as a Pharmacist Intern" form with the board, to which a recent head and shoulders photograph, that is not a proof copy or plastic identification, has been attached.

(2) Prior to registration, an applicant shall have:

(a) Been accepted by a college or school of pharmacy approved by the board; and

(b) Submitted proof of acceptance by a college or school of pharmacy approved by the board. [Every person who desires to become a pharmacy intern in Kentucky shall register as an intern with the Kentucky Board of Pharmacy. No credit for internship shall be recognized by the board for periods prior to such registration. To qualify for registration, a person shall have been accepted to an accredited college or school of pharmacy recognized by the board [successfully completed two (2) full years attendance at an accredited college or university]; and shall furnish proof of such to the executive director of the board prior to the registration.]

Section 3. (1) An applicant for examination for licensure as a pharmacist shall have completed 1,500 hours of internship.

(2) Credit for internship shall be limited to forty-eight (48) hours per week. [2. The practical experience required prior to licensure shall be referred to as internship. The minimum internship required as to a prerequisite for licensure examination shall be 1,500 hours; not more than forty-eight (48) hours of internship may be allowed for credit in any one (1) calendar week.]

Section 4. (1) A pharmacist intern shall be issued a "Registration Identification Card".

(2) A pharmacist intern shall:

(a) Carry his "Registration Identification Card" when on duty; and

(b) Show it upon request to a member of the board or its authorized agent. [3. The board shall [furnish application blanks and] issue a numbered registration identification card to each applicant who meets the requirements for registration as a registered intern upon receipt of a completed registration form and the fee. The registered intern shall have his registration identification card in his possession at all times when on duty and it shall be exhibited by the holder upon request of any member of the board or its authorized agents.]

Section 5. [4:] (1)(a) Except as provided by paragraph (b) of this subsection, the registration of a pharmacist intern shall be revoked if the pharmacist intern is not enrolled in a college or school of pharmacy approved by the board.

(b) The registration of a pharmacist intern who is not enrolled in a college or school of pharmacy approved by the board shall not be revoked if the board determines that he is not enrolled because of personal or family health, or other reasons beyond the control of the pharmacist intern. [Internship registration shall be limited to those persons who are actively engaged in meeting the academic or practical experience requirements for licensure examination. No person who terminates the educational requisites is entitled to the privileges of internship registration, with the exception of any hardship case given written approval by the board.]

(2) A person who is not registered as a pharmacist intern shall not:

(a) Hold himself out as a pharmacist intern; or

(b) Perform the duties of a pharmacist intern. [No person unregistered with the board as a pharmacy intern shall take, use, or exhibit the title of pharmacy intern, pharmacy apprentice, pharmacy extern, or any term of similar or of like import.]

(3)(a) Credit shall be given for the following forms of internship:

1. Completion of academic coursework at a college or school of pharmacy approved by the board;

2. Work performed in a pharmacy under the supervision of a preceptor; and

3. Work or research related to the practice of pharmacy that

was performed under the supervision of a preceptor for a government body, college or university, pharmaceutical business, or other entity.

(b) Internship performed outside Kentucky shall be credited if the:

1. Requirements for internship where performed are at least equivalent to requirements established by this administrative regulation;

2. Board of pharmacy in the state in which the internship was performed has certified that the preceptor, pharmacy, government body, college or university, pharmaceutical business, or other entity is in good standing. [Internship, other than the internship awarded by completion of academic coursework, shall be credited only when it has been obtained in a pharmacy, or when approval for a nontraditional internship has been granted by the board prior to commencement of the nontraditional internship. The maximum hours that may be approved for a nontraditional internship is 400. Interns who receive board authorization for a nontraditional internship shall provide to the board at least a 500 word essay describing their experience and its relation to the practice of the profession prior to receiving internship credit.] [acceptable to the board for that purpose.]

(4)(a) Until July 30, 2000, a preceptor shall be a pharmacist who has been licensed by the board for at least one (1) year.

(b) Beginning August 1, 2000, a preceptor shall be a pharmacist who:

1. Has been licensed by the board for at least one (1) year; and

2. Is a community-based faculty member of the College of Pharmacy of the University of Kentucky; or meets the standards established by the College of Pharmacy of the University of Kentucky for a community-based faculty member.

(c) A preceptor shall be actively engaged in the practice of pharmacy in the location where the pharmacist intern performs his internship.

(d) A preceptor shall supervise only one (1) pharmacist intern at a time. [Internship may be acquired only under the supervision of a preceptor. The preceptor, the pharmacy intern's supervising pharmacist, must have been licensed by the board for at least one (1) year. Effective August 1, 2000, the preceptor shall be either a community-based faculty member of the University of Kentucky or meet the standards established by the University of Kentucky for community-based faculty. He must be actively engaged in the practice of pharmacy full-time in the pharmacy where the pharmacy intern is to obtain his internship. A preceptor may supervise only one (1) [pharmacy] intern at a time.]

Section 6. (1) Within ten (10) days of beginning an internship, a pharmacist intern shall submit a "Pharmacist Preceptor's Affidavit".

(2) On or before October 1 of each year of an internship, a pharmacist intern shall submit an "Internship Report". A pharmacist intern who performs work or research related to the practice of pharmacy that was performed under the supervision of a preceptor for a government body, college or university, pharmaceutical business, or other entity shall also file an essay of at least 500 words describing the work or research experience and the relation of the work or research to the practice of pharmacy.

[5. An [A pharmacy] intern having served part or all of his time in a pharmacy outside the state shall be given credit for the same, when affidavit(s) of his [said] employment is made by his preceptor(s) showing the exact time and dates served, and when [same is] attested by the Board of Pharmacy of that state. In such cases, their requirements for internship must be comparable and acceptable to the Kentucky board.]

[Section 6. Internship report forms may be obtained from the board and shall be filed in accordance with printed instructions on such forms.]

Section 7. Credit for Internship. (1) Until December 31, 2000:

(a) Bachelor of Science in Pharmacy: 710 hours;

(b) Doctor of Pharmacy: 960 hours.

(2) Beginning January 1, 2001: Doctor of Pharmacy: credit

for each hour of practice of pharmacy academic coursework at a college or school of pharmacy approved by the board.

(3) Work performed in a pharmacy under the supervision of a preceptor: credit for each hour of practice of pharmacy.

(4) Work or research related to the practice of pharmacy that was performed under the supervision of a preceptor for a government body, college or university, pharmaceutical business, or other entity: credit for each hour of practice of pharmacy not to exceed 400 hours.

(5) Credit shall not be given for internship completed prior to registration with the board. [Hours of internship on an hour-per-hour credit basis for practice of pharmacy experiences shall be awarded for the successful completion of a doctor of pharmacy degree when documented and certified by the accredited school or college of pharmacy when the student receives a grade of "C" or its equivalent for each course. Until January 1, 2000, a minimum of 710 hours of internship shall be awarded for the successful completion of a bachelor of science in pharmacy degree and a minimum of 960 hours of internship shall be awarded for the successful completion of a doctor of pharmacy degree.]

Section 8. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) "Application for Registration as a Pharmacist Intern Form 1 (5/99);

(b) "Registration Identification Card";

(c) "Pharmacist Preceptor's Affidavit Form 2 (5/99)"; and

(d) "Internship Report form (9/99)".

(2) These forms may be inspected, copied, or obtained at the Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601-8204, Monday through Friday, 8 a.m. to 4:30 p.m.

RODNEY C. STACEY, President
CHERYL LALONDE-MOONEY, J.D., Assistant Attorney General
APPROVED BY AGENCY: February 15, 1999
FILED WITH LRC: February 15, 1999 at noon

**GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy
(As Amended at ARRS, May 11, 1999)**

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

RELATES TO: KRS Chapter 315

STATUTORY AUTHORITY: KRS 315.035, 315.050, 315.060, 315.110(1), (2), 315.191(2), 315.195, 315.210

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(i) authorizes the board to assess reasonable fees for services rendered to perform its duties and responsibilities. This administrative regulation provides [is to provide] reasonable fees for this agency to perform all the functions for which it is responsible and to operate within its budget. All monies are held in a trust and agency fund to the credit of the board.

Section 1. The following fees shall be paid in connection with pharmacist examinations and licenses, pharmacy permits, intern certificates and the issuance and renewal of licenses and permits:

(1) Application for a registered pharmacist license by examination including a license issued as a result thereof but does not include any direct costs for test materials and supplies - \$150.

(2) Retake examination as described in 201 KAR 2:020 - \$100.

(3) Application and initial license for a [registered] pharmacist license by license transfer [reciprocity including license issued as a result thereof] - \$250.

(4) Certifying the grades of a licentiate of Kentucky to the licensing agency of another state - ten (10) dollars.

(5) Annual renewal of a pharmacist license - seventy (70) dollars.

(6) Delinquent renewal penalty for a pharmacist license - seventy (70) dollars.

(7) Annual renewal of an inactive pharmacist license - ten (10) dollars.

(8) Pharmacy intern certificate valid six (6) [four (4)] years - twenty-five (25) dollars.

(9) Duplicate pharmacist license certificate - twenty (20) dollars.

(10) Application for a permit to operate a pharmacy - \$100.

(11) Renewal of a permit to operate a pharmacy - \$100.

(12) Delinquent renewal penalty for a permit to operate a pharmacy - seventy-five (75) dollars.

(13) Change of location or change of ownership of a pharmacy, drug wholesaler or manufacturer permit - seventy-five (75) dollars.

(14) Application for a permit to operate as a drug wholesaler or manufacturer - \$100.

(15) Renewal of a permit to operate as a drug wholesaler or manufacturer - \$100.

(16) Delinquent renewal penalty for a permit to operate as a drug wholesaler or manufacturer - \$100.

RODNEY C. STACEY, President
CHERYL LALONDE-MOONEY, J.D., Assistant Attorney General
APPROVED BY AGENCY: February 15, 1999
FILED WITH LRC: February 15, 1999 at noon

**GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended at ARRS, May 11, 1999)**

201 KAR 9:320. Procedures for physician training and supervision of individuals in the use of automatic external defibrillators.

RELATES TO: KRS 311.595(9), 311.597(4)

STATUTORY AUTHORITY: KRS 311.565(1)(a), (b), 311.601(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.595(9) and 311.597(4) provide that a physician's practice shall conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky. This administrative regulation establishes the standard of acceptable and prevailing medical practice for physicians who train individuals for certification in the use of automatic external defibrillators.

Section 1. Definitions. (1) "Authorized individual" means a person, not otherwise licensed or certified to use an automated external defibrillator, who has:

(a) Met the training standards established by this administrative regulation; and

(b) Been issued a prescription by a physician for use of an automated external defibrillator on a patient not specifically identified at the time the physician's prescription is given.

(2) "Automated external defibrillator" or "AED" means a fully or semiautomatic external defibrillator capable of cardiac rhythm analysis which will charge and, with or without further operator action, deliver a shock after electronically detecting and assessing ventricular fibrillation or rapid ventricular tachycardia.

(3) "Cardiopulmonary resuscitation" or "CPR" means a basic emergency procedure for life support, consisting of artificial respiration and manual external cardiac massage.

(4) "Internal emergency response system" means a plan of action and responders within a facility:

(a) To activate the 911 emergency system; and

(b) Provide for the access, coordination, and management of immediate medical care to seriously ill or injured individuals.

(5) "Prescribing physician" means a physician, licensed in Kentucky, who:

(a) Issues a written order for the use of the automated external defibrillator to an authorized individual; and

(b) Develops, implements, and maintains the medical control provisions established by this administrative regulation.

Section 2. General Training Provisions. (1) A physician licensed in Kentucky may authorize an individual to apply and operate an AED on an unconscious, pulseless, patient who is

apneic or has agonal respirations, if the individual has met the training standards established by this administrative regulation.

(2) The provisions of this administrative regulation shall not apply to licensed, certified, or other prehospital emergency medical personnel governed by KRS 211.964 and 311.654.

(3) An individual shall be eligible for the training prescribed by this administrative regulation if he has:

(a) Successfully completed a basic life support providers course within the past two (2) years; and

(b) Demonstrated proficiency in CPR practices to the satisfaction of the prescribing physician.

Section 3. Training Standards. (1) Training shall:

(a) Consist of not less than four (4) hours;

(b) Conform with the American Heart Association recommended curriculum for a providers course in the use of automated external defibrillators; and

(c) Include the topics and skills specified in subsection (2) of this section.

(2) Required topics and skills.

(a) Proper use, maintenance and periodic inspection of the AED;

(b) The importance of:

1. CPR;

2. Defibrillation;

3. Advanced life support; and

4. Internal emergency response system;

(c) Overview of the local emergency medical services system, including 911 access, and interaction with emergency medical services personnel;

(d) Assessment of an unconscious patient to determine if cardiac arrest has occurred and the appropriateness of applying and activating an AED;

(e) Information relating to defibrillator safety precautions to enable the individual to administer shock without jeopardizing the safety of the patient or the authorized individual or other nearby persons;

(f) Recognition that an electrical shock has been delivered to the patient and that the defibrillator is no longer charged;

(g) Rapid, accurate assessment of the patient's postshock status to determine if further activation of the AED is necessary; and

(h) Authorized individual's responsibility for continuation of care, such as:

1. Repeated shocks if necessary; or

2. Accompaniment to the hospital if indicated, an emergency medical technician, a paramedic, or a physician.

Section 4. Medical Control. (1) Before prescribing and authorizing the use of an AED, a prescribing physician shall have established policies and procedures which shall include the items specified by subsection (2) of this section.

(2) Required policies and procedures.

(a) A description of the utilization of the AED, including written medical protocols that shall include:

1. Authorization of personnel;

2. Standing orders; and

3. Case-by-case reviews;

(b) Provisions requiring compliance with any local emergency medical services agency's policies and procedures;

(c) Provisions establishing the training and testing of an individual in the use of the AED;

(d) Provisions to ensure the continued competency of an authorized individual, including:

1. Periodic training;

2. Annual skill proficiency demonstrations;

3. More frequent training and skill proficiency demonstrations, if it has been determined by the prescribing physician that the skill proficiency of an authorized individual does not meet the standard required for operation of an AED; and

4. Monitoring by either the prescribing physician, or his designee;

(e) A method of medical control, including:

1. A review of each incident of application; and

2. The recording of each incident of application by means of magnetic tape, or other electronic storage; and

(f) The conditions for the rescission or termination of the authorization for the utilization of the AED.

Section 5. An individual shall not be authorized to use an AED unless he has passed a written and skills examination established by the prescribing physician, which tests the ability to assess and manage the specified conditions specified in Section 3 of this administrative regulation.

Section 6. Written Validation. A prescribing physician shall issue to the authorized individual a written validation or other document establishing the authorized individual's ability to use an AED.

Section 7. Suspension, Limitation, Revocation. (1) A prescribing physician may suspend, limit or terminate an authorized individual's authority to use an AED for failure to meet the requirements, or comply with the provisions, of this administrative regulation.

(2) Notification to an authorized individual shall be in writing.

(3) Revocation shall be made in writing and shall include a statement of the reasons for suspension, limit, or revocation.

(4) If an authorized individual whose authority has been revoked is part of an internal emergency response system, his employer shall also be notified in writing.

Section 8. (1) A prescribing physician shall retain the following information:

(a) A list of persons he has authorized to use an AED; and

(b) A list of persons whose authorization to use an AED he has revoked, suspend, or limited.

(2) Upon request, a prescribing physician shall transmit the lists specified by subsection (1) of this section to the board.

[Procedures for physician training and/or supervision of non-certified individuals in the use of automatic external defibrillators (AEDs):

RELATES TO: KRS 311.595(9); 311.597(4)

STATUTORY AUTHORITY: KRS 311.565; 311.601

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 311.595(9), as illustrated by KRS 311.597(4), a physician's practice must conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky. The function of this administrative regulation is to provide consistent and clear guidelines as to the standard of acceptable and prevailing medical practice in regard to physicians involved in the training or supervision of noncertified individuals utilizing automatic external defibrillators.

Section 1. Definitions. (1) "Authorized individual" means any person, not otherwise licensed or certified to use the automated external defibrillator, who has met the training standards of these guidelines, and has been issued a prescription by the prescribing physician for use of an automated external defibrillator on a patient not specifically identified at the time the physician's prescription is given.

(2) "Automated external defibrillator" or "AED" means an external defibrillator capable of cardiac rhythm analysis which will charge and, with or without further operator action, deliver a shock after electronically detecting and assessing ventricular fibrillation or rapid ventricular tachycardia. These devices are known as fully or semi-automatic defibrillators.

(3) "Cardiopulmonary resuscitation" or "CPR" means a basic emergency procedure for life support, consisting of artificial respiration and manual external cardiac massage.

(4) "Internal Emergency Response System" means a plan of action and responders within a facility to activate the "911" emer-

gency system, and which provides for the access, coordination, and management of immediate medical care to seriously ill or injured individuals.

(5) "Prescribing physician" means a physician, licensed in Kentucky, who issues a written order for the use of the automated external defibrillator to authorized individual(s), and who develops, implements, and maintains the medical control provisions specified in these guidelines.

Section 2. General Training Provisions. (1) Any physician licensed in Kentucky may authorize an individual to apply and operate an AED on an unconscious, pulseless, patient who is apneic or has agonal respirations, only if that authorized individual has been successfully trained according to the standards prescribed by these guidelines:

(2) The training standards prescribed by these guidelines shall not apply to licensed, certified or other prehospital emergency medical personnel as defined by KRS 211.964 and 311.654.

(3) An individual shall be eligible for the training prescribed in these guidelines if the person has successfully completed a BLS providers course within the past two (2) years, and has demonstrated proficiency in CPR practices to the satisfaction of the prescribing physician.

Section 3. Training Standards. The training shall consist of not less than four (4) hours, shall conform with the American Heart Association (AHA) recommended curriculum for a providers course in the use of automated external defibrillators, and shall include the following topics and skills:

- (1) Proper use, maintenance and periodic inspection of the AED;
- (2) The importance of:
 - (a) CPR;
 - (b) Defibrillation;
 - (c) Advanced life support;
 - (d) Internal emergency response system;
- (3) Overview of the local EMS system, including 911 access, and interaction with EMS personnel;

(4) Assessment of an unconscious patient to determine if cardiac arrest has occurred and the appropriateness of applying and activating an AED;

(5) Information relating to defibrillator safety precautions to enable the individual to administer shock without jeopardizing the safety of the patient or the authorized individual or other nearby persons;

(6) Recognition that an electrical shock has been delivered to the patient and that the defibrillator is no longer charged;

(7) Rapid, accurate assessment of the patient's postshock status to determine if further activation of the AED is necessary; and

(8) Authorized individual's responsibility of continuation of care, such as the repeated shocks if necessary, and/or accompaniment to the hospital, if indicated, or until the arrival of more medically qualified personnel.

Section 4. Medical Control. (1) Before prescribing and authorizing the use of the AED, the prescribing physician shall establish appropriate policies and procedures which shall include:

(a) A description of the utilization of the AED, including written medical protocols which may include, but are not limited to, authorization of personnel, standing orders and case-by-case reviews;

(b) Provisions to comply with any local EMS agency's policies and procedures;

(c) A mechanism for the training and testing of the authorized individual in the use of the AED;

(d) A mechanism that will assure the continued competency of the authorized individual to include periodic training, and skill proficiency demonstrations annually, with more frequent training and proficiency demonstrations in the discretion of the medical director, monitored by either the prescribing physician, or his/her designee (which may be another authorized individual);

(e) A method of medical control to include reviews of each incident of application and the recording of such, either by means of magnetic tape or other suitable storage; and

(f) The conditions for the rescission or termination of the authori-

zation for the utilization of the AED:

(2) The prescribing physician may suspend, limit or terminate an individual's authority to use the AED. Notification to the individual will be in writing. If the individual is part of an internal emergency response system, the individual's employer shall also be notified in writing.

(3) Testing. In order for an individual to be authorized to use the AED, the individual shall pass a written and skills examination, to be determined by the prescribing physician, which tests the ability to assess and manage the specified conditions prescribed in Section 3 of this administrative regulation.

(4) Written validation. The prescribing physician shall issue to the authorized individual a written validation or other documented proof of the authorized individual's ability to use an AED.]

DANNY M. CLARK, President

DONNA L. DELAHANTY, Assistant General Counsel

APPROVED BY AGENCY: August 6, 1998

FILED WITH LRC: August 11, 1998 at 10 a.m.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Barbering
(As Amended at ARRS, May 11, 1999)**

201 KAR 14:040. Inspection of shops and schools.

RELATES TO: KRS 317.440(1), 317.450(3), 317.590

STATUTORY AUTHORITY: KRS 317.440(1), 317.450(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317.450(3) requires the board to refuse to issue a license to a barber who has failed to comply with the provisions of KRS Chapter 317 and 201 KAR Chapter 14. KRS 317.590 authorizes disciplinary action for violations of KRS Chapter 317 and 201 KAR Chapter 14. This administrative regulation establishes requirements relating to the inspection of a barber shop or school and the information to be displayed at a barber shop or school. [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. A board member or authorized agent may inspect a barber shop, manicuring establishment located within a barber shop, or a barber school to determine if the licensee is in compliance with KRS Chapter 317 and 201 KAR Chapter 14. [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. A barber shop or school shall conspicuously display:

(1) The license and picture of each barber engaged in the practice of barbering at that shop or school;

(2) The license for the barber shop or school; and

(3) The most recent inspection sheet furnished by the board for the barber shop or school. The inspection sheet shall include the telephone number and address for a consumer to use to file a complaint against a licensee. [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

VOLUME 25, NUMBER 12 – JUNE 1, 1999

CHERYL LALONDE-MOONEY, Assistant Attorney General
APPROVED BY AGENCY: March 1, 1999
FILED WITH LRC: March 10, 1999 at 11 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Barbering
(As Amended at ARRS, May 11, 1999)

201 KAR 14:090. School curriculum.

RELATES TO: KRS 317.410, 317.440(1)(e), 317.540

STATUTORY AUTHORITY: KRS 317.440(1)(e), 317.540(2), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS

317.440(1)(e) requires the board to promulgate an administrative regulation governing the hours and courses of instruction at barber schools. KRS 317.540 requires the board to promulgate an administrative regulation prescribing the courses and requirements for a barber school. This administrative regulation establishes requirements for the course of study at barber schools. [Sets up curriculum for barber schools and establishes the number of hours in each subject.]

Section 1. A student shall receive at least 1,500 hours in practice work and lectures based on the following courses of study:

(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.

- (a) [(1)] Razors.
- (b) [(2)] Shears.
- (c) [(3)] Clippers.
- (d) [(4)] Hones and strops.
- (e) [(5)] Combs, brushes, hair dryers and curling irons.

(2) [Section 3:] Shaving instructions - 100 hours.

- (a) [(1)] Purpose of lather.
- (b) [(2)] How to apply lather properly to the face.
- (c) [(3)] How to sterilize razor before shaving.
- (d) [(4)] How to stretch the skin while shaving.
- (e) [(5)] Proper method for wiping the razor.
- (f) [(6)] How to shave a patron once over.
- (g) [(7)] How to shave a patron second time over.
- (h) [(8)] Method of removing soap and cleaning face with hot

towels after shaving.

(i) [(9)] How to apply various after shave creams and lotions.

(j) [(10)] How to trim a mustache.

(k) Demonstrations and lectures on the various positions for holding a razor to shave a face while standing on one (1) side of the barber chair.

1. Each stroke shall be thoroughly explained.

2. The instructor shall ensure that the student:

a. Uses professional technique while performing the shaving strokes;

b. Understands the necessity of:

(i) Personal hygiene;

(ii) Using clean linens;

(iii) Sterilizing each instrument used on a patron; and

c. Is advised to pay attention to a patron's comfort while in the chair.

3. The different textures of beards and the directions of the grain shall be explained. [(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.]

(3) [Section 4:] Haircutting for men, women and children - 935 hours.

(a) [(1)] How to apply hair cloth, towel and neck strip.

(b) [(2)] How and why to comb hair before cutting.

(c) [(3)] Method of tapering hair.

(d) [(4)] Method of thinning hair.

(e) [(5)] Method of finger work.

(f) [(6)] Method of cutting hair on top of head.

(g) [(7)] Method of cutting hair with a razor.

(h) [(8)] How to use a neck duster or tissue.

(i) [(9)] Method of shaving sides and neck after removing hair cloth.

(j) [(10)] Method of combing, drying and dressing the hair.

(k) ~~The [(11) In addition to the above lessons the student should have a full explanation of various]~~ methods of haircutting and hair styling.

(4) [Section 5:] Shampooing - forty (40) hours.

(a) [(1)] Purpose and how to give a proper shampoo.

(b) [(2)] How to prepare customer for shampoo.

(c) [(3)] Different materials to be used.

(d) [(4)] Difference in various kinds of shampoo.

(5) [Section 6:] Permanent waving - forty (40) hours.

(a) [(1)] Explain chemical and physical actions in permanent waving.

(b) [(2)] Necessity of scalp and hair analysis.

(c) [(3)] Basic requirements, blocking sections, curling rods and processing time.

(d) [(4)] Safety and protection for patrons.

(6) [Section 7:] Hair coloring - forty (40) hours.

(a) [(1)] Safety measures.

(b) [(2)] Chemicals involved.

(c) [(3)] How to apply.

(7) [Section 8:] Hair straightening and relaxing - forty (40) hours.

(a) [(1)] Patron protection.

(b) [(2)] Hair and scalp analysis.

(c) [(3)] Methods of application.

(8) [Section 9:] Massaging - thirty-five (35) hours.

(a) [(1)] Theory and different types of massaging.

(b) [(2)] Application, demonstration of various creams and lotions in facial.

(c) [(3)] Effect of light therapy on tissues.

(d) [(4)] Results produced by massage on the skin, muscles, cells, glands and circulation.

(e) [(5)] When, and when not, to recommend massage.

(f) [(6)] All modern, electrical equipment used in barber shops with demonstrations.

(9) [Section 10:] Scalp and skin diseases - twenty (20) hours.

(a) [(1)] Various kinds of scalp treatment.

(b) [(2)] When to suggest that patron consult a physician.

(c) [(3)] The danger of giving a scalp treatment to a scalp afflicted with an unknown disease.

(d) [(4)] Explain causes and treatment of dandruff [~~and treatment of same~~].

(e) [(5)] Give causes of dry and oily scalps and treatment.

(f) [(6)] Explain various forms of alopecia and treatment.

(g) [(7)] Explain causes of seborrhea, acne, psoriasis, impetigo and eczema in their various forms.

(h) [(8)] Explain advisability of cooperating with physician in treating scalp in barber shop.

(10) [Section 11:] Physiology and anatomy of the head, face and neck - 100 hours.

(a) [(1)] Give descriptions of skin, hair, glands, and their various functions.

(b) [(2)] Shedding and regrowth of hair.

(c) [(3)] Sweat glands and their functions.

(d) [(4)] Hair follicle, hair bulb and papilla.

(e) [(5)] Sympathetic and cerebrospinal nervous system.

(f) [(6)] Blood supply to the face and scalp.

(g) [(7)] Preservation and beautification of the hair and skin.

(h) [(8)] Microscopic studies of the hair.

(i) [(9)] Benefits derived from relaxation from fatigue while in barber chair.

(11) [Section 12:] Sterilization and sanitation - forty (40) hours.

(a) [(+)] Definition of sterilization, disinfectants, antiseptics and their uses.

(b) [(2)] Chemicals to be used in sterilization.

(c) [(3)] Methods of sterilization.

(d) [(4)] Difference between contagion and infection.

(e) [(5)] Taking precautions to prevent infection.

(f) [(6)] Importance of sterilization of all instruments used in the barber shop.

(12) [Section 13:] Hygiene - ten (10) hours.

(a) [(+)] Theory and importance of personal hygiene.

(b) [(2)] Hygiene as it applies to the practice of barbering.

(13) [Section 14:] Bacteriology - twenty (20) hours.

(a) [(+)] Discovery of existence of bacteria.

(b) [(2)] Production, growth and destruction of bacteria.

(c) [(3)] Necessity of elementary knowledge of bacteria.

(d) [(4)] Possibility of barber shop infection.

(e) [(5)] Various agents that may carry bacteria in barber shop service.

(f) [(6)] Difference in bacteria that are [is] helpful and needed and bacteria that are [that which is] harmful.

(g) [(7)] Advise absolute cleanliness and sanitation in all practices of barbering because of harmful bacteria.

(14) [Section 15:] Electricity - ten (10) hours. Explain various electrical equipment and appliances that can be used in barber science treatments.

(15) [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].

(16) [Section 17:] Psychology - ten (10) hours. [Explain:]

(a) [(+)] Necessity of organization.

(b) [(2)] High ideals in the barber business.

(c) [(3)] Emphasize development of personality and skill to inspire confidence in the public.

(17) [Section 18:] History, Professional ethics [Ethics] and other information - ten (10) hours.

(a) [(+)] History of the barber profession.

(b) [(2)] Importance of barbering and its relation to civilization.

(c) [(3)] Give lectures on Business management, bookkeeping, shop management, and advertising.

Section 2. [19:] (1) A student shall complete the course of study required by Section 1 of this administrative regulation as required by KRS 317.540(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 shall [should] be devoted to the teaching and explanation of KRS Chapter 317 and 201 KAR Chapter 14, [the Kentucky Barber Law]

Section 3. [20:] (1) A microscope shall be part of the school's equipment to enable a student to study the structure of the hair and scalp. [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.

GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(As Amended at ARRS, May 11, 1999)

201 KAR 22:135. Fees.

RELATES TO: KRS 327.040(12), 327.050(2), (8), 327.075(1), 327.080(1)

STATUTORY AUTHORITY: KRS 327.040(12), 327.050(2), (8), 327.075(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(12) authorizes the board to establish reasonable fees for the certification, renewal and endorsement of physical therapists' assistants. KRS 327.050(2) requires the board to establish a non-refundable application fee not to exceed \$250 for licensure as a physical therapist and requires an applicant to pay an examination fee. KRS 327.050(8) requires the board to establish a biennial renewal fee not to exceed \$100 for a license. KRS 327.075(1) requires the board to establish a reinstatement fee not to exceed twenty-five (25) dollars for a lapsed license or certificate. This administrative regulation establishes the [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) Except as provided in subsection (2) of this section, an application fee shall be:

(a) Made payable as required by KRS 327.080(1); and

(b) Paid by:

1. Cashier's check;

2. Certified check; or

3. Money order.

(2) A renewal application fee shall be paid:

(a) As required by subsection (1) of this section; or

(b) By personal check. [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 [140];

(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 BRENDELMAN, Assistant Attorney General

APPROVED BY AGENCY: February 18, 1999

FILED WITH LRC: March 15, 1999 at noon

GENERAL GOVERNMENT CABINET
Kentucky Board of Podiatry
(As Amended at ARRS, May 11, 1999)

201 KAR 25:031. Continuing education.

RELATES TO: KRS 311.450(2)

STATUTORY AUTHORITY: KRS 311.410(4), 311.450(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.450(2) requires the board to promulgate an administrative regulation to establish continuing education requirements for a podiatrist. This administrative regulation establishes those continuing edu-

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cation requirements. [~~Sets forth those requirements concerning annual courses of study of subjects relating to the practice of podiatry for compliance with the continuing education requirement for relicensure.~~]

Section 1. (1) Each podiatrist licensed by the board shall ~~[be required to]~~ annually complete fifteen (15) hours of continuing education relating to the practice of podiatry.

(2) The fifteen (15) hours required pursuant to subsection (1) of this section shall be taken from those programs approved or sponsored by the board.

(3) Two (2) of the fifteen (15) hours required pursuant to subsection (1) of this section shall include a course on acquired immunodeficiency syndrome, in accordance with Section 3(5) of this administrative regulation.

(4) A continuing education hour shall equal [mean] fifty (50) clock minutes of participating in continuing education instruction or presentation that meets the requirements of this administrative regulation for continuing education courses.

Section 2. (1) A continuing education hour shall be earned by attendance at: [~~Continuing education hours for credit other than those earned pursuant to Section 1 of this administrative regulation may be compiled in the following areas:~~]

(a) [~~Cassette and audio-visual presentation;~~]

(b) A professional seminar [~~Professional seminars;~~];

(b) [(c)] An accredited school of podiatry continuing education program; or [programs; and]

(c) [~~(d) Correspondence courses;~~]

(e) Continuing education television series;

(f) Another program [~~Other programs as~~] approved by the board.

(2) Prior approval shall be secured from the board for certification of a continuing education program, other than a program required by Section 3(5) of this administrative regulation [~~all programs other than those in Section 1 of this administrative regulation~~].

(3) A sponsor shall submit a written letter of application to the board to request approval of a continuing education program. The letter shall indicate that the program has been approved, or is under consideration for approval, by the American Podiatric Medical Association. [~~Licensees requesting approval of continuing education programs shall submit an application containing such information as the board may require on forms provided by the board.~~]

Section 3. (1) A licensee shall keep a valid record of each continuing education program completed. The record shall:

(a) Include a receipt or certification received for the program;

(b) Be kept for three (3) years; and

(c) Be presented upon request by the board for audit. If selected by the board for audit, the licensee shall submit the requested proof of continuing education to the board within fifteen (15) days of the request.

(2) [~~Licensees shall keep valid records, receipts, and certifications of continuing education programs completed.~~] The period during which continuing education courses shall be completed shall be from July 1 of each year until June 30 of the following year. [~~Licensees shall keep valid records, receipts, and certifications of continuing education hours completed for three (3) years and present those records upon request by the board for audit. If selected by the board for audit the licensee shall return to the board the requested proof of continuing education within fifteen (15) days.~~]

(3) [(2)] Each licensee shall submit, with the annual renewal, a list of all accredited continuing education programs completed by the licensee during the previous license year. Failure to do so shall result in suspension or revocation of the license.

(4) [(3)] Each licensed podiatrist requesting renewal of his license shall submit to the Kentucky Board of Podiatry that he has successfully completed two (2) hours of continuing education which:

(a) Complies with the requirements of KRS 214.610(1); and

(b) Is approved by the Kentucky Cabinet for Health Services [Human Resources] pursuant to 902 KAR 2:160 as pertaining to the transmission, control, treatment, and prevention of the human immunodeficiency syndrome and acquired immunodeficiency syndrome.

J. P. LEONE, DPM, President

JAMES J. GRAWE, Assistant Attorney General

APPROVED BY AGENCY: September 17, 1998

FILED WITH LRC: January 15, 1999 at noon

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, March 11, 1999)

401 KAR 50:010. Definitions for ~~[and abbreviations of terms used in]~~ 401 KAR Chapter ~~[Chapters]~~ 50[, 51, 53, 55, 57, 59, 61, 63, and 65].

RELATES TO: KRS 224.01-010, 224.20-100, 224.20-110, 224.20-120, 40 CFR Chapter I, Appendices A through K to 50, 51.100(s), 53, 60, Appendices A and B to 60, Appendix B to 61, 42 USC 7410, 7411(a)(8)

STATUTORY AUTHORITY: KRS 224.10-100

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. This administrative regulation defines the terms [~~provides for the defining of terms to be~~] used in 401 KAR Chapter 50. The definitions contained in this administrative regulation, which have corresponding federal definitions, are not more stringent nor otherwise different than the corresponding federal definitions. [~~Chapters 50 to 65.~~]

Section 1. Definitions. [~~All terms not defined in this administrative regulation or in subsequent administrative regulations, shall have the meaning given them in KRS 224.01-010 or by commonly accepted usage. As used in the administrative regulations of the Division for Air Quality, unless the content clearly indicates otherwise, the following words shall have the following meanings:~~]

(1) "Affected facility" means an apparatus, building, operation, road, or other entity or series of entities which emits or may emit an air contaminant into the outdoor atmosphere.

(2) "Air contaminant" is defined [~~has the meaning given it~~] in KRS 224.01-010.

(3) "Air pollutant" means an air contaminant.

(4) "Air pollution" is defined [~~has the meaning given it~~] in KRS 224.01-010.

(5) "Air pollution control equipment" means a mechanism, device or contrivance used to control or prevent air pollution, which is not, aside from air pollution control laws and administrative regulations, vital to production of the normal product of the source or to its normal operation.

(6) "Alteration" means:

(a) The installation or replacement of air pollution control equipment at a source; or

(b) A physical change in or change in the method of operation of an affected facility which increases the potential to emit ~~[of]~~ a pollutant (to which a standard applies) emitted by the facility or which results in the emission of an air pollutant (to which a standard applies) not previously emitted.

(7) "Alternative method" means a method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to~~[in specific cases;]~~ produce adequate results ~~[adequate]~~ for its determination of compliance.

(8) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(9) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured and is a goal to be achieved in a stated time through the application of appropriate preventive or control measures.

(10) "AOAC" means Association of Official Analytical Chemists.

(11) "ANSI" means American National Standards Institute.

(12) "ASTM" means American Society for Testing and Materials.

(13) "BOD" means biochemical oxidant demand.

(14) "BTU" means British Thermal Unit.

(15) "°C" means degree Celsius (centigrade).

(16) "Cabinet" is defined in KRS 224.01-010.

(17) "Cal" means calorie.

(18) "Capital expenditure" means an expenditure for a physical or operational change to an affected facility that:

(a) Exceeds the product of:

1. The applicable "annual asset guidelines repair allowance percentage" specified in the Internal Revenue Service (IRS) Publication 534; and

2. The affected facility's basis, as defined by 26 USC 1012; and

(b) Is not reduced by an excluded addition as defined in IRS Publication 534.

(19) "Capture" means the containment or recovery of emissions from a process for direction into a duct which may be exhausted through a stack or sent to a control device.

(20) "Capture system" means all equipment including hoods, ducts, fans, booths, ovens, or dryers that contain, collect, and transport an air pollutant to a control device.

(21) "Capture efficiency" means the weight per unit time of volatile organic compounds (VOCs) entering a capture system and delivered to a control device divided by the weight per unit time of total VOCs generated by a source of VOCs, expresses as a percentage.

(22) "cfm" means cubic feet per minute.

(23) "CH₄" means methane.

(24) "CO" means carbon monoxide.

(25) "CO₂" means carbon dioxide.

(26) "COD" means chemical oxidant demand. ["Cabinet" has the meaning given it in KRS 224.01-010.

(11) "Capital expenditure" means an expenditure for a physical or operational change to an affected facility which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the Internal Revenue Service (IRS) Publication 534 which has been incorporated by reference in Section 4 of this administrative regulation, and the affected facility's basis, as defined by Section 1012 of the Internal Revenue Code which has been incorporated by reference in Section 4 of this administrative regulation. However, the total expenditure for a physical or operational change to an affected facility shall not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.]

(27) "Commence" means that an owner or operator has undertaken a continuous program of construction, modification, or reconstruction of an affected facility, or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction, modification, or reconstruction of an affected facility.

(28) "Compliance schedule" means a time schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with a limitation or standard.

(29) "Construction" means fabrication, erection, installation or modification of an air contaminant source.

(30) "Continuous monitoring system" means the total equipment, required under the applicable administrative regulations used to sample, to condition (if applicable), to analyze and to provide a permanent record of emissions or process parameters.

(31) "Control device" means equipment such as an incinerator or carbon adsorber used to reduce, by destruction or removal, the amount of air pollutants in an air stream prior to discharge to the ambient air.

(32) "Control system" means a combination of one (1) or more capture systems and control devices working in concert to reduce discharges of pollutants to the ambient air.

(33) "Destruction or removal efficiency" means the efficiency, expressed as a decimal fraction, of a control device in destroying or removing contaminants that is calculated as one (1) minus the quotient of the amount of VOCs exiting the control device divided by the amount of VOCs entering the control device, i.e. $1 - \{(\text{VOC exiting})/(\text{VOC entering})\}$.

(34) "Director" means Director of the Division for Air Quality of the Natural Resources and Environmental Protection Cabinet.

[17] "District" has the meaning given it in KRS 224.01-010.]

(35) "District" is defined in KRS 224.01-010.

(36) "dscf" means dry cubic feet at standard conditions.

(37) "dscm" means dry cubic meter at standard conditions.

(38) "Emission standard" means that numerical limit which fixes the amount of an air contaminant or air contaminants that may be vented into the atmosphere [(open air)] from an affected facility or from air pollution control equipment installed in an affected facility.

(39) "Equivalent method" means a method of sampling and analyzing for an air pollutant which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(40) "Exempt solvent" means an organic compound listed in the definition of volatile organic compound as not participating in atmospheric photochemical reactions.

(41) "Existing source" means a source which is not a new source.

(42) "Extreme nonattainment county" or "extreme nonattainment area" means a county or portion of a county designated extreme nonattainment in 401 KAR 51:010.

(43) "°F" means degree Fahrenheit.

(44) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(45) "ft" means feet.

(46) "Fuel" means natural gas, petroleum, coal, wood, or a [and any] form of solid, liquid, or gaseous fuel derived from these materials for the purpose of creating useful heat.

(47) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. [the emissions of an air contaminant into the open air other than from a stack or air pollution control equipment exhaust.]

(48) "g" means gram.

(49) "gal" means gallon.

(50) "Gas-gas method" means a method used to determine the capture of emissions that rely solely on gas phase measurements that either:

(a) Requires construction of a total temporary enclosure to assure all would-be fugitive emissions are measured; or

(b) Uses the room or building which houses the emission source as an enclosure.

(51) "gr" means grain.

(52) "HCl" means hydrochloric acid.

(53) "Hg" means mercury.

(54) "HF" means hydrogen fluoride.

(55) "Hood" means a partial enclosure or canopy for capturing and exhausting, by means of a draft, the organic vapors or other fumes rising from a coating process or other source.

(56) "hr" means hour.

(57) "Hydrocarbon" means an organic compound consisting predominantly of carbon and hydrogen.

(58) "H₂O" means water.

(59) "H₂S" means hydrogen sulfide.

(60) "H₂SO₄" means sulfuric acid.

(61) "In" means inch.

(62) "Incineration" means the process of igniting and burning solid, semisolid, liquid, or gaseous combustible wastes.

(63) "Intermittent emissions" means emissions of particulate matter into the open air from a process which operates for less than any six (6) consecutive minutes.

(64) "J" means joule.

(65) "Kg" means kilogram.

(66) "l" means liter.

(67) "lb" means pound.

(68) "Liquid-gas method" means a method used to determine the capture of emissions that require both gas phase and liquid phase measurements and analysis that either:

(a) Requires construction of a temporary enclosure; or
(b) Uses the building or room which houses the facility as an enclosure.

(69) "m" means meter.

(70) "m³" means cubic meter.

(71) "Major source" means a source of which the potential emission rate is equal to or greater than 100 tons per year of any one (1) of the following pollutants: particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds or carbon monoxide.

(72) "Malfunction" means a failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner that is not caused entirely or in part by poor maintenance, careless operation, or other preventable upset condition or preventable equipment breakdown.

[(30) "Malfunction" means a failure of air pollution control equipment, or process equipment, or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.]

(73) "Marginal nonattainment county" or "marginal nonattainment area" means a county or portion of a county designated marginal nonattainment in 401 KAR 51:010.

(74) "min" means minute.

(75) "mg" mean milligram.

(76) "MJ" means megajoules.

(77) "MM" means million.

(78) "mn" means millimeter.

(79) "mo" means month.

(80) "Moderate nonattainment county" or "moderate nonattainment area" means a county or portion of a county designated moderate nonattainment in 401 KAR 51:010.

(81) "Modification" means a physical change in, or change in the method of operation of, an affected facility which:

(a) Increases the amount of an air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of an air pollutant (to which a standard applies) into the atmosphere not previously emitted; and

(b) Is not solely: [- The following shall not, by themselves, be considered modifications:]

1. [(a)] Maintenance, repair, and replacement which the cabinet determines to be routine for a source category;

2. [(b)] An increase in production rate of an affected facility, if that increase can be accomplished without a capital expenditure on that facility;

3. [(c)] An increase in the hours of operation;

4. [(d)] Use of an alternative fuel or raw material if, prior to the date a [any] standard becomes applicable to that source type, the affected facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications as amended prior to the change.

5. Conversion to coal required for energy considerations, as specified in 42 USC 7411(a)(8); [- shall not be considered a modification:]

6. [(e)] The addition or use of a [any] system or device whose primary function is the reduction of air pollutants, except if [when] an emission control system is removed or is replaced by a system which the cabinet determines to be less environmentally beneficial; or

7. [(f)] The relocation or change in ownership of an existing facility.

(82) "Monitoring device" means the total equipment, required in applicable administrative regulations, used to measure and record (if applicable) process parameters.

(83) "New source" means a source, the construction, reconstruction, or modification of which commenced on or after the classification date as defined in the applicable administrative regulation[- A source, upon reconstruction, becomes a new source,] irrespective of a change in emission rate.

(84) "Ng" means nanograms.

(85) "N_x" means nitrogen.

(86) "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods specified by the cabinet.

(87) "NO" means nitric oxide.

(88) "NO₂" means nitrogen dioxide.

(89) "NO_x" means nitrogen oxides.

(90) "O₂" means oxygen.

(91) "O₃" means ozone.

(92) "Opacity" means the degree to which emissions reduce the

transmission of light and obscure the view of an object in the background.

(93) "Overall emission reduction efficiency" means:

(a) The weight per unit time of VOC removed by a control device divided by the weight per unit time of VOC emitted by an emission source, expressed as a percentage; and

(b) The product of the capture efficiency and the control equipment destruction or removal efficiency, with the efficiencies expressed as decimal fractions.

(94) "Owner or operator" means a person who owns, leases, operates, controls, or supervises an affected facility or a source to which an affected facility is a part.

(95) "oz" means ounce.

(96) "Particulate matter" means a material, except uncombined water, which exists in a finely divided form as a liquid or a solid as measured by the appropriate approved test method.

(97) "Particulate matter emissions" means, except as used in 40 CFR 60, all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Chapter I, or by a test method specified in the approved state implementation plan.

(98) "Person" means an individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate, or other entity.

(99) "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J to 40 CFR 50, [which has been incorporated by reference in 401 KAR 50:015,] and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53.

(100) "PM₁₀ emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified in 40 CFR Chapter I, or by a test method specified in the approved state implementation plan.

(101) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design, which shall:

(a) Include air pollution control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation or its effect on emissions is federally enforceable; and

(b) Not include secondary emissions.

(102) "ppb" means parts per billion.

(103) "ppm" means parts per million.

(104) "ppm(w/w)" means parts per million (weight by weight).

(105) "µg" means microgram.

(106) "psia" means pounds per square inch absolute.

(107) "psig" means pounds per square inch gage.

(108) "Reconstruction" means the replacement of components of an existing affected facility to the extent that:

(a) The fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility;

(b) The estimated life of the affected facility after the replacement exceeds fifty (50) percent of the life of a comparable entirely new affected facility;

(c) The components being replaced cause or contribute to the emissions from the affected facility; and

(d) It is technologically and economically feasible to meet the applicable requirements of 401 KAR Chapters 50 to 65.

[(44) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. A physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions shall not count in determining the potential to emit of a stationary source.]

(45) "Reconstruction" means the replacement of components of an existing affected facility to the extent that the fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility, and it is technologically and economically feasible to meet the applicable new source standards. Individual sections of these administrative regulations may include specific provisions which refine and delimit the concept of reconstruction set forth in this subsection. The cabinet's determination as to whether the proposed replacement constitutes reconstruction shall be based on:

(a) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(b) The estimated life of the affected facility after the replacements compared to the life of a comparable entirely new affected facility;

(c) The extent to which the components being replaced cause or contribute to the emissions from the affected facility; and

(d) Economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.]

(109) "Reference method" means a method of sampling and analyzing for an air pollutant as prescribed by 40 CFR Part 50, Appendices A to [through] K, Part 60, Appendices A to B, and Part 62, Appendix B [to 40 CFR 50, Appendices A and B to 40 CFR 60, and Appendix B to 40 CFR 61, which have been incorporated by reference in 401 KAR 50:015. This term may be more narrowly defined within a specific administrative regulation or chapter].

(110) "Run" means the net period of time, either intermittent or continuous within the limits of good engineering practice, during which an emission sample is collected.

(111) "S" means at standard conditions.

(112) "sec" means second.

(113) "Secondary emissions" means emissions that:

(a) 1. Occur as a result of the construction or operation of a major stationary source or major modification; and

2. Do not come from the major stationary source or major modification itself;

(b) Are specific, well defined, quantifiable, and impact the same general area as the stationary source modification which causes the secondary emissions;

(c) Include emissions from an offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification; and

(d) Does not include emissions which come directly from a mobile source, including emissions from the tailpipe of a motor vehicle, a train, or vessel.

[(47) "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

(48) "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions shall be specific, well defined, quantifiable, and shall impact the same general area as does the stationary source modification which causes the secondary emissions. Secondary emissions may include, but are not limited to emissions from an off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.]

(114) "Serious nonattainment county" or "serious nonattainment area" means a county or portion of a county designated serious nonattainment in 401 KAR 51:010.

(115) "Severe nonattainment county" or "severe nonattainment area" means a county or portion of a county designated severe nonattainment in 401 KAR 51:010.

(116) "Shutdown" means the cessation of an operation.

(117) "SO₂" means sulfur dioxide.

(118) "Source" means one (1) or more affected facilities contained

within a given contiguous property line, which means the property is [The property shall be considered contiguous if] separated only by a public thoroughfare, stream, or other right of way.

(119) "sq" means square.

(120) "Stack or chimney" means a flue, conduit, or duct arranged to conduct emissions to the atmosphere.

(121) "Standard" means an emission standard, a standard of performance, or an ambient air quality standard as promulgated under the administrative regulations of the Division for Air Quality or the emission control requirements necessary to comply with 401 KAR Chapter 51, of the administrative regulations of the Division for Air Quality.

(122) "Standard conditions":

(a) For source measurements means twenty (20) degrees Celsius (sixty-eight (68) degrees Fahrenheit) and a pressure of 760 mm Hg (29.92 in. of Hg);

(b) For the purpose of air quality determinations means twenty-five (25) degrees Celsius and a reference pressure of 760 mm Hg.

(123) "Start-up" means the setting in operation of an affected facility.

(124) "State implementation plan" or "SIP" means the most recently prepared plan or revision required by 42 USC 7410, which has been approved by the U.S. EPA.

(125) "TAPPI" means Technical Association of the Pulp and Paper Industry.

(126) "Total suspended particulate" means particulate matter as measured by the method described in Appendix B of 40 CFR 50.

(127) "tpy" means ton per year.

(128) "TSP" means total suspended particulates.

(129) "TSS" means total suspended solids. [which has been incorporated by reference in 401 KAR 50:015.]

(130) "Uncombined water" means water which can be separated from a compound by ordinary physical means and which is not bound to a compound by internal molecular forces.

(131) "Urban county" means a county which is a part of an urbanized area with a population [of] greater than 200,000 based upon the 1980 census. If a portion of a county is a part of an urbanized area, then the entire county shall be classified as urban with respect to the administrative regulations of the Division for Air Quality.

(132) "Urbanized area" means an area defined as such by the U.S. Department of Commerce, Bureau of Census.

(133) "U.S. EPA" means United States Environmental Protection Agency.

(134) "UTM" means Universal Transverse Mercator.

(135) "Volatile organic compound" or "VOC" means an organic compound which participates in atmospheric photochemical reactions. This includes an organic compound other than the following compounds: methane; ethane; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; methyl-ene chloride; 1,1,1-trichloroethane (methyl chloroform); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); dichlorotetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); dichlorotrifluoroethane (HCFC-123); tetrafluoroethane (HFC-134a); dichlorofluoroethane (HCFC-141b); chlorodifluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); perchlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ga); 1,1,1,3,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonfluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-

1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonfluorobutane (C₂F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅); methyl acetate; and perfluorocarbon compounds which fall into the following [these] classes:

(a) Cyclic, branched, or linear, completely fluorinated alkanes;
(b) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(c) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; [and]

(d) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine; or

(e) Other compounds that have negligible photochemical reactivity and which are inadvertently measured by test methods that have been approved by the cabinet and the U.S. EPA. [These compounds have been determined to have negligible photochemical reactivity. For purposes of determining compliance with emission limits, VOCs shall be measured by test methods that have been approved by the cabinet and the U.S. EPA. If a method used also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.]

(136) "yd" means yard.

[Section 2. Abbreviations. The abbreviations used in the administrative regulations of 401 KAR Chapter [Chapters] 50 [to 65], shall have the following meanings:

AOAC—Association of Official Analytical Chemists
ANSI—American National Standards Institute
ASTM—American Society for Testing and Materials
BOD—Biochemical oxidant demand
BTU—British Thermal Unit
°C—Degree Celsius (centigrade)
Cal—calorie
cfm—Cubic feet per minute
CFR—Code of Federal Regulations
CH₄—methane
CO—Carbon monoxide
CO₂—Carbon dioxide
COD—Chemical oxidant demand
dscf—dry cubic feet at standard conditions
dscm—dry cubic meter at standard conditions
°F—Degree Fahrenheit
ft—feet
g—gram
gal—gallon
gr—grain
hr—hour
HCl—Hydrochloric acid
Hg—mercury
HF—Hydrogen fluoride
H₂O—water
H₂S—Hydrogen sulfide
H₂SO₄—Sulfuric acid
in—inch
J—joule
KAR—Kentucky Administrative Regulations
kg—kilogram
KRS—Kentucky Revised Statutes
l—liter
lb—pound
m—meter
m³—cubic meter
min—minute
mg—milligram
MJ—megajoules
MM—million
mm—millimeter
mo—month
Ng—nanograms
N₂—Nitrogen
NO—Nitric oxide
NO₂—Nitrogen dioxide

NO_x—Nitrogen oxides
oz—ounce
O₂—oxygen
O₃—ozone
ppb—parts per billion
ppm—parts per million
ppm (w/w)—parts per million (weight by weight)
ug—microgram
psia—pounds per square inch absolute
psig—pounds per square inch gage
S—at standard conditions
sec—second
SIP—State implementation plan
SO₂—Sulfur dioxide
sq—square
TAPPI—Technical Association of the Pulp and Paper Industry
tpy—tons per year
TSP—Total suspended particulates
TSS—Total suspended solids
U.S. EPA—United States Environmental Protection Agency
UTM—Universal Transverse Mercator
VOC—Volatile organic compound
yd—yard.

Section 3. 401 KAR 50:047 Definitions. As used in 401 KAR 50:047, unless the content clearly indicates otherwise, the following terms shall have the following meanings:

(1) "Capture" means the containment or recovery of emissions from a process for direction into a duct which may be exhausted through a stack or sent to a control device.

(2) "Capture system" means all equipment (including, but not limited to, hoods, ducts, fans, booths, ovens, dryers, etc.) that contains, collects, and transports an air pollutant to a control device.

(3) "Capture efficiency" means the weight per unit time of volatile organic compounds (VOCs) entering a capture system and delivered to a control device divided by the weight per unit time of total VOCs generated by a source of VOCs, expressed as a percentage.

(4) "Control device" means equipment such as an incinerator or carbon adsorber used to reduce, by destruction or removal, the amount of air pollutants in an air stream prior to discharge to the ambient air.

(5) "Control system" means a combination of one (1) or more capture systems and control devices working in concert to reduce discharges of pollutants to the ambient air.

(6) "Destruction or removal efficiency" means the efficiency, expressed as a decimal fraction, of a control device in destroying or removing contaminants. It is calculated as one (1) minus the quotient of the amount of VOCs exiting the control device divided by the amount of VOCs entering the control device, i.e., 1 - ((VOC exiting)/(VOC entering)).

(7) "Gas-gas method" means either of two (2) methods for determining capture of emissions which rely on only gas phase measurements. One (1) method requires construction of a total temporary enclosure to assure all would-be fugitive emissions are measured; the other method uses the room or building which houses the emission source as an enclosure.

(8) "Hood" means a partial enclosure or canopy for capturing and exhausting, by means of a draft, the organic vapors or other fumes rising from a coating process or other source.

(9) "Liquid-gas method" means either of two (2) methods for determining capture of emissions which require both gas phase and liquid phase measurements and analysis. One (1) liquid-gas method requires construction of a temporary enclosure; the other uses the building or room which houses the facility as an enclosure.

(10) "Overall emission reduction efficiency" means the weight per unit time of VOC removed by a control device divided by the weight per unit time of VOC emitted by an emission source, expressed as a percentage. With the efficiencies expressed as decimal fractions, the overall emission reduction efficiency is the product of the capture efficiency and the control equipment destruction or removal efficiency.]

Section 2. [4.] [Reference Material. (1)] Incorporation by Reference. (1) "Depreciation, IRS Publication 534", catalog number

150640, 1992, Department of the Treasury, Internal Revenue Service, is incorporated by reference. [The following material is [documents are] incorporated by reference:

(a) Depreciation, IRS Publication 534, catalog number 150640, Department of the Treasury, Internal Revenue Service; and
(b) Section 1012, Basis of Property Cost, Income Tax-Basic Rules, Internal Revenue Code.]

(2) This material may be inspected, copied, or obtained at the Kentucky Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m., and at the following regional offices: [The documents incorporated by reference in subsection (1) of this section are available for public inspection and copying, subject to copyright law, at the following main and regional offices of the Kentucky Division for Air Quality during the normal working hours of 8 a.m. to 4:30 p.m., local time:]

(a) [Kentucky 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;

(b) [(e)] Bowling Green Regional Office, 1508 Western Avenue, Bowling Green, Kentucky 42104, (502) 746-7475;

(c) [(d)] Florence Regional Office, **8020 Ewing Boulevard, Suite 110, [7964 Kentucky Drive, Suite 8,]** Florence, Kentucky 41042, (606) 292-6411;

(d) [(e)] Hazard Regional Office, 233 Birch Street, **Suite 2**, Hazard, Kentucky 41701, (606) 435-6022;

(e) [(f)] London Regional Office, 85 State Police Road, London, Kentucky 40741, (606) 878-0157;

(f) [(g)] Owensboro Regional Office, 3032 Alvey Park Drive, W., Owensboro, Kentucky 42303, (502) 687-7304; and

(g) [(h)] Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: November 10, 1998

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**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, May 11, 1999)**

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

RELATES TO: KRS 224.01-010, 224.20-100, 224.20-110, 224.20-120, 40 CFR Chapter I, Appendices A through K to 50, 51.100(s), 53, 60, Appendices A and B to 60, Appendix B to 61, 42 USC 7410, 7411(a)(8)

STATUTORY AUTHORITY: KRS 224.10-100

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. This administrative regulation **defines the terms** [provides for the defining of terms] used in 401 KAR Chapter 59. The definitions contained in this administrative regulation, which have corresponding federal definitions, are not more stringent nor otherwise different than the corresponding federal definitions.

Section 1. [General] Definitions. [As used in the Division for Air Quality administrative regulations of 401 KAR Chapter 59, unless the content clearly indicates otherwise in a specific administrative regulation, the following terms shall have the following meanings:]

(1) "Affected facility" means an apparatus, building, operation, road, or other entity or series of entities which emits or may emit an air contaminant into the outdoor atmosphere.

(2) "Air contaminant" **is defined** [has the meaning given it] in KRS 224.01-010.

(3) "Air pollutant" means an air contaminant.

(4) "Air pollution" **is defined** [has the meaning given it] in KRS

224.01-010.

(5) "Air pollution control equipment" means a mechanism, device or contrivance used to control or prevent air pollution, which is not, aside from air pollution control laws and administrative regulations, vital to production of the normal product of the source or to its normal operation.

(6) "Alteration" means:

(a) The installation or replacement of air pollution control equipment at a source; **or**

(b) A physical change in or change in the method of operation of an affected facility which increases the potential to emit [of] a pollutant (to which a standard applies) emitted by the facility or which results in the emission of an air pollutant (to which a standard applies) not previously emitted.

(7) "Alternative method" means a method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to[~~in specific cases;~~] produce **adequate** results [adequate] for its determination of compliance.

(8) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(9) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured and is a goal to be achieved in a stated time through the application of appropriate preventive or control measures.

(10) **"AOAC" means Association of Official Analytical Chemists.**

(11) **"ANSI" means American National Standards Institute.**

(12) **"ASTM" means American Society for Testing and Materials.**

(13) **"BOD" means biochemical oxidant demand.**

(14) **"BTU" means British Thermal Unit.**

(15) **"°C" means degree Celsius (centigrade).**

(16) **"Cabinet" is defined in KRS 224.01-010.**

(17) **"Cal" means calorie.**

(18) **"Capital expenditure" means an expenditure for a physical or operational change to an affected facility that:**

(a) **Exceeds the product of:**

1. **The applicable "annual asset guidelines repair allowance percentage" specified in the Internal Revenue Service (IRS) Publication 534; and**

2. **The affected facility's basis, as defined by 26 USC 1012; and**

(b) **Is not reduced by an excluded addition as defined in IRS Publication 534.**

(19) **"cfm" means cubic feet per minute.**

(20) **"CH₄" means methane.**

(21) **"CO" means carbon monoxide.**

(22) **"CO₂" means carbon dioxide.**

(23) **"COD" means chemical oxidant demand.** ["Cabinet" has the meaning given it in KRS 224.01-010:

(11) **"Capital expenditure" means an expenditure for a physical or operational change to an affected facility which exceeds the product of the applicable "Annual asset guideline repair allowance percentage" specified in the Internal Revenue Service (IRS) Publication 534 which has been incorporated by reference in 401 KAR 50:010, and the affected facility's basis, as defined by section 1012 of the Internal Revenue Code which has been incorporated by reference in 401 KAR 50:010. However, the total expenditure for a physical or operational change to an affected facility shall not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.]**

(24) "Commence" means that an owner or operator has undertaken a continuous program of construction, modification, or reconstruction of an affected facility, or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction, modification, or reconstruction of an affected facility.

(25) "Compliance schedule" means a time schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with a limitation or standard.

(26) "Construction" means fabrication, erection, installation or

modification of an air contaminant source.

(27) "Continuous monitoring system" means the total equipment, required under the applicable administrative regulations used to sample, to condition (if applicable), to analyze and to provide a permanent record of emissions or process parameters.

(28) "Design capacity" means the maximum rate at which a unit was designed to operate.

(29) "Director" means Director of the Division for Air Quality of the Natural Resources and Environmental Protection Cabinet.

~~[(18) "District" has the meaning given it in KRS 224.01-010.]~~

~~(30) "District" is defined in KRS 224.01-010.~~

~~(31) "dscf" means dry cubic feet at standard conditions.~~

~~(32) "dscm" means dry cubic meter at standard conditions.~~

(33) "Emission standard" means that numerical limit which fixes the amount of an air contaminant or air contaminants that may be vented into the atmosphere ~~[(open air)]~~ from an affected facility or from air pollution control equipment installed in an affected facility.

(34) "Equivalent method" means a method of sampling and analyzing for an air pollutant which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(35) "Exempt solvent" means an organic compound listed in the definition of volatile organic compound as not participating in atmospheric photochemical reactions.

(36) "Existing source" means a source which is not a new source.

(37) "Extreme nonattainment county" or "extreme nonattainment area" means a county or portion of a county designated extreme nonattainment in 401 KAR 51:010.

~~(38) "°F" means degree Fahrenheit.~~

(39) "Fixed capital cost" means the capital needed to provide all the depreciable components.

~~(40) "ft" means feet.~~

(41) "Fuel" means natural gas, petroleum, coal, wood, or a [and any] form of solid, liquid, or gaseous fuel derived from these materials for the purpose of creating useful heat.

~~(42) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. [the emissions of an air contaminant into the open air other than from a stack or air pollution control equipment exhaust.]~~

~~(43) "g" means gram.~~

~~(44) "gal" means gallon.~~

~~(45) "gr" means grain.~~

~~(46) "HCl" means hydrochloric acid.~~

~~(47) "Hg" means mercury.~~

~~(48) "HF" means hydrogen fluoride.~~

~~(49) "hr" means hour.~~

(50) "Hydrocarbon" means an organic compound consisting predominantly of carbon and hydrogen.

~~(51) "H₂O" means water.~~

~~(52) "H₂S" means hydrogen sulfide.~~

~~(53) "H₂SO₄" means sulfuric acid.~~

~~(54) "in" means inch.~~

(55) "Incineration" means the process of igniting and burning solid, semisolid, liquid, or gaseous combustible wastes.

(56) "Intermittent emissions" means emissions of particulate matter into the open air from a process which operates for less than any six (6) consecutive minutes.

~~(57) "J" means joule.~~

~~(58) "Kg" means kilogram.~~

~~(59) "l" means liter.~~

~~(60) "lb" means pound.~~

~~(61) "m" means meter.~~

~~(62) "m³" means cubic meter.~~

(63) "Major source" means a source of which the potential emission rate is equal to or greater than 100 tons per year of any one (1) of the following pollutants: particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds or carbon monoxide.

(64) "Malfunction" means a failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner that is not caused entirely or in part by poor maintenance, careless operation, or other preventable upset condition or preventable equipment breakdown.

~~[(31) "Malfunction" means a failure of air pollution control equipment, or process equipment, or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.]~~

(65) "Marginal nonattainment county" or "marginal nonattainment area" means a county or portion of a county designated marginal nonattainment in 401 KAR 51:010.

~~(66) "min" means minute.~~

~~(67) "mg" means milligram.~~

~~(68) "MJ" means megajoules.~~

~~(69) "MM" means million.~~

~~(70) "mm" means millimeter.~~

~~(71) "mo" means month.~~

(72) "Moderate nonattainment county" or "moderate nonattainment area" means a county or portion of a county designated moderate nonattainment in 401 KAR 51:010.

(73) "Modification" means a physical change in, or change in the method of operation of, an affected facility which:

(a) Increases the amount of an air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of an air pollutant (to which a standard applies) into the atmosphere not previously emitted; and

(b) Is not solely: [-The following shall not, by themselves, be considered modifications:]

1. [(a)] Maintenance, repair, and replacement which the cabinet determines to be routine for a source category;

2. [(b)] An increase in production rate of an affected facility, if that increase can be accomplished without a capital expenditure on that facility;

3. [(c)] An increase in the hours of operation;

4. [(d)] Use of an alternative fuel or raw material if, prior to the date a [any] standard becomes applicable to that source type, the affected facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications as amended prior to the change.

5. Conversion to coal required for energy considerations, as specified in 42 USC 7411(a)(8)[-shall not be considered a modification];

6. [(e)] The addition or use of a [any] system or device whose primary function is the reduction of air pollutants, except if [when] an emission control system is removed or is replaced by a system which the cabinet determines to be less environmentally beneficial; or

7. [(f)] The relocation or change in ownership of an existing facility.

(74) "Monitoring device" means the total equipment, required in applicable administrative regulations, used to measure and record (if applicable) process parameters.

(75) "New source" means a source, the construction, reconstruction, or modification of which commenced on or after the classification date as defined in the applicable administrative regulation[-A source, upon reconstruction, becomes a new source,] irrespective of a change in emission rate.

~~(76) "Ng" means nanograms.~~

~~(77) "N₂" means nitrogen.~~

(78) "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods specified by the cabinet.

~~(79) "NO" means nitric oxide.~~

~~(80) "NO₂" means nitrogen dioxide.~~

~~(81) "NO_x" means nitrogen oxides.~~

~~(82) "O₂" means oxygen.~~

~~(83) "O₃" means ozone.~~

(84) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

(85) "Owner or operator" means a person who owns, leases, operates, controls, or supervises an affected facility or a source to which an affected facility is a part.

~~(86) "oz" means ounce.~~

(87) "Particulate matter" means a material, except uncombined water, which exists in a finely divided form as a liquid or a solid as measured by the appropriate approved test method.

(88) "Particulate matter emissions" means, except as used in 40 CFR 60, all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Chapter I, or by a test method specified in the approved state implementation plan.

(89) "Person" means an individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate, or other entity.

(90) "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J to 40 CFR 50[; which has been incorporated by reference in 401 KAR 50:015;] and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53.

(91) "PM₁₀ emissions" means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified in 40 CFR Chapter I, or by a test method specified in the approved state implementation plan.

(92) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design, which shall:

(a) Include air pollution control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation or its effect on emissions is federally enforceable; and

(b) Not include secondary emissions.

(93) "ppb" means parts per billion.

(94) "ppm" means parts per million.

(95) "ppm(w/w)" means parts per million (weight by weight).

(96) "µg" means microgram.

(97) "psia" means pounds per square inch absolute.

(98) "psig" means pounds per square inch gage.

[(45) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. A physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions shall not count in determining the potential to emit of a stationary source.]

(99) "Reconstruction" means the replacement of components of an existing affected facility to the extent that:

(a) The fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility;

(b) The estimated life of the affected facility after the replacement exceeds fifty (50) percent of the life of a comparable entirely new affected facility;

(c) The components being replaced cause or contribute to the emissions from the affected facility; and

(d) It is technologically and economically feasible to meet the applicable requirements of 401 KAR Chapters 50 to 65.

[(46) "Reconstruction" means the replacement of components of an existing affected facility to the extent that the fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility, and it is technologically and economically feasible to meet the applicable new source standards. Individual sections of these administrative regulations may include specific provisions which refine and delimit the concept of reconstruction set forth in this subsection. The cabinet's determination as to whether the proposed replacement constitutes reconstruction shall be based on:

(a) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(b) The estimated life of the affected facility after the replacements compared to the life of a comparable entirely new affected facility;

(c) The extent to which the components being replaced cause or contribute to the emissions from the affected facility; and

(d) Economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.]

(100) "Reference method" means a method of sampling and analyzing for an air pollutant as prescribed by 40 CFR Part 50, Appendices A to K, Part 60, Appendices A and B, and Part 61, Appendix B [Appendices A through K to 40 CFR 50, Appendices A and B to 40 CFR 60, and Appendix B to 40 CFR 61, which have been incorporated by reference in 401 KAR 50:015. This term may be more narrowly defined within a specific administrative regulation].

(101) "Run" means the net period of time, either intermittent or continuous within the limits of good engineering practice, during which an emission sample is collected.

(102) "S" means at standard conditions.

(103) "sec" means second.

(104) "Secondary emissions" means emissions that:

(a)1. Occur as a result of the construction or operation of a major secondary stationary source or major modification; and

2. Do not come from the major stationary source or major modification itself;

(b) Are specific, well defined, quantifiable, and impact the same general area as the stationary source modification which caused the secondary emissions;

(c) Include emissions from an offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification; and

(d) Does not include emissions which come directly from a mobile source, including emissions from the tailpipe of a motor vehicle, a train, or vessel.

[(48) "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.]

(49) "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions shall be specific, well defined, quantifiable, and shall impact the same general area as does the stationary source modification which causes the secondary emissions. Secondary emissions may include, but are not limited to emissions from an off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.]

(105) "Serious nonattainment county" or "serious nonattainment area" means a county or portion of a county designated serious nonattainment in 401 KAR 51:010.

(106) "Severe nonattainment county" or "severe nonattainment area" means a county or portion of a county designated severe nonattainment in 401 KAR 51:010.

(107) "Shutdown" means the cessation of an operation.

(108) "SO₂" means sulfur dioxide.

(109) "Source" means one (1) or more affected facilities contained within a given contiguous property line, which means the property is [-The property shall be considered contiguous if] separated only by a public thoroughfare, stream, or other right of way.

(110) "sq" means square.

(111) "Stack or chimney" means a flue, conduit, or duct arranged to conduct emissions to the atmosphere.

(112) "Standard" means an emission standard, a standard of performance, or an ambient air quality standard as promulgated under the administrative regulations of the Division for Air Quality or the emission control requirements necessary to comply with Title 401, Chapter 51, of the administrative regulations of the Division for Air Quality.

(113) "Standard conditions":

(a) For source measurements means twenty (20) degrees Celsius (sixty-eight (68) degrees Fahrenheit) and a pressure of 760 mm Hg (29.92 in. of Hg);

(b) For the purpose of air quality determinations means twenty-five

(25) degrees Celsius and a reference pressure of 760 mm Hg.

(114) "Start-up" means the setting in operation of an affected facility.

(115) "State implementation plan" or "SIP" means the most recently prepared plan or revision required by 42 USC 7410 which has been approved by the U.S. EPA.

(116) "TAPPI" means Technical Association of the Pulp and Paper Industry.

(117) "Total suspended particulate" means particulate matter as measured by the method described in Appendix B of 40 CFR 50.

(118) "tpy" means ton per year.

(119) "TSP" means total suspended particulates.

(120) "TSS" means total suspended solids. [which has been incorporated by reference in 401 KAR 50.015.]

(121) "Uncombined water" means water which can be separated from a compound by ordinary physical means and which is not bound to a compound by internal molecular forces.

(122) "Urban county" means a county which is a part of an urbanized area with a population [of] greater than 200,000 based upon the 1980 census. If a portion of a county is a part of an urbanized area, then the entire county shall be classified as urban with respect to the administrative regulations of the Division for Air Quality.

(123) "Urbanized area" means an area defined as such by the U.S. Department of Commerce, Bureau of Census.

(124) "U.S. EPA" means United States Environmental Protection Agency.

(125) "UTM" means Universal Transverse Mercator.

(126) "Volatile organic compound" or "VOC" means an organic compound which participates in atmospheric photochemical reactions. This includes an organic compound other than the following compounds: methane; ethane; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; methyl-ene chloride; 1,1,1-trichloroethane (methyl chloroform) trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12) chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); dichlorotetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); dichlorotrifluoroethane (HCFC-123); tetrafluoroethane (HFC-134a); dichlorodifluoroethane (HCFC-141b); chlorodifluoroethane (HCFC-142b); 2-chloro-1,1,1, 2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTf); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4, 5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₂); 1-ethoxy-1,1,2,2,3, 3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1, 2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅); methyl acetate; and perfluorocarbon compounds which fall into the following [these] classes:

(a) Cyclic, branched, or linear, completely fluorinated alkanes;

(b) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(c) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; [and]

(d) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine; or

(e) Other compounds that have negligible photochemical reactivity and which are inadvertently measured by test methods that have been approved by the cabinet and the U.S. EPA.

(127) "yd" means yard. [These compounds have been determined to have negligible photochemical reactivity. For purposes of

determining compliance with emission limits, VOCs shall be measured by test methods that have been approved by the cabinet and the U.S. EPA. If a method used also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.]

[Section 2-Abbreviations. The abbreviations used in the administrative regulations of Title 401, Chapter 59, shall have the following meanings:

AOAC—Association of Official Analytical Chemists
ANSI—American National Standards Institute
ASTM—American Society for Testing and Materials
BOD—Biochemical oxidant demand
BTU—British Thermal Unit
°C—Degree Celsius (centigrade)
Cal—calorie
cfm—cubic feet per minute
CFR—Code of Federal Regulations
CH₄—methane
CO—Carbon monoxide
CO₂—Carbon dioxide
COD—Chemical oxidant demand
dscf—dry cubic feet at standard conditions
dscm—dry cubic meter at standard conditions
°F—Degree Fahrenheit
ft—feet
g—gram
gal—gallon
gr—grain
hr—hour
HCl—Hydrochloric acid
Hg—mercury
HF—Hydrogen fluoride
H₂O—water
H₂S—Hydrogen sulfide
H₂SO₄—Sulfuric acid
in—inch
J—joule
KAR—Kentucky Administrative Regulations
kg—kilogram
KRS—Kentucky Revised Statutes
l—liter
lb—pound
m—meter
m³—cubic meter
min—minute
mg—milligram
MJ—megajoules
MM—million
mm—millimeter
mo—month
Ng—nanograms
N₂—Nitrogen
NO—Nitric oxide
NO₂—Nitrogen dioxide
NO_x—Nitrogen oxides
oz—ounce
O₂—oxygen
O₃—ozone
ppb—parts per billion
ppm—parts per million
ppm (w/w)—parts per million (weight by weight)
mg—microgram
psia—pounds per square inch absolute
psig—pounds per square inch gage
S—at standard conditions
sec—second
SIP—State implementation plan
SO₂—Sulfur dioxide
sq—square
TAPPI—Technical Association of the Pulp and Paper Industry
tpy—tons per year

TSP—Total suspended particulates
TSS—Total suspended solids
U.S. EPA—United States Environmental Protection Agency
UTM—Universal Transverse Mercator
VOG—Volatile organic compound
yd—yard]

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.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET**
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, May 11, 1999)

401 KAR 61:001. Definitions for ~~[and abbreviations of terms used in]~~ 401 KAR Chapter 61.

RELATES TO: KRS 224.01-010, 224.20-100, 224.20-110, 224.20-120, 40 CFR Chapter I, Appendices A through K to 50, 51.100(s), 53, 60, Appendices A and B to 60, Appendix B to 61, 42 USC 7410, 7411(a)(8)

STATUTORY AUTHORITY: KRS 224.10-100

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. This administrative regulation defines the terms [provides for the defining of terms] used in 401 KAR Chapter 61. The definitions contained in this administrative regulation, which have corresponding federal definitions, are not more stringent nor otherwise different than the corresponding federal definitions.

Section 1. [General] Definitions. ~~[As used in the Division for Air Quality administrative regulations of 401 KAR Chapter 61, unless the content clearly indicates otherwise in a specific administrative regulation, the following words shall have the following meanings:]~~

(1) "Affected facility" means an apparatus, building, operation, road, or other entity or series of entities which emits or may emit an air contaminant into the outdoor atmosphere.

(2) "Air contaminant" is defined [has the meaning given it] in KRS 224.01-010.

(3) "Air pollutant" means an air contaminant.

(4) "Air pollution" is defined [has the meaning given it] in KRS 224.01-010.

(5) "Air pollution control equipment" means a mechanism, device or contrivance used to control or prevent air pollution, which is not, aside from air pollution control laws and administrative regulations, vital to production of the normal product of the source or to its normal operation.

(6) "Alteration" means:

(a) The installation or replacement of air pollution control equipment at a source; or

(b) A physical change in or change in the method of operation of an affected facility which increases the potential to emit [ef] a pollutant (to which a standard applies) emitted by the facility or which results in the emission of an air pollutant (to which a standard applies) not previously emitted.

(7) "Alternative method" means a method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction ~~to [in specific cases,]~~ produce adequate results [adequate] for its determination of compliance.

(8) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(9) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured and is a goal to be achieved in a stated time through the application of appropriate preventive or control measures.

(10) "AOAC" means Association of Official Analytical Chemists.

(11) "ANSI" means American National Standards Institute.

(12) "ASTM" means American Society for Testing and Materials.

(13) "BOD" means biochemical oxidant demand.

(14) "BTU" means British Thermal Unit.

(15) "°C" means degree Celsius (centigrade).

(16) "Cabinet" is defined in KRS 224.01-010.

(17) "Cal" means calorie.

(18) "Capital expenditure" means an expenditure for a physical or operational change to an affected facility that:

(a) Exceeds the product of:

1. The applicable "annual asset guidelines repair allowance percentage" specified in the Internal Revenue Service (IRS) Publication 534; and

2. The affected facility's basis, as defined by 26 USC 1012; and

(b) Is not reduced by an excluded addition as defined in IRS Publication 534.

(19) "cfm" means cubic feet per minute.

(20) "CH₄" means methane.

(21) "CO" means carbon monoxide.

(22) "CO₂" means carbon dioxide.

(23) "COD" means chemical oxidant demand. ["Cabinet" has the meaning given it in KRS 224.01-010.

(11) "Capital expenditure" means an expenditure for a physical or operational change to an affected facility which exceeds the product of the applicable "Annual asset guideline repair allowance percentage" specified in the Internal Revenue Service (IRS) Publication 534 which has been incorporated by reference in 401 KAR 50:010, and the affected facility's basis, as defined by section 1012 of the Internal Revenue Code which has been incorporated by reference in 401 KAR 50:010. However, the total expenditure for a physical or operational change to an affected facility shall not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.]

(24) "Commence" means that an owner or operator has undertaken a continuous program of construction, modification, or reconstruction of an affected facility, or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction, modification, or reconstruction of an affected facility.

(25) "Compliance schedule" means a time schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with a limitation or standard.

(26) "Construction" means fabrication, erection, installation or modification of an air contaminant source.

(27) "Continuous monitoring system" means the total equipment, required under the applicable administrative regulations used to sample, to condition (if applicable), to analyze and to provide a permanent record of emissions or process parameters.

(28) "Design capacity" means the maximum rate at which a unit was designed to operated.

(29) "Director" means Director of the Division for Air Quality of the Natural Resources and Environmental Protection Cabinet.

(30) "District" is defined in KRS 224.01-010.

(31) "dscf" means dry cubic feet at standard conditions.

(32) "dscm" means dry cubic meter at standard conditions.

(18) "District" has the meaning given it in KRS 224.01-010.]

(33) "Emission standard" means that numerical limit which fixes the amount of an air contaminant or air contaminants that may be vented into the atmosphere ~~[to open air]~~ from an affected facility or from air pollution control equipment installed in an affected facility.

(34) "Equivalent method" means a method of sampling and analyzing for an air pollutant which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(35) "Exempt solvent" means an organic compound listed in the definition of volatile organic compound as not participating in atmospheric photochemical reactions.

(36) "Existing source" means a source which is not a new source.

(37) "Extreme nonattainment county" or "extreme nonattainment area" means a county or portion of a county designated extreme nonattainment in 401 KAR 51:010.

(38) "°F" means degree Fahrenheit.

(39) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(40) "ft" means feet.

(41) "Fuel" means natural gas, petroleum, coal, wood, or a [and any] form of solid, liquid, or gaseous fuel derived from these materials for the purpose of creating useful heat.

(42) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or functionally equivalent opening, [the emissions of an air contaminant into the open air other than from a stack or air pollution control equipment exhaust.]

(43) "g" means gram.

(44) "gal" means gallon.

(45) "gr" means grain.

(46) "HCl" means hydrochloric acid.

(47) "Hg" means mercury.

(48) "HF" means hydrogen fluoride.

(49) "hr" means hour.

(50) "Hydrocarbon" means an organic compound consisting predominantly of carbon and hydrogen.

(51) "H₂O" means water.

(52) "H₂S" means hydrogen sulfide.

(53) "H₂SO₄" means sulfuric acid.

(54) "in" means inch.

(55) "Incineration" means the process of igniting and burning solid, semisolid, liquid, or gaseous combustible wastes.

(56) "Intermittent emissions" means emissions of particulate matter into the open air from a process which operates for less than any six (6) consecutive minutes.

(57) "J" means joule.

(58) "Kg" means kilogram.

(59) "l" means liter.

(60) "lb" means pound.

(61) "m" means meter.

(62) "m³" means cubic meter.

(63) "Major source" means a source of which the potential emission rate is equal to or greater than 100 tons per year of any one (1) of the following pollutants: particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds or carbon monoxide.

(64) "Malfunction" means a failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner that is not caused entirely or in part by poor maintenance, careless operation, or other preventable equipment breakdown.

~~[(31) "Malfunction" means a failure of air pollution control equipment, or process equipment, or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.]~~

(65) "Marginal nonattainment county" or "marginal nonattainment area" means a county or portion of a county designated marginal nonattainment in 401 KAR 51:010.

(66) "min" means minute.

(67) "mg" means milligram.

(68) "MJ" means megajoules.

(69) "MM" means million.

(70) "mm" means millimeter.

(71) "mo" means month.

(72) "Moderate nonattainment county" or "moderate nonattainment area" means a county or portion of a county designated moderate nonattainment in 401 KAR 51:010.

(73) "Modification" means a physical change in, or change in the method of operation of, an affected facility which:

(a) Increases the amount of an air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of an air pollutant (to which a standard applies) into the atmosphere not previously emitted; and

(b) is not solely: [-The following shall not, by themselves, be considered modifications:]

1. [(a)] Maintenance, repair, and replacement which the cabinet determines to be routine for a source category;

2. [(b)] An increase in production rate of an affected facility, if that increase can be accomplished without a capital expenditure on that facility;

3. [(c)] An increase in the hours of operation;

4. [(d)] Use of an alternative fuel or raw material if, prior to the date a [any] standard becomes applicable to that source type, the affected facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications as amended prior to the change.

5. Conversion to coal required for energy considerations, as specified in 42 USC 7411(a)(8)[-shall not be considered a modification];

6. [(e)] The addition or use of a [any] system or device whose primary function is the reduction of air pollutants, except if [when] an emission control system is removed or is replaced by a system which the cabinet determines to be less environmentally beneficial; or

7. [(f)] The relocation or change in ownership of an existing facility.

(74) "Monitoring device" means the total equipment, required in applicable administrative regulations, used to measure and record (if applicable) process parameters.

(75) "New source" means a source, the construction, reconstruction, or modification of which commenced on or after the classification date as defined in the applicable administrative regulation~~[-A source, upon reconstruction, becomes a new source,]~~ irrespective of a change in emission rate.

(76) "Ng" means nanograms.

(77) "N₂" means nitrogen.

(78) "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods specified by the cabinet.

(79) "NO" means nitric oxide.

(80) "NO₂" means nitrogen dioxide.

(81) "NO_x" means nitrogen oxides.

(82) "O₂" means oxygen.

(83) "O₃" means ozone.

(84) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

(85) "Owner or operator" means a person who owns, leases, operates, controls, or supervises an affected facility or a source to which an affected facility is a part.

(86) "oz" means ounce.

(87) "Particulate matter" means a material, except uncombined water, which exists in a finely divided form as a liquid or a solid as measured by the appropriate approved test method.

(88) "Particulate matter emissions" means, except as used in 40 CFR 60, all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Chapter I, or by a test method specified in the approved state implementation plan.

(89) "Person" means an individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate, or other entity.

(90) "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J to 40 CFR 50[-which has been incorporated by reference in 401 KAR 50:015,] and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53.

(91) "PM₁₀ emissions" means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified in 40 CFR Chapter I, or by a test method specified in the approved state implementation plan.

(92) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design, which shall:

(a) include air pollution control equipment and restrictions on the hours of operation or on the type or amount of material

combusted, stored, or processed, if the limitation or its effect on emissions is federally enforceable; and

(b) Not include secondary emissions.

(93) "ppb" means parts per billion.

(94) "ppm" means parts per million.

(95) "ppm(w/w)" means parts per million (weight by weight).

(96) "µg" means microgram.

(97) "psia" means pounds per square inch absolute.

(98) "psig" means pounds per square inch gage.

(99) "Reconstruction" means the replacement of components of an existing affected facility to the extent that:

(a) The fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility;

(b) The estimated life of the affected facility after the replacement exceeds fifty (50) percent of the life of a comparable entirely new affected facility;

(c) The components being replaced cause or contribute to the emissions from the affected facility; and

(d) It is technologically and economically feasible to meet the applicable requirements of 401 KAR Chapters 50 to 65.

[(45) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. A physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions shall not count in determining the potential to emit of a stationary source.

(46) "Reconstruction" means the replacement of components of an existing affected facility to the extent that the fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility, and it is technologically and economically feasible to meet the applicable new source standards. Individual sections of these administrative regulations may include specific provisions which refine and delimit the concept of reconstruction set forth in this subsection. The cabinet's determination as to whether the proposed replacement constitutes reconstruction shall be based on:

(a) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(b) The estimated life of the affected facility after the replacements compared to the life of a comparable entirely new affected facility;

(c) The extent to which the components being replaced cause or contribute to the emissions from the affected facility; and

(d) Economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.]

(100) "Reference method" means a method of sampling and analyzing for an air pollutant as prescribed by 40 CFR Part 50, Appendices A to K, Part 60, Appendices A to B, and Part 61, Appendix B [Appendices A through K to 40 CFR 50, Appendices A and B to 40 CFR 60, and Appendix B to 40 CFR 61, which have been incorporated by reference in 401 KAR 50:015. This term may be more narrowly defined within a specific administrative regulation].

(101) "Run" means the net period of time, either intermittent or continuous within the limits of good engineering practice, during which an emission sample is collected.

(102) "S" means at standard conditions.

(103) "sec" means second.

(104) "Secondary emissions" means emissions that:

(a1. Occur as a result of the construction or operation of a major stationary source or major modification; and
2. Do not come from the major stationary source or major modification itself;

(b) Are specific, well defined, quantifiable, and impact the same general area as the stationary source modification which causes the secondary emissions;

(c) Include emissions from an offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major sta-

tionary source or major modification; and

(d) Does not include emissions which come directly from a mobile source, including emissions from the tailpipe of a motor vehicle, a train, or vessel.

[(48) "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

(49) "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions shall be specific, well defined, quantifiable, and shall impact the same general area as does the stationary source modification which causes the secondary emissions. Secondary emissions may include, but are not limited to emissions from an off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.]

(105) "Serious nonattainment county" or "serious nonattainment area" means a county or portion of a county designated serious nonattainment in 401 KAR 51:010.

(106) "Severe nonattainment county" or "severe nonattainment area" means a county or portion of a county designated severe nonattainment in 401 KAR 51:010.

(107) "Shutdown" means the cessation of an operation.

(108) "SO₂" means sulfur dioxide.

(109) "Source" means one (1) or more affected facilities contained within a given contiguous property line, which means the property is [-The property shall be considered contiguous if] separated only by a public thoroughfare, stream, or other right of way.

(110) "sq" means square.

(111) "Stack or chimney" means a flue, conduit, or duct arranged to conduct emissions to the atmosphere.

(112) "Standard" means an emission standard, a standard of performance, or an ambient air quality standard as promulgated under the administrative regulations of the Division for Air Quality or the emission control requirements necessary to comply with 401 KAR Chapter 51, of the administrative regulations of the Division for Air Quality.

(113) "Standard conditions":

(a) For source measurements means twenty (20) degrees Celsius (sixty-eight (68) degrees Fahrenheit) and a pressure of 760 mm Hg (29.92 in. of Hg);

(b) For the purpose of air quality determinations means twenty-five (25) degrees Celsius and a reference pressure of 760 mm Hg.

(114) "Start-up" means the setting in operation of an affected facility.

(115) "State implementation plan" or "SIP" means the most recently prepared plan or revision required by 42 USC 7410 which has been approved by the U.S. EPA.

(116) "TAPPI" means Technical Association of the Pulp and Paper Industry.

(117) "Total suspended particulate" means particulate matter as measured by the method described in Appendix B of 40 CFR 50.

(118) "tpy" means ton per year.

(119) "TSP" means total suspended particulates.

(120) "TSS" means total suspended solids. [-which has been incorporated by reference in 401 KAR 50:015.]

(121) "Uncombined water" means water which can be separated from a compound by ordinary physical means and which is not bound to a compound by internal molecular forces.

(122) "Urban county" means a county which is a part of an urbanized area with a population [of] greater than 200,000 based upon the 1980 census. If a portion of a county is a part of an urbanized area, then the entire county shall be classified as urban with respect to the administrative regulations of the Division for Air Quality.

(123) "Urbanized area" means an area defined as such by the U.S. Department of Commerce, Bureau of Census.

(124) "U.S. EPA" means United States Environmental Protection Agency.

(125) "UTM" means Universal Transfer Mercator.

(126) "Volatile organic compound" or "VOC" means an organic compound which participates in atmospheric photochemical reactions. This includes an organic compound other than the following compounds: methane; ethane; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; methyl-ene chloride; 1,1,1-trichloroethane (methyl chloroform) trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12) chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); dichlorotetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); dichlorotrifluoroethane (HCFC-123); tetrafluoroethane (HFC-134a); dichlorofluoroethane (HCFC-141b); chlorodifluoroethane (HCFC-142b); 2-chloro-1,1,1, 2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4, 5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoro-propane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoro-propane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nona-fluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅); methyl acetate; and perfluorocarbon compounds which fall into the following [these] classes:

- (a) Cyclic, branched, or linear, completely fluorinated alkanes;
- (b) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (c) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; [and]
- (d) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine; or
- (e) Other compounds that have negligible photochemical reactivity and which are inadvertently measured by test methods that have been approved by the cabinet and the U.S. EPA.

(127) "vd" means yard. [These compounds have been determined to have negligible photochemical reactivity. For purposes of determining compliance with emission limits, VOCs shall be measured by test methods that have been approved by the cabinet and the U.S. EPA. If a method used also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.]

[Section 2. Abbreviations. The abbreviations used in the administrative regulations of 401 KAR Chapter 63, shall have the following meanings:

AG--Association of Official Analytical Chemists
 ANSI--American National Standards Institute
 ASTM--American Society for Testing and Materials
 BOD--Biochemical oxidant demand
 BTU--British Thermal Unit
 °C--Degree Celsius (centigrade)
 Cal--calorie
 cfm--cubic feet per minute
 CFR--Code of Federal Regulations
 CH₄--methane
 CO--Carbon monoxide
 CO₂--Carbon dioxide
 COD--Chemical oxidant demand
 dscf--dry cubic feet at standard conditions
 dscm--dry cubic meter at standard conditions
 °F--Degree Fahrenheit

ft--feet
 g--gram
 gal--gallon
 gr--grain
 hr--hour
 HCl--Hydrochloric acid
 Hg--mercury
 HF--Hydrogen fluoride
 H₂O--water
 H₂S--Hydrogen sulfide
 H₂SO₄--Sulfuric acid
 in--inch
 J--joule
 KAR--Kentucky Administrative Regulations
 kg--kilogram
 KRS--Kentucky Revised Statutes
 L--liter
 lb--pound
 m--meter
 m³--cubic meter
 min--minute
 mg--milligram
 MJ--megajoules
 MM--million
 mm--millimeter
 mo--month
 Ng--nanograms
 N₂--Nitrogen
 NO--Nitric oxide
 NO₂--Nitrogen dioxide
 NO_x--Nitrogen oxides
 oz--ounce
 O₂--oxygen
 O₃--ozone
 ppb--parts per billion
 ppm--parts per million
 ppm (w/w)--parts per million (weight by weight)
 µg--microgram
 psia--pounds per square inch absolute
 psig--pounds per square inch gage
 S--at standard conditions
 sec--second
 SIP--State implementation plan
 SO₂--Sulfur dioxide
 sq--square
 TAPPI--Technical Association of the Pulp and Paper Industry
 tpy--tons per year
 TSP--Total suspended particulates
 TSS--Total suspended solids
 U.S. EPA--United States Environmental Protection Agency
 UTM--Universal Transverse Mercator
 VOC--Volatile organic compound
 yd--yard]

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.

**NATURAL RESOURCES AND
 ENVIRONMENTAL PROTECTION CABINET
 Department for Environmental Protection
 Division for Air Quality
 (As Amended at ARRS, May 11, 1999)**

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

RELATES TO: KRS 224.01-010, 224.20-100, 224.20-110, 224.20-120, 40 CFR Chapter I, Appendices A through K to 50, 51.100(s), 53, 60, Appendices A and B to 60, Appendix B to 61, 42 USC 7410, 7411(a)(8)

STATUTORY AUTHORITY: KRS 224.10-100

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. This administrative regulation defines the terms [provides for the definition of terms] used in 401 KAR Chapter 63. The definitions contained in this administrative regulation, which have corresponding federal definitions, are not more stringent nor otherwise different than the corresponding federal definitions.

Section 1. [General] Definitions. [As used in the Division for Air Quality administrative regulations of 401 KAR Chapter 63, unless the content clearly indicates otherwise in a specific administrative regulation, the following words shall have the following meanings:]

(1) "Affected facility" means an apparatus, building, operation, road, or other entity or series of entities which emits or may emit an air contaminant into the outdoor atmosphere.

(2) "Air contaminant" is defined [has the meaning given it] in KRS 224.01-010.

(3) "Air pollutant" means an air contaminant.

(4) "Air pollution" is defined [has the meaning given it] in KRS 224.01-010.

(5) "Air pollution control equipment" means a mechanism, device or contrivance used to control or prevent air pollution, which is not, aside from air pollution control laws and administrative regulations, vital to production of the normal product of the source or to its normal operation.

(6) "Alteration" means:

(a) The installation or replacement of air pollution control equipment at a source; or

(b) A physical change in or change in the method of operation of an affected facility which increases the potential to emit [of] a pollutant (to which a standard applies) emitted by the facility or which results in the emission of an air pollutant (to which a standard applies) not previously emitted.

(7) "Alternative method" means a method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to [in specific cases] produce adequate results [adequate] for its determination of compliance.

(8) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(9) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured and is a goal to be achieved in a stated time through the application of appropriate preventive or control measures.

(10) "AOAC" means Association of Official Analytical Chemists.

(11) "ANSI" means American National Standards Institute.

(12) "ASTM" means American Society for Testing and Materials.

(13) "BOD" means biochemical oxidant demand.

(14) "BTU" means British Thermal Unit.

(15) "°C" means degree Celsius (centigrade).

(16) "Cabinet" is defined in KRS 224.01-010.

(17) "Cal" means calorie.

(18) "Capital expenditure" means an expenditure for a physical or operational change to an affected facility that:

(a) Exceeds the product of:

1. The applicable "annual asset guidelines repair allowance percentage" specified in the Internal Revenue Service (IRS) Publication 534; and

2. The affected facility's basis, as defined by 26 USC 1012; and

(b) Is not reduced by an excluded addition as defined in IRS Publication 534.

(19) "cfm" means cubic feet per minute.

(20) "CH₄" means methane.

(21) "CO" means carbon monoxide.

(22) "CO₂" means carbon dioxide.

(23) "COD" means chemical oxidant demand. ["Cabinet" has the meaning given it in KRS 224.01-010.]

(11) "Capital expenditure" means an expenditure for a physical or operational change to an affected facility which exceeds the product of the applicable "Annual asset guideline repair allowance percentage" specified in the Internal Revenue Service (IRS) Publication 534 which has been incorporated by reference in 401 KAR 50:010, and the affected facility's basis, as defined by section 1012 of the Internal Revenue Code which has been incorporated by reference in 401 KAR 50:010. However, the total expenditure for a physical or operational change to an affected facility shall not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.]

(24) "Commence" means that an owner or operator has undertaken a continuous program of construction, modification, or reconstruction of an affected facility, or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction, modification, or reconstruction of an affected facility.

(25) "Compliance schedule" means a time schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with a limitation or standard.

(26) "Construction" means fabrication, erection, installation or modification of an air contaminant source.

(27) "Continuous monitoring system" means the total equipment, required under the applicable administrative regulations used to sample, to condition (if applicable), to analyze and to provide a permanent record of emissions or process parameters.

(28) "Director" means Director of the Division for Air Quality of the Natural Resources and Environmental Protection Cabinet.

(29) "District" is defined in KRS 224.01-010.

(30) "dscf" means dry cubic feet at standard conditions.

(31) "dscm" means dry cubic meter at standard conditions.

(32) "District" has the meaning given it in KRS 224.01-010.

(33) "Emission standard" means that numerical limit which fixes the amount of an air contaminant or air contaminants that may be vented into the atmosphere [(open air)] from an affected facility or from air pollution control equipment installed in an affected facility.

(34) "Equivalent method" means a method of sampling and analyzing for an air pollutant which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(35) "Exempt solvent" means an organic compound listed in the definition of volatile organic compound as not participating in atmospheric photochemical reactions.

(36) "Existing source" means a source which is not a new source.

(37) "Extreme nonattainment county" or "extreme nonattainment area" means a county or portion of a county designated extreme nonattainment in 401 KAR 51:010.

(38) "°F" means degree Fahrenheit.

(39) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(40) "ft" means feet.

(41) "Fuel" means natural gas, petroleum, coal, wood, or a [and any] form of solid, liquid, or gaseous fuel derived from these materials for the purpose of creating useful heat.

(42) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. [the emissions of an air contaminant into the open air other than from a stack or air pollution control equipment exhaust.]

(43) "g" means gram.

(44) "gal" means gallon.

(45) "gr" means grain.

(46) "HCl" means hydrochloric acid.

(47) "Hg" means mercury.

(48) "HF" means hydrogen fluoride.

(49) "hr" means hour.

(50) "Hydrocarbon" means an organic compound consisting predominantly of carbon and hydrogen.

(51) "H₂O" means water.

(52) "H₂S" means hydrogen sulfide.

(53) "H₂SO₄" means sulfuric acid.

(54) "in" means inch.

(55) "Incineration" means the process of igniting and burning solid,

semisolid, liquid, or gaseous combustible wastes.

(55) "Intermittent emissions" means emissions of particulate matter into the open air from a process which operates for less than any six (6) consecutive minutes.

(56) "J" means joule.

(57) "Kg" means kilogram.

(58) "l" means liter.

(59) "lb" means pound.

(60) "m" means meter.

(61) "m³" means cubic meter.

(62) "Major source" means a source of which the potential emission rate is equal to or greater than 100 tons per year of any one (1) of the following pollutants: particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds or carbon monoxide.

(63) "Malfunction" means a failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner that is not caused entirely or in part by poor maintenance, careless operation, or other preventable upset condition or preventable equipment breakdown.

[30] "Malfunction" means a failure of air pollution control equipment, or process equipment, or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.]

(64) "Marginal nonattainment county" or "marginal nonattainment area" means a county or portion of a county designated marginal nonattainment in 401 KAR 51:010.

(65) "min" means minute.

(66) "mg" means milligram.

(67) "MJ" means megajoules.

(68) "MM" means million.

(69) "mm" means millimeter.

(70) "mo" means month.

(71) "Moderate nonattainment county" or "moderate nonattainment area" means a county or portion of a county designated moderate nonattainment in 401 KAR 51:010.

(72) "Modification" means a physical change in, or change in the method of operation of, an affected facility which:

(a) Increases the amount of an air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of an air pollutant (to which a standard applies) into the atmosphere not previously emitted; and

(b) Is not solely: [The following shall not, by themselves, be considered modifications:]

1. [(a)] Maintenance, repair, and replacement which the cabinet determines to be routine for a source category;

2. [(b)] An increase in production rate of an affected facility, if that increase can be accomplished without a capital expenditure on that facility;

3. [(c)] An increase in the hours of operation;

4. [(d)] Use of an alternative fuel or raw material if, prior to the date a [any] standard becomes applicable to that source type, the affected facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications as amended prior to the change.

5. Conversion to coal required for energy considerations, as specified in 42 USC 7411(a)(8) [shall not be considered a modification];

6. [(e)] The addition or use of a [any] system or device whose primary function is the reduction of air pollutants, except if [when] an emission control system is removed or is replaced by a system which the cabinet determines to be less environmentally beneficial; or

7. [(f)] The relocation or change in ownership of an existing facility.

(73) "Monitoring device" means the total equipment, required in applicable administrative regulations, used to measure and record (if applicable) process parameters.

(74) "New source" means a source, the construction, reconstruction, or modification of which commenced on or after the classification date as defined in the applicable administrative regulation [A source; upon reconstruction, becomes a new source;] irrespective of a change in emission rate.

(75) "Ng" means nanograms.

(76) "N₂" means nitrogen.

(77) "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods specified by the cabinet.

(78) "NO" means nitric oxide.

(79) "NO₂" means nitrogen dioxide.

(80) "NOₓ" means nitrogen oxides.

(81) "O₂" means oxygen.

(82) "O₃" means ozone.

(83) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

(84) "Owner or operator" means a person who owns, leases, operates, controls, or supervises an affected facility or a source to which an affected facility is a part.

(85) "oz" means ounce.

(86) "Particulate matter" means a material, except uncombined water, which exists in a finely divided form as a liquid or a solid as measured by the appropriate approved test method.

(87) "Particulate matter emissions" means, except as used in 40 CFR 60, all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Chapter I, or by a test method specified in the approved state implementation plan.

(88) "Person" means an individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate, or other entity.

(89) "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J to 40 CFR 50, [which has been incorporated by reference in 401 KAR 50:015;] and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53.

(90) "PM₁₀ emissions" means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified in 40 CFR Chapter I, or by a test method specified in the approved state implementation plan.

(91) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design, which shall:

(a) Include air pollution control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation or its effect on emissions is federally enforceable; and

(b) Not include secondary emissions.

(92) "ppb" means parts per billion.

(93) "ppm" means parts per million.

(94) "ppm(w/w)" means parts per million (weight by weight).

(95) "µg" means microgram.

(96) "psia" means pounds per square inch absolute.

(97) "psig" means pounds per square inch gage.

(98) "Reconstruction" means the replacement of components of an existing affected facility to the extent that:

(a) The fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility;

(b) The estimated life of the affected facility after the replacement exceeds fifty (50) percent of the life of a comparable entirely new affected facility;

(c) The components being replaced cause or contribute to the emissions from the affected facility; and

(d) It is technologically and economically feasible to meet the applicable requirements of 401 KAR Chapters 50 to 65.

[(44) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. A physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally

enforceable. Secondary emissions shall not count in determining the potential to emit of a stationary source.

(45) "Reconstruction" means the replacement of components of an existing affected facility to the extent that the fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility, and it is technologically and economically feasible to meet the applicable new source standards. Individual sections of these administrative regulations may include specific provisions which refine and delimit the concept of reconstruction set forth in this subsection. The cabinet's determination as to whether the proposed replacement constitutes reconstruction shall be based on:

(a) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(b) The estimated life of the affected facility after the replacements compared to the life of a comparable entirely new affected facility;

(c) The extent to which the components being replaced cause or contribute to the emissions from the affected facility; and

(d) Economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.]

(99) "Reference method" means a method of sampling and analyzing for an air pollutant as prescribed by 40 CFR Part 50, Appendices A to K, 40 CFR Part 60, Appendices A and B, and 40 CFR Part 61, Appendix B. [Appendices A through K to 40 CFR 50, Appendices A and B to 40 CFR 60, and Appendix B to 40 CFR 61, which have been incorporated by reference in 401 KAR 50:015. This term may be more narrowly defined within a specific administrative regulation.]

(100) "Run" means the net period of time, either intermittent or continuous within the limits of good engineering practice, during which an emission sample is collected.

(101) "S" means at standard conditions.

(102) "sec" means second.

(103) "Secondary emissions" means emissions that:

(a) Occur as a result of the construction or operation of a major stationary source or major modification; and

2. Do not come from the major stationary source or major modification itself;

(b) Are specific, well defined, quantifiable, and impact the same general area as the stationary source modification which causes the secondary emissions;

(c) Include emissions from an offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification; and

(d) Does not include emissions which come directly from a mobile source, including emissions from the tailpipe of a motor vehicle, a train, or vessel.

[(47) "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

(48) "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions shall be specific, well defined, quantifiable, and shall impact the same general area as does the stationary source modification which causes the secondary emissions. Secondary emissions may include, but are not limited to emissions from an off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.]

(104) "Serious nonattainment county" or "serious nonattainment area" means a county or portion of a county designated serious nonattainment in 401 KAR 51:010.

(105) "Severe nonattainment county" or "severe nonattainment area" means a county or portion of a county designated severe nonattainment in 401 KAR 51:010.

(106) "Shutdown" means the cessation of an operation.

(107) "SO₂" means sulfur dioxide.

(108) "Source" means one (1) or more affected facilities contained within a given contiguous property line, which means the property is [-The property shall be considered contiguous if] separated only by a public thoroughfare, stream, or other right of way.

(109) "sq" means square.

(110) "Stack or chimney" means a flue, conduit, or duct arranged to conduct emissions to the atmosphere.

(111) "Standard" means an emission standard, a standard of performance, or an ambient air quality standard as promulgated under the administrative regulations of the Division for Air Quality or the emission control requirements necessary to comply with 401 KAR Chapter 51, of the administrative regulations of the Division for Air Quality.

(112) "Standard conditions":

(a) For source measurements means twenty (20) degrees Celsius (sixty-eight (68) degrees Fahrenheit) and a pressure of 760 mm Hg (29.92 in. of Hg);

(b) For the purpose of air quality determinations means twenty-five (25) degrees Celsius and a reference pressure of 760 mm Hg.

(113) "Start-up" means the setting in operation of an affected facility.

(114) "State implementation plan" or "SIP" means the most recently prepared plan or revision required by 42 USC 7410 which has been approved by the U.S. EPA.

(115) "TAPPI" means Technical Association of the Pulp and Paper Industry.

(116) "Total suspended particulate" means particulate matter as measured by the method described in Appendix B of 40 CFR 50[, which has been incorporated by reference in 401 KAR 50:015].

(117) "tpy" means ton per year.

(118) "TSP" means total suspended particulates.

(119) "TSS" means total suspended solids.

(120) "Uncombined water" means water which can be separated from a compound by ordinary physical means and which is not bound to a compound by internal molecular forces.

(121) "Urban county" means a county which is a part of an urbanized area with a population [of] greater than 200,000 based upon the 1980 census. If a portion of a county is a part of an urbanized area, then the entire county shall be classified as urban with respect to the administrative regulations of the Division for Air Quality.

(122) "Urbanized area" means an area defined as such by the U.S. Department of Commerce, Bureau of Census.

(123) "U.S. EPA" means United States Environmental Protection Agency.

(124) "UTM" means Universal Transverse Mercator.

(125) "Volatile organic compound" or "VOC" means an organic compound which participates in atmospheric photochemical reactions. This includes an organic compound other than the following compounds: methane; ethane; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; methyl-ene chloride; 1,1,1-trichloroethane (methyl chloroform) trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12) chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); dichlorotetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); dichlorotrifluoroethane (HCFC-123); tetrafluoroethane (HFC-134a); dichlorofluoroethane (HCFC-141b); chlorodifluoroethane (HCFC-142b); 2-chloro-1,1,1, 2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4, 5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoro-propane (HFC-236ea); 1,1,1,3,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-

trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nona-fluoro-4-methoxy-butane(C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF₃)₂CFCF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅); methyl acetate; and perfluorocarbon compounds which fall into the following [these] classes:

- (a) Cyclic, branched, or linear, completely fluorinated alkanes;
- (b) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (c) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; [and]
- (d) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine; or

(e) Other compounds that have negligible photochemical reactivity and which are inadvertently measured by test methods that have been approved by the cabinet and the U.S. EPA.

(126) "yd" means yard. [These compounds have been determined to have negligible photochemical reactivity. For purposes of determining compliance with emission limits, VOCs shall be measured by test methods that have been approved by the cabinet and the U.S. EPA. If a method used also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.]

[Section 2. Abbreviations. The abbreviations used in the administrative regulations of 401 KAR Chapter 63, shall have the following meanings:

AOAC--Association of Official Analytical Chemists
 ANSI--American National Standards Institute
 ASTM--American Society for Testing and Materials
 BOD--Biochemical oxidant demand
 BTU--British Thermal Unit
 °C--Degree Celsius (centigrade)
 Cal--calorie
 cfm--cubic feet per minute
 CFR--Code of Federal Regulations
 CH₄--methane
 CO--Carbon monoxide
 CO₂--Carbon dioxide
 COD--Chemical oxidant demand
 dscf--dry cubic feet at standard conditions
 dscm--dry cubic meter at standard conditions
 °F--Degree Fahrenheit
 ft--feet
 g--gram
 gal--gallon
 gr--grain
 hr--hour
 HCl--Hydrochloric acid
 Hg--mercury
 HF--Hydrogen fluoride
 H₂O--water
 H₂S--Hydrogen sulfide
 H₂SO₄--Sulfuric acid
 in--inch
 J--joule
 KAR--Kentucky Administrative Regulations
 kg--kilogram
 KRS--Kentucky Revised Statutes
 L--liter
 lb--pound
 m--meter
 m³--cubic meter
 min--minute
 mg--milligram
 MJ--megajoules
 MM--million
 mm--millimeter
 mo--month
 Ng--nanograms
 N₂--Nitrogen

NO--Nitric oxide
 NO₂--Nitrogen dioxide
 NO_x--Nitrogen oxides
 oz--ounce
 O₂--oxygen
 O₃--ozone
 ppb--parts per billion
 ppm--parts per million
 ppm (w/w)--parts per million (weight by weight)
 µg--microgram
 psia--pounds per square inch absolute
 psig--pounds per square inch gauge
 S--at standard conditions
 sec--second
 SIP--State implementation plan
 SO₂--Sulfur dioxide
 sq--square
 TAPPI--Technical Association of the Pulp and Paper Industry
 tpy--tons per year
 TSP--Total suspended particulates
 TSS--Total suspended solids
 U.S. EPA--United States Environmental Protection Agency
 UTM--Universal Transverse Mercator
 VOC--Volatile organic compound
 yd--yard]

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.

**NATURAL RESOURCES AND
 ENVIRONMENTAL PROTECTION CABINET
 Department for Environmental Protection
 Division for Air Quality
 (As Amended at ARRS, May 11, 1999)**

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

RELATES TO: KRS 224.01-010, 224.10-100, 40 CFR ch. I, Appendices B and J to 40 CFR 50, 40 CFR 53, 60, 42 USC 7410

STATUTORY AUTHORITY: KRS 224.10-100

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. This administrative regulation defines the terms [provides for the defining of terms to be] used in 401 KAR Chapter 65. The definitions contained in this administrative regulation, which have corresponding federal definitions, are not more stringent nor otherwise different than the corresponding federal definitions.

Section 1. [General] Definitions. [As used in the Division for Air Quality administrative regulations of 401 KAR Chapter 65, unless the content clearly indicates otherwise in a specific administrative regulation, the following terms shall have the following meanings:]

- (1) "Air contaminant" is defined [has the meaning given it] in KRS 224.01-010.
- (2) "Air pollutant" means an air contaminant.
- (3) "Air pollution" is defined [has the meaning given it] in KRS 224.01-010.
- (4) "Alternative method" means a method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to, in specific cases, produce results adequate for its determination of compliance.
- (5) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
- (6) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured and is a goal to be achieved in a stated time through the

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application of appropriate preventive or control measures.

(7) "AOAC" means Association of Official Analytical Chemists.

(8) "ANSI" means American National Standards Institute.

(9) "ASTM" means American Society for Testing and Materials.

(10) "BOD" means biochemical oxidant demand.

(11) "BTU" means British Thermal Unit.

(12) "°C" means degree Celsius (centigrade).

(13) "Cabinet" is defined in KRS 224.01-010.

(14) "Cal" means calorie.

(15) "cfm" means cubic feet per minute.

(16) "CH₄" means methane.

(17) "CO" means carbon monoxide.

(18) "CO₂" means carbon dioxide.

(19) "COD" means chemical oxidant demand. ["Cabinet" has the meaning given it in KRS 224.01-010.]

(20) "Director" means Director of the Division for Air Quality of the Natural Resources and Environmental Protection Cabinet.

(21) "District" is defined in KRS 224.01-010.

(22) "dscf" means dry cubic feet at standard conditions.

(23) "dscm" means dry cubic meter at standard conditions.

[("District" has the meaning given it in KRS 224.01-010.)]

(24) "Equivalent method" means a method of sampling and analyzing for an air pollutant which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(25) "Exempt solvent" means an organic compound listed in the definition of volatile organic compound as not participating in atmospheric photochemical reactions.

(26) "Extreme nonattainment county" or "extreme nonattainment area" means a county or portion of a county designated extreme nonattainment in 401 KAR 51:010.

(27) "°F" means Degree Fahrenheit.

(28) "ft" means feet.

(29) "g" means gram.

(30) "gal" means gallon.

(31) "gr" means grain.

(32) "HCl" means hydrochloric acid.

(33) "Hg" means mercury.

(34) "HF" means hydrogen fluoride.

(35) "hr" means hour.

(36) "Hydrocarbon" means an organic compound consisting predominantly of carbon and hydrogen.

(37) "H₂O" means water.

(38) "H₂S" means hydrogen sulfide.

(39) "H₂SO₄" means sulfuric acid.

(40) "in" means inch.

(41) "J" means joule.

(42) "Kg" means kilogram.

(43) "l" means liter.

(44) "lb" means pound.

(45) "m" means meter.

(46) "m" means cubic meter.

(47) "Marginal nonattainment county" or "marginal nonattainment area" means a county or portion of a county designated marginal nonattainment in 401 KAR 51:010.

(48) "min" means minute.

(49) "mg" means milligram.

(50) "MJ" means megajoules.

(51) "MM" means million.

(52) "mm" means millimeter.

(53) "mo" means month.

(54) "Moderate nonattainment county" or "moderate nonattainment area" means a county or portion of a county designated moderate nonattainment in 401 KAR 51:010.

(55) "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods specified by the cabinet.

(56) "NO" means nitric oxide.

(57) "NO₂" means nitrogen dioxide.

(58) "NO_x" means nitrogen oxides.

(59) "O₂" means oxygen.

(60) "O₃" means ozone.

(61) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

(62) "oz" means ounce.

(63) "Particulate matter" means a material, except uncombined water, which exists in a finely divided form as a liquid or a solid as measured by the appropriate approved test method.

(64) "Particulate matter emissions" means, except as used in 40 CFR 60, all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Chapter 1, or by a test method specified in the approved state implementation plan.

(65) "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J to 40 CFR 50, [which has been incorporated by reference in 401 KAR 50:015,] and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53.

(66) "PM₁₀ emissions" means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified in 40 CFR Chapter 1, or by a test method specified in the approved state implementation plan.

(67) "ppb" means parts per billion.

(68) "ppm" means parts per million.

(69) "ppm(w/w)" means parts per million (weight by weight).

(70) "µg" means microgram.

(71) "psia" means pounds per square inch absolute.

(72) "psig" means pounds per square inch gage.

(73) "S" means at standard conditions.

(74) "sec" means second.

(75) "Serious nonattainment county" or "serious nonattainment area" means a county or portion of a county designated serious nonattainment in 401 KAR 51:010.

(76) "Severe nonattainment county" or "severe nonattainment area" means a county or portion of a county designated severe nonattainment in 401 KAR 51:010.

(77) "SO₂" means sulfur dioxide.

(78) "sq" means square.

(79) "Standard" means an emission standard, a standard of performance, or an ambient air quality standard as promulgated under the administrative regulations of the Division for Air Quality or the emission control requirements necessary to comply with 401 KAR Chapter 51, of the administrative regulations of the Division for Air Quality.

(80) "Standard conditions":

(a) For source measurements means twenty (20) degrees Celsius (sixty-eight (68) degrees Fahrenheit) and a pressure of 760 mm Hg (29.92 in. of Hg);

(b) For the purpose of air quality determinations means twenty-five (25) degrees Celsius and a reference pressure of 760 mm Hg.

(81) "State implementation plan" or "SIP" means the most recently prepared plan or revision required by 42 USC 7410 which has been approved by the U.S. EPA.

(82) "TAPPI" means Technical Association of the Pulp and Paper Industry.

(83) "Total suspended particulate" means particulate matter as measured by the method described in Appendix B of 40 CFR 50; [which has been incorporated by reference in 401 KAR 50:015].

(84) "tpy" means ton per year.

(85) "TSP" means total suspended particulates.

(86) "TSS" means total suspended solids.

(87) "Uncombined water" means water which can be separated from a compound by ordinary physical means and which is not bound to a compound by internal molecular forces.

(88) "Urban county" means a county which is a part of an urbanized area with a population [of] greater than 200,000 based upon the 1980 census. If a portion of a county is a part of an urbanized area, then the entire county shall be classified as urban with respect to the administrative regulations of the Division for Air Quality.

(89) "Urbanized area" means an area defined as such by the U.S.

Department of Commerce, Bureau of Census.

(90) "U.S. EPA" means United States Environmental Protection Agency.

(91) "UTM" means Universal Transverse Mercator.

(92) "Volatile organic compound" or "VOC" means an organic compound which participates in atmospheric photochemical reactions. This includes an organic compound other than the following compounds: methane; ethane; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; methylene chloride; 1,1,1-trichloroethane (methyl chloroform); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); dichlorotetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); dichlorotrifluoroethane (HCFC-123); tetrafluoroethane (HFC-134a); dichlorofluoroethane (HCFC-141b); chlorodifluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonfluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nona-fluorobutane (C₄F₉OC₂H₅); 2-(ethoxydifluoromethyl)-1,1,1,2,2,3,3,3-hepta-fluoropropane ((CF₃)₂CFCF₂OC₂H₅); methyl acetate; and perfluorocarbon compounds which fall into the following [these] classes:

(a) Cyclic, branched, or linear, completely fluorinated alkanes;
(b) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(c) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; [and]

(d) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine; or

(e) Other compounds that have negligible photochemical reactivity and which are inadvertently measured by test methods that have been approved by the cabinet and the U.S. EPA.

(126) "yd" means yard. [These compounds have been determined to have negligible photochemical reactivity. For purposes of determining compliance with emission limits, VOCs shall be measured by test methods that have been approved by the cabinet and the U.S. EPA. If a method used also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.]

[Section 2. Abbreviations. The abbreviations used in the administrative regulations of 401 KAR Chapter 65 shall have the following meanings:

AOAC means Association of Official Analytical Chemists
ANSI means American National Standards Institute.
ASTM means American Society for Testing and Materials.
BOD means Biochemical oxidant demand.
BTU means British Thermal Unit.
°C means Degree Celsius (centigrade).
Cal means calorie.
cfm means cubic feet per minute.
CFR means Code of Federal Regulations.
CH₄ means methane.
CO means Carbon monoxide.
CO₂ means Carbon dioxide.
COD means Chemical oxidant demand.

dscf means dry cubic feet at standard conditions.
dscm means dry cubic meter at standard conditions.
°F means Degree Fahrenheit.

ft means feet.

g means gram.

gal means gallon.

gr means grain.

hr means hour.

HCl means Hydrochloric acid.

Hg means mercury.

HF means Hydrogen fluoride.

H₂O means water.

H₂S means Hydrogen sulfide.

H₂SO₄ means Sulfuric acid.

in means inch.

J means joule.

KAR means Kentucky Administrative Regulations.

kg means kilogram.

KRS means Kentucky Revised Statutes.

L means liter.

lb means pound.

m means meter.

m³ means cubic meter.

min means minute.

mg means milligram.

MJ means megajoules.

MM means million.

mm means millimeter.

mo means month.

Ng means nanograms.

N₂ means Nitrogen.

NO means Nitric oxide.

NO₂ means Nitrogen dioxide.

NO_x means Nitrogen oxides.

oz means ounce.

O₂ means oxygen.

O₃ means ozone.

ppb means parts per billion.

ppm means parts per million.

ppm (w/w) means parts per million (weight by weight).

µg means microgram.

psia means pounds per square inch absolute.

psig means pounds per square inch gage.

S means at standard conditions.

sec means second.

SIP means State implementation plan.

SO₂ means Sulfur dioxide.

sq means square.

TAPPI means Technical Association of the Pulp and Paper Industry.

TSP means Total suspended particulates.

TSS means Total suspended solids.

U.S. EPA means United States Environmental Protection Agency.

UTM means Universal Transverse Mercator.

VOC means Volatile organic compound.

yd means yard.]

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.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, May 11, 1999)

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)

VOLUME 25, NUMBER 12 – JUNE 1, 1999

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. **For purposes of 40 CFR 68.3, the administrator shall be** [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, **effective July 1, 1998, as amended at** [(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, **8020 Ewing Boulevard, Suite 110**, [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; **or** [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.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, May 11, 1999)**

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, **effective July 1, 1998, as amended at** [(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, **8020 Ewing Boulevard, Suite 110**, [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; **or** [and]

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

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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.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, May 11, 1999)**

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, **effective** [(40 CFR Part 68, Subpart G), "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, **8020 Ewing Boulevard, Suite 110**, [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; or [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.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, May 11, 1999)**

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, effective July 1, 1998, as amended at [(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, 8020 Ewing Boulevard, Suite 110, [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; or [and]

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

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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.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, May 11, 1999)**

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, effective [(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, 8020 Ewing Boulevard, Suite 110, [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; or [and]

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

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JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: March 5, 1999

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**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended at ARRS, May 11, 1999)**

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

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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. **For purposes of 40 CFR 68.120, the administrator shall be** [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, **effective July 1, 1998** [~~(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, **8020 Ewing Boulevard, Suite 110**, [~~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; **or [and]**

(h) Paducah Regional Office, 4500 Clarks River Road, Paducah, Kentucky 42003, (502) 898-8468.

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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.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (As Amended at ARRS, May 11, 1999)

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, **effective July 1, 1998, as amended at** [~~(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, **8020 Ewing Boulevard, Suite 110**, [~~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; **or [and]**

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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.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division for Air Quality (As Amended at ARRS, May 11, 1999)

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, **effective** [~~(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;

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(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42104, (502) 746-7475;

(d) Florence Regional Office, **8020 Ewing Boulevard, Suite 110**, [~~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; **or [and]**

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(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.

**NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
(As Amended at ARRS, May 11, 1999)**

405 KAR 7:097. Reclamation in lieu of cash payment of civil penalties.

RELATES TO: KRS 350.010, 350.020, 350.028, 350.130, 350.150, 350.151, 350.465, 350.550-350.597, 350.990, 30 CFR Parts 730-733, 735, 845, 846, 917, 30 USC 1253, 1255, 1268

STATUTORY AUTHORITY: KRS 350.020, 350.028, 350.151, 350.465, 350.990, 30 CFR Parts 730-733, 735, 845, 846, 917, 30 USC 1253, 1255, 1268

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.028(1), (5), 350.151(1), and 350.465(2) authorize the cabinet to promulgate administrative regulations relating to surface and underground coal mining operations. KRS 350.990(11) authorizes the cabinet to allow a permittee, person, or operator to perform in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution, instead of making cash payment of a civil penalty assessed under KRS 350.990. KRS 350.990(11) authorizes the cabinet to promulgate administrative regulations as necessary to implement and administer its provisions. This administrative regulation establishes criteria and procedures to implement KRS 350.990(11). This administrative regulation differs from federal regulations as follows: There are no corresponding federal regulations that establish specific requirements applicable to state regulatory programs that provide for reclamation in lieu of cash payment of civil penalties. As a condition of federal approval of KRS 350.990(11), ~~[the federal regulations at]~~ 30 CFR 917.16(c)(3) requires [require] the cabinet to obtain federal approval of administrative regulations prior to implementation of KRS 350.990(11). This administrative regulation was submitted to the Office of Surface Mining Reclamation and Enforcement for approval as required by 30 CFR 917.16(c)(3) at 64 FR 3670, January 25, 1999.

Section 1. Applicability and General Provisions. (1) This administrative regulation shall apply to a permittee, person, or operator who has been assessed a civil penalty under KRS 350.990 by a final order of the secretary of the cabinet.

(2) The cabinet may, in accordance with KRS 350.990(11) and this administrative regulation, allow a permittee, person, or operator to perform activities in lieu of cash payment of one (1) or more civil penalties, if the aggregate amount of the civil penalties is \$2,500 or more.

(3) Activities under this administrative regulation shall be authorized under a binding agreement between the cabinet and the person owing the civil penalty. The agreement shall be termed a "Civil Penalty Reclamation Agreement."

(4) A permittee, person, or operator conducting activities authorized under this administrative regulation shall not be deemed an agent, contractor, or employee of the cabinet.

(5) A permittee, person, or operator conducting activities authorized under this administrative regulation shall obtain and maintain the legal right to enter upon the site and conduct the authorized activities.

(6)(a) A permittee, person, or operator conducting activities authorized under this administrative regulation shall obtain and maintain liability insurance coverage in accordance with this subsection.

(b) The permittee, person, or operator shall submit a certificate issued by an insurance company authorized to do business in Kentucky certifying that the permittee, person, or operator has a public liability insurance policy in force for the authorized activities. The policy shall provide for personal injury and property damage protection in an amount adequate to compensate for all personal injury and property damage resulting from the authorized activities, including damage caused by the use of explosives and damage to water wells. Minimum insurance coverage for bodily injury and property damage shall be \$300,000 for each occurrence and \$500,000 aggregate.

(c) The policy shall be maintained in force during the term of the Civil Penalty Reclamation Agreement, until the cabinet has determined in writing that the terms of the Civil Penalty Reclamation Agreement have been satisfied.

(d) The policy shall include a clause requiring that the insurer notify the cabinet if a substantive change is ~~[whenever substantive changes are]~~ made in the policy, including a ~~[any]~~ termination or failure to renew.

(e) If ~~[In the event]~~ the insurer becomes unable to fulfill its obligations under the policy, notice shall be given immediately to the permittee, person, or operator and the cabinet.

(f) Upon the incapacity of an insurer by reason of bankruptcy, insolvency, or suspension or revocation of its license or certificate of authority, the permittee, person, or operator shall be deemed to be without insurance coverage and shall promptly notify the cabinet. Notification shall not ~~[However, nothing herein shall]~~ relieve the insurer of liability on its policy. The cabinet shall notify the permittee, person, or operator in writing, specifying a reasonable period to replace the ~~[such]~~ coverage, not to exceed ninety (90) days. If adequate insurance coverage is not obtained by the end of the period allowed, the permittee, person, or operator shall cease the authorized activities and the cabinet may terminate the Civil Penalty Reclamation Agreement and require the permittee, person, or operator to pay the assessed civil penalty.

(7) If the activities authorized under this administrative regulation are for reclamation of a mine site, the permittee, person, or operator shall provide a performance bond. For activities other than reclamation of a mine site, the cabinet may require the permittee, person, or operator to provide a performance bond if the cabinet determines that the authorized activities could create a ~~[substantial]~~ risk of ~~[significant]~~ environmental harm. This bond shall be in addition to a ~~[any]~~ bond required by another ~~[any other]~~ federal, state, or local law. The cabinet shall determine the amount of the bond based upon site specific conditions. This subsection may be satisfied by a performance bond that meets the requirements of 405 KAR Chapter 10. The cabinet shall release the performance bond promptly after the cabinet has determined that the terms of the Civil Penalty Reclamation Agreement have been fulfilled, and the bond release procedures of 405 KAR 10:040 shall not apply.

(8) A permittee, person, or operator conducting activities authorized under this administrative regulation shall comply with applicable federal, state, and local laws and regulations.

(9) A permittee, person, or operator conducting activities authorized under this administrative regulation shall not engage in coal removal in connection with the authorized activities.

(10) Activities authorized under this administrative regulation shall be on-ground activities that directly result in reclamation, environmental rehabilitation, or correction of environmental pollution. Educational, promotional, training, and other activities that may indirectly affect the environment, shall not be authorized.

(11) Activities authorized under this administrative regulation shall not constitute government financed construction for the purposes of 405 KAR 7:030, Sections 2 and 3.

(12) The cabinet shall determine the location, scope, and time schedule for activities authorized under this administrative regulation.

(13) The Division of Abandoned Mine Lands shall determine the estimate of the cost of activities authorized or completed under this administrative regulation.

(14) Activities shall not be authorized under this administrative regulation unless their estimated cost exceeds the assessed amount of the civil penalty.

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(15) The cost of activities in excess of the civil penalty amount covered in the Civil Penalty Reclamation Agreement shall not be credited or carried forward to satisfy a civil penalty not covered in the Civil Penalty Reclamation Agreement or a [any] future civil penalty.

(16) The cabinet shall maintain appropriate records of activities conducted under this administrative regulation. The Department for Surface Mining Reclamation and Enforcement shall maintain custody of the records. The cabinet shall request an audit of these records and activities authorized under this administrative regulation, at intervals of not more than five (5) years.

Section 2. Ineligible Permittees, Persons, or Operators. The cabinet shall not authorize a permittee, person, or operator to perform activities under this administrative regulation if the permittee, person, or operator is ineligible to receive a permit under KRS Chapter 350 and 405 KAR Chapters 7-24 for a reason [reasons] other than nonpayment of a civil penalty [penalties]. [:

(1) ~~The cabinet has determined under KRS 350.130(3) that the permittee, person, or operator has demonstrated a pattern of willful violations of KRS Chapter 350 of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of KRS Chapter 350;~~

(2) ~~The permittee, person, or operator has had a permit revoked or a bond forfeited under KRS Chapter 350;~~

(3) ~~The permittee, person, or operator has an outstanding violation under KRS Chapter 350 and has not completed the on-ground work necessary to correct the violation;~~

(4) ~~The permittee, person, or operator owns or controls a surface coal mining operation for which the permit has been revoked or the bond forfeited; or which is currently in violation of KRS Chapter 350, and the on-ground work necessary to correct the violation has not been completed; or~~

(5) ~~The permittee, person, or operator is currently in violation of other federal, state, or local environmental laws.]~~

Section 3. Ineligible Civil Penalties. The cabinet shall not authorize activities in lieu of cash payment of a civil penalty if:

(1) A violation that led to the civil penalty remains unabated; or

(2) The permittee, person, or operator owing the civil penalty has:

(a) Entered into an agreed order with the cabinet to pay the civil penalty; and

(b) [has] Failed to comply with the terms of the agreed order.

Section 4. Ineligible Sites. The cabinet shall not authorize activities at the following sites:

(1) A site that is under a valid permit under KRS Chapter 350 for which the bond has not been forfeited;

(2) A site that is under another valid federal, state, or local permit, under which the permit holder has responsibility for environmental conditions at the site; or

(3) A site for which there is an ongoing enforcement action for violation of federal, state, or local environmental laws, unless the agency pursuing the enforcement action consents.

Section 5. Selection of Sites. (1) For informational and planning purposes [only], the cabinet may develop and maintain a list of sites that may be suitable for activities under this administrative regulation, and may assign priorities to sites on the list. If the cabinet develops a list of sites, it shall be made available to the public. Authorization of a site for activities under this administrative regulation shall be made on a case-by-case basis and shall not be limited to sites on the [a] list.

(2) The cabinet may consider sites and activities proposed by the permittee, person, or operator owing a civil penalty, but the cabinet shall not have an [have no] obligation to authorize, or give preference to, the sites or activities.

(3) The cabinet shall consult with the county fiscal court before authorizing activities on a site in the county. The county fiscal court may recommend sites or activities, but the cabinet shall not have an [have no] obligation to authorize, or give preference to, the sites or activities.

(4) The cabinet may consult with other federal, state, and local government agencies and officials, and with private organizations and individuals, ~~[as the cabinet deems appropriate,]~~ regarding selection of sites and activities to be authorized.

(5) The cabinet may seek public input regarding selection of sites and activities to be authorized, through newspaper notice or by other means.

(6) The cabinet may give preference to sites or activities that address environmental impacts resulting from coal mining.

Section 6. Criteria Applicable to Activities and Costs. (1) The following activities shall not be authorized under this administrative regulation:

(a) Activities which the permittee, person, or operator owing the civil penalty has a duty to perform under KRS Chapter 350 or other federal, state, or local law;

(b) Activities which the permittee, person, or operator owing the civil penalty, or other person, has a legal obligation to perform under a valid contract; and

(c) Activities on land or waters in which the permittee, person, or operator owing the penalty has, directly or indirectly, an ownership interest or other financial interest.

(2) The following activities and costs shall not be credited toward the civil penalty:

(a) Activities begun or costs incurred prior to the Civil Penalty Reclamation Agreement;

(b) The cost of labor, equipment, time, materials, or services, donated by persons other than the permittee, person, or operator owing the civil penalty;

(c) Payments or gifts by the permittee, person, or operator owing the civil penalty to government agencies or private organizations in exchange for their participation in planning or carrying out activities;

(d) Purchase or lease of land, easements, rights of way, or other access to property;

(e) Construction, modification or repair of a building or other structure, unless the function of the building or other structure is prevention, control, or abatement of environmental pollution;

(f) Repair of a road, unless the purpose of the repair is abatement and control of environmental pollution;

(g) Transportation costs; and

(h) Administrative costs and overhead.

(3) Activities may be authorized in conjunction with an abandoned mine land reclamation project of the cabinet under KRS 350.550 through 350.597.

(4) Activities may be authorized in conjunction with reclamation of a bond forfeiture site by the cabinet under KRS 350.150, if the permittee, person, or operator owing the civil penalty:

(a) Did not own or control the site under KRS Chapter 350;

(b) Was not an operator or agent on the site under KRS Chapter 350; and

(c) Has no direct or indirect ownership or other interest in the land.

Section 7. Request. (1) A permittee, person, or operator desiring to perform in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution in lieu of cash payment of a civil penalty shall make a written request to the Commissioner of the Department for Surface Mining Reclamation and Enforcement. The request shall not be made contingent upon any particular proposed site or activities.

(2) The request shall identify:

(a) The permittee and permit number associated with the civil penalty;

(b) The identifying number of the noncompliance or cessation order that resulted in the civil penalty;

(c) The assessed civil penalty amount and the amount that remains unpaid;

(d) The name, mailing address, and telephone number of the permittee, operator or person making the request; and

(e) The date of the request.

(3) If the civil penalty is owed by an individual, the request shall bear the signature of the individual.

(4) If the civil penalty is owed by a business entity, the request

shall bear the signature and title of an authorized officer or agent of the business entity.

(5)(a) For a civil penalty assessed by final order of the secretary on or after July 1, 1999, the request shall be filed within thirty (30) days after the date of the final order [of the secretary assessing the civil penalty].

(b) For a civil penalty assessed by final order of the secretary prior to July 1, 1999, the request shall be filed not later than June 30, 2000.

(c) The filing of the request shall not stay the collection of the civil penalty.

(6) Within fifteen (15) days after receiving a request under this section, the cabinet shall notify the permittee, person, or operator, in writing, of whether the cabinet intends to pursue a Civil Penalty Reclamation Agreement with the permittee, person, or operator. The cabinet may require additional information relevant to the request.

(7) The permittee, person, or operator may withdraw the request at any time prior to entering into a Civil Penalty Reclamation Agreement, by providing written notice to the Commissioner of the Department for Surface Mining Reclamation and Enforcement.

Section 8. Civil Penalty Reclamation Agreement. (1) The Civil Penalty Reclamation Agreement shall specify:

(a) The effective date of the Civil Penalty Reclamation Agreement;

(b) The names of the parties to the Civil Penalty Reclamation Agreement;

(c) The civil penalty amount;

(d) The identifying number of the noncompliance or cessation order that resulted in the civil penalty;

(e) The permit number and name of the permittee associated with the violation that led to the civil penalty;

(f) The activities authorized;

(g) The time span within which the authorized activities shall be completed;

(h) The site of the authorized activities;

(i) The requirements for legal right of entry, liability insurance, and performance bonding;

(j) The conditions under which the Civil Penalty Reclamation Agreement may be modified or terminated;

(k) The consequences of failure to satisfy the terms of the Civil Penalty Reclamation Agreement; and

(l) The effect of successful satisfaction of the terms of the Civil Penalty Reclamation Agreement.

(2) A Civil Penalty Reclamation Agreement may cover multiple civil penalties and sites:

(a) Multiple civil penalties may be covered at a single site; and

(b) A single civil penalty may be covered at multiple sites.

(3) The cabinet and the permittee, person, or operator owing the civil penalty shall be parties to the Civil Penalty Reclamation Agreement. Other parties may be included if the cabinet determines they are necessary parties to the Civil Penalty Reclamation Agreement.

(4) Except as provided in subsection (5) of this section, the Civil Penalty Reclamation Agreement may be modified or terminated at any time if approved in writing by all parties in accordance with the provisions established in the Civil Penalty Reclamation Agreement as required by subsection (1)(j) of this section.

(5) The cabinet may terminate the Civil Penalty Reclamation Agreement at any time if the permittee, person, or operator owing the civil penalty fails to satisfactorily fulfill the terms of the Civil Penalty Reclamation Agreement.

(6) The cabinet shall conduct field inspections as necessary to monitor progress under the Civil Penalty Reclamation Agreement.

(7) The civil penalty shall remain due and payable until the cabinet has determined in writing that the permittee, person, or operator owing the civil penalty has satisfactorily fulfilled the terms of the Civil Penalty Reclamation Agreement.

(8) The full assessed civil penalty shall be due and payable if the Civil Penalty Reclamation Agreement is breached.

JAMES E. BICKFORD, Secretary
BARBARA A. FOSTER, General Counsel
APPROVED BY AGENCY: April 9, 1999

PUBLIC PROTECTION AND REGULATION CABINET
Office of the Petroleum Storage Tank
Environmental Assurance Fund
(As Amended at ARRS, May 11, 1999)

415 KAR 1:090. Ranking system.

RELATES TO: KRS 12.010 through 12.020, 224.60-120, 224.60-130, 224.60-140, 40 CFR Part 280

STATUTORY AUTHORITY: KRS [224.60-120;] 224.60-130(2)(e) NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-130(2)(e) requires [The amendments to KRS 224.60-130 enacted by the 1992 Kentucky General Assembly required] the Office of the Petroleum Storage Tank Environmental Assurance [require the] Fund to establish a ranking system for distribution of funds from the petroleum storage tank account [to be used for the distribution of amounts from the petroleum storage tank account for the purpose of corrective action. In promulgating the administrative regulations the office [fund] shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by release into the environment from a petroleum storage tank]. This administrative regulation establishes the criteria for ranking sites according to the extent of damage to the environment and the financial ability of the petroleum storage tank owner or operator to perform corrective action.

Section 1. Applicability. An owner or operator of a petroleum storage tank [tanks] eligible to participate in the petroleum storage tank account [415 KAR 1:070] shall not be classified [pursuant to this administrative regulation] for reimbursement if the owner or operator:

(1) Is an individual who:

(a) Owns or operates five (5) or fewer tanks; and

(b) Has an [The owner or operator is an individual, owning or operating five (5) or fewer tanks, whose] average adjusted gross income for the five (5) year period, prior to applying for assistance from the office [fund], of [is] less than \$50,000; or

(2) Has a tank that was [The owner or operator has tanks that were] abandoned or closed prior to December 22, 1988. This subsection includes a facility [facilities] under the direction of the implementing agency pursuant to 401 KAR 42:080 at the time the release is detected. An owner or operator that is an organizational unit [but does not include those owners and operators that are organizational units] of the executive branch of the Commonwealth of Kentucky shall not be reimbursed under this subsection, but shall be classified pursuant to Section 6(14) of this administrative regulation.

Section 2. Priority for Environmental Damage. (1) A facility shall be ranked for environmental damage priority according to the following:

(a) The extent of environmental damage caused or threatened, as previously established by the cabinet;

(b) Standards established in 401 KAR 42:070; and

(c) Standards established in 401 KAR 42:080. [The ranking of a facility to determine priority for the distribution of amounts from the petroleum storage tank account based upon the extent of damage caused or threatened by a release of petroleum into the environment from a petroleum storage tank at the facility shall be based upon the Petroleum Underground Storage Tank System Facility Classification Outline (1994) incorporated by reference pursuant to 401 KAR 42:080 and the administrative regulations adopted by the cabinet establishing standards for corrective action for release into the environment from a petroleum storage tank.]

(2) Priority due to the extent of environmental harm shall be established as follows:

(a) First priority shall be given to a facility if:

1. A release of petroleum has contaminated a:

a. Domestic use well;

b. Domestic use spring;

c. Domestic use well head protection area, as defined in 401

KAR 42:080;

- d. Drinking water supply; or
- e. Utility conduit; or

2. The facility is the source of fumes in an occupied building.

(b) Second priority shall be given to a facility if, due to groundwater contamination, it is required to meet the levels specified in Groundwater Table 1 of the Petroleum Underground Storage Tank System Facility Classification Outline, incorporated by reference in 401 KAR 42:080, for a release of petroleum that poses a direct threat to a:

- 1. Domestic use well;
- 2. Domestic use spring;
- 3. Domestic use well head protection area;
- 4. Drinking water supply; or
- 5. Utility conduit.

(c) Third priority shall be given to a facility if a release:

1. Has impacted an area outside the facility's property boundary;

2. Has not contaminated and does not pose a threat to a:

- a. Domestic use well;
- b. Domestic use spring;
- c. Domestic use well head protection area;
- d. Drinking water supply; or
- e. Utility conduit; and

3. Is not the source of fumes in an occupied building. [Priority for distribution of amounts from the petroleum storage tank account due to the extent of environmental harm shall be given to those facilities:

(a) First, where the release of petroleum to the environment has contaminated a domestic use well, domestic use spring, domestic use well head protection area, as defined in 401 KAR 42:080, a drinking water supply, or a utility conduit in amounts in excess of a maximum contaminant level for petroleum constituents, or a statistically significant increase over background for petroleum constituents which do not have a maximum contaminant level, or the facility has been determined to be the source of fumes in an occupied building;

(b) Second, where the facility has encountered groundwater and is required to meet the levels specified in Groundwater Table 1 of the Petroleum Underground Storage Tank System Facility Classification Outline, as established in 401 KAR 42:080, for releases of petroleum which pose a direct threat of contamination to a domestic use well, domestic use spring, domestic use well head protection area, a drinking water supply or a utility conduit; or

(c) Third, where areas outside the facility's property boundary have been impacted by a release, but has not contaminated a domestic use well, spring or well head protection area, does not pose a threat to a domestic use well, domestic use spring, domestic use well head protection area, drinking water supply, or a utility conduit and has not been determined to be a source of fumes in occupied buildings.]

(3) The owner or operator of the facility shall submit [information] to the office [fund] a copy of the following documents, established in the "Petroleum Underground Storage Tank System Facility Classification Outline", and previously submitted to the cabinet pursuant to 401 KAR 42:080:

- (a) "Classification Guide - Soil";
- (b) "Groundwater Guide"; and
- (c) "Verification of Facility Classification". [to establish that the release from the facility is within a category established in subsection (2) of this section. The information shall be submitted on the classification guide contained in the Petroleum Underground Storage Tank System Facility Classification Outline, (October 1995), as established in 401 KAR 42:080 or its superseding administrative regulation.]

Section 3. (1) The office shall determine the financial ability of an applicant who owns or operates a single facility. The following persons shall certify that they do not have an ownership or operating interest in another facility:

- (a) For an individual owner or operator, the individual;
- (b) For a partnership, each partner; or
- (c) For a closely held corporation that is not a subsidiary, affiliate, or parent corporation, each officer, director, and shareholder.

(2) The office shall determine the financial ability of an individual or partnership with an ownership or operating interest in more than one (1) facility if the applicant demonstrates that:

(a) The sole source of income is revenue from the ownership or operation of the facility; and

(b) The entity is unable to pay the entry level for participation in the petroleum storage tank account.

(3) The office shall determine the financial ability of a closely held corporation, not a subsidiary, affiliate, or parent of another corporation, that is the owner of more than one (1) facility if:

(a) The profits of the corporation are the sole source of revenue for the shareholders; and

(b) The corporation has insufficient revenue to pay the entry level for participation in the petroleum storage tank account.

[Priority for Financial Ability. (1) To determine the financial ability of an owner or operator to perform corrective action, the office [fund] shall consider the following factors:

(a) Whether the facility is owned by a public or private person;

(b) Whether the owner or operator liable for the cost of corrective action is an individual. Only individuals who own or operate a single facility shall receive consideration as to financial ability. Each individual shall certify that they do not have an ownership or operating interest in another facility;

(c) Whether the owner or operator is a partnership. Only a partnership that is the owner or operator of a single facility shall receive consideration as to financial ability. Each partner shall certify that they do not have an ownership or operating interest in another facility; and

(d) Whether the owner or operator of the facility is a corporation which is a subsidiary, affiliate or parent of another corporation. Only a closely held corporation which is not a subsidiary, affiliate or parent corporation and is the owner or operator of a single facility shall receive consideration as to financial ability. The officers, directors and shareholders of the corporation shall certify that they do not have an ownership or operating interest in another facility.

(2) An individual or partnership with an ownership or operating interest in more than one (1) facility may receive consideration as to financial ability if it is demonstrated that the individual or partnership has no sources of income other than revenue from the ownership or operation of the facilities and is unable to pay the entry level for participation in the petroleum storage tank account.

(3) A corporation that is not a subsidiary, affiliate, or parent of another corporation that is the owner of more than one (1) facility may receive consideration as to financial ability if the profits of the corporation are the sole source of revenue of the shareholders of the corporation, and it is demonstrated that the corporation has insufficient revenue to pay the entry level for participation in the petroleum storage tank account.]

Section 4. Demonstration of Financial Ability. (1) To demonstrate financial ability, the individual, partnership or corporation shall submit the last five (5) years of income tax returns for the person, partnership or corporation.

(2) Priority for reimbursement from the petroleum storage tank account on the basis of financial ability shall be given to:

- (a) First;
 - 1. An individual partnership or corporation whose average adjusted gross income for the five (5) year period is less than \$50,000;
 - 2. A public entity with an annual revenue and income of less than \$100,000; or
 - 3. An entity registered and recognized by the federal government as a tax exempt nonprofit organization;

(b) Second;

- 1. An individual, partnership, or a corporation whose average adjusted gross income for the five (5) year period is less than \$100,000 but more than \$50,000; or
- 2. A public entity with annual revenue or income of less than \$250,000 but more than \$100,000; and

(c) Third;

- 1. An individual, partnership or a corporation whose average net income for the five (5) year period is more than \$100,000; or
- 2. A public entity with an annual revenue and income of more than \$250,000.

(3) A partnership applicant [Partnerships who are applicants for consideration as to financial ability] shall submit the name and Social Security number of each partner [all partners].

(4) A subchapter S or closely held C corporation applicant [Subchapter S or closely held C Corporations who are applicants for consideration as to financial ability] shall submit the name and Social Security number of each officer, director, and shareholder [all officers, directors and shareholders] in the corporation.

(5) A public entity who is an applicant [for consideration as to financial ability] shall submit its annual budget for the last five (5) years to demonstrate financial ability.

(6) The office [fund] shall [may] require that additional information be submitted, if necessary to determine the financial ability of an applicant.

Section 5. (1) The office [fund] shall [have the right to] recover an amount [the amounts] paid to a person [persons] receiving consideration for financial ability if the information submitted to the office [fund] is knowingly inaccurate or misrepresented, or knowingly made based on a false statement, representation, or certification in an application, payment request, or [any] other document [documentation] submitted to the office. A [Any] cost incurred by, or paid from, the fund which is based on knowingly false or inaccurate information, a false statement, representation, or certification [statements, representations or certifications] shall be recovered [by the office] from the person who asserted the knowingly false or inaccurate information, false statement, representation, or certification [statements, representations or certifications].

(2) A [Any] person certified pursuant to 415 KAR 1:114 or 415 KAR 1:116 who provides [providing] knowingly false or inaccurate information or who makes a false statement, representation, or certification on an [making false statements, representations or certifications on any] application, payment request or other document [documentation] submitted to the owner, operator or the office, shall be subject to [the] revocation of that certification in accordance with 415 KAR 1:114 and 415 KAR 1:116, in addition to the recovery [by the office] described in subsection (1) of this section.

Section 6. Priority For Payment or Reimbursement From the Petroleum Storage Tank Account. Reimbursement or payment of the cost [costs] of corrective action [from the petroleum storage tank account] shall be [paid] in order of priority according to the following:

(1) First, an owner or operator of a facility that meets the conditions of Section 1(1)(a) of this administrative regulation [shall have their claims paid first];

(2) Second, an owner or operator of a facility that meets the conditions of Section 1(1)(b) [(2)] of this administrative regulation [shall have their claims paid second];

(3) Third, an owner or operator of a facility that meets the conditions of Section 2(2)(a) of this administrative regulation and whose financial ability is in the category listed in Section 4(2)(a) of this administrative regulation [shall have their claims paid third];

(4) Fourth, an owner or operator of a facility that meets the conditions of Section 2(2)(b) of this administrative regulation and whose financial ability is in the category listed in Section 4(2)(a) of this administrative regulation [shall have their claims paid fourth];

(5) Fifth, an owner or operator of a facility that meets the conditions of Section 2(2)(c) of this administrative regulation and whose financial ability is in the category listed in Section 4(2)(a) of this administrative regulation [shall have their claims paid fifth];

(6) Sixth, an owner or operator of a facility that meets the conditions of Section 2(2)(a) of this administrative regulation and whose financial ability is in the category listed in Section 4(2)(b) of this administrative regulation [shall have their claims paid sixth];

(7) Seventh, an owner or operator of a facility that meets the conditions of Section 2(2)(b) of this administrative regulation and whose financial ability is in the category listed in Section 4(2)(b) of this administrative regulation [shall have their claims paid seventh];

(8) Eighth, an owner or operator of facility that meets the conditions of Section 2(2)(c) of this administrative regulation and whose financial ability is in the category listed in Section 4(2)(b) of this administrative regulation [shall have their claims paid eighth];

(9) Ninth, an owner or operator of a facility that meets the conditions

of Section 2(2)(a) of this administrative regulation and whose financial ability is in the category listed in Section 4(2)(c) of this administrative regulation [shall have their claims paid ninth];

(10) Tenth, an owner or operator of a facility that meets the conditions of Section 2(2)(b) of this administrative regulation and whose financial ability is in the category listed in Section 4(2)(c) of this administrative regulation [shall have their claims paid tenth];

(11) Eleventh, an owner or operator of a facility that meets the conditions of Section 2(2)(c) of this administrative regulation and whose financial ability is in the category listed in Section 4(2)(c) of this administrative regulation [shall have their claims paid 11th];

(12) A claim listed in subsections [Claims in categories] (1) through (11) of this section shall be paid in order of its [their] category ranking. Within each category the claims shall be considered [paid] by the date of receipt of the claim;

(13)(a) A claim of a nongovernmental entity, not included in subsections (1) through (11) of this section, shall be paid according to financial ability as provided in Section 4 of this administrative regulation, in order of the date of receipt of the claim. [All other claims of nongovernment entities for reimbursement or payment of the costs of corrective action from the petroleum storage tank account shall be paid based upon financial ability determined as provided in Section 4 of this administrative regulation, and in order of the date of receipt of the claim;]

(b) An individual, partnership or corporation with an average net income of more than \$100,000:

1. Shall not [is not required to] submit an income tax return; and

2. [returns and] Shall be paid after the claims addressed by subsections (1) through (13)(a) of this section in order of receipt of the claim;

(14)(a) A claim from an organizational unit [Claims from organizational units] of the executive branch of the Commonwealth of Kentucky, as set forth in KRS Chapter 12 shall have its claim [their claims] paid last, in order of the date of receipt of the claim.

(b) A claim from a county, a municipality, or an administrative body that is not an organizational unit of the executive branch, shall be:

1. Paid based upon financial ability as determined in Section 4(2) of this administrative regulation, in order of receipt of the claim; and

2. [and shall be] Ranked in the same manner as a claim from a private person.

Section 7. (1) Payment of Certain Classes of Claims. The office [fund] may determine that only specified classes of claims as described in Section 6 of this administrative regulation will be paid. In determining that a class of claims shall not be reimbursed, the executive director shall consider the following factors:

(a) The impact of paying a particular class of claims on the office's ability to reimburse claims under the Financial Responsibility Account, 415 KAR 1:060, and the Small Owners Tank Removal Account, 415 KAR 1:130;

(b) The current and expected income of the fund; and

(c) Actuarial projections for the number of future claims on the fund.

(2) The office shall issue a public notice of the decision to suspend reimbursement of a class of claims.

LAURA M. DOUGLAS, Secretary
ROBERT E. NICKEL, Executive Director
DAVID B. WICKER, ESQ., Staff Counsel
APPROVED BY AGENCY: January 7, 1999
FILED WITH LRC: January 8, 1999 at noon

PUBLIC PROTECTION AND REGULATION CABINET
Office of the Petroleum Storage Tank
Environmental Assurance Fund
(As Amended at ARRS, May 11, 1999)

415 KAR 1:100. Third-party claims.

RELATES TO: KRS 224.60-120, 224.60-130(2)(c), (e), 224.60-140(2)(b), (17), 40 CFR Part 280 Subpart H

VOLUME 25, NUMBER 12 – JUNE 1, 1999

STATUTORY AUTHORITY: KRS 224.60-120(6), 224.60-130(2)(c)

NECESSITY, FUNCTION, AND CONFORMITY: [The 1992 Kentucky General Assembly amended] KRS 224.60-130(2)(c) requires [to direct] the fund to establish a financial responsibility account to reimburse eligible [within the fund which may be used by] petroleum storage tank owners and operators for compensating third parties for bodily injury and property damage. [to receive reimbursement or payment for third-party claims.] This administrative regulation establishes the procedure for eligible petroleum storage tank owners or operators to receive reimbursement or payment for third-party claims.

Section 1. Applicability. (1) An eligible third-party claim shall be [Third-party claims are] limited to bodily injury and property damage, asserted against an owner or operator as a result of a release into the environment from a petroleum storage tank at a facility eligible for participation in the Financial Responsibility Account.

(2) An owner or operator shall be [Owners or operators are] eligible to receive reimbursement or payment for a third-party claim if he has [claims if they have] been issued a certificate of eligibility pursuant to the provisions of 415 KAR 1:060 [(1994)] and has [have] maintained compliance with the eligibility requirements of 415 KAR 1:060.

(3) A claim [This administrative regulation applies only to third-party claims for bodily injury and property damage, which are asserted against an owner or operator as a result of release into the environment from a petroleum storage tank at a facility eligible for participation in the financial responsibility account. Claims] for property damage shall [only] be paid to the extent that the damages are not addressed by the performance of corrective action.

(4) A third-party claim [Third-party claims] shall be paid [only] to the extent specified in 401 KAR 42:090.

Section 2. Notice to the Office [Fund]. (1) To assert a claim for payment or reimbursement of a third-party claim, an eligible owner or operator shall notify the office [fund] of the assertion of the third-party claim within twenty-one (21) days of the filing of an action against the owner or operator by the third-party, or the receipt of an assertion of a claim in writing by a third-party.

(2) A third-party claim [Third-party claims] shall [only] be paid on the basis of:

(a) A final and enforceable judgment; or

(b) [pursuant to] An agreement reviewed and approved by the secretary.

(3) Settlement of claims.

(a) A [No] settlement of a third-party claim shall not be made by an owner or operator without the prior approval of the office [fund]. [; and]

(b) The office [fund] shall not pay a [final and enforceable] third-party judgment or reimburse an owner or operator for payment of the judgment in an [any] amount exceeding a settlement offer rejected by the owner or operator which was:

1. Not submitted to the office [fund] for consideration; or

2. Previously approved [or after approval] by the office [fund].

Section 3. Payment of Claims. (1) Claim payment [of claims] shall be limited to actual damage [damages] caused by the release of petroleum.

(2) Payment shall be made to the third party after approval [of payment] by the secretary.

(3) The aggregate amount of payment of all third-party claims [caused by a release] shall not exceed \$1,000,000 per occurrence.

(4) The office [fund] shall acquire by subrogation the right of the third-party to recover, from the person responsible or liable for the release, the amount of damages paid to the third-party [from the person responsible or liable for the release].

LAURA M. DOUGLAS, Secretary
ROBERT E. NICKEL, Executive Director
DAVID B. WICKER, ESQ., Staff Counsel

APPROVED BY AGENCY: October 14, 1998

FILED WITH LRC: October 15, 1998 at 8 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Office of the Petroleum Storage Tank
Environmental Assurance Fund
(As Amended at ARRS, May 11, 1999)

415 KAR 1:114. Contractor certification.

RELATES TO: KRS 224.60-110, 224.60-130(2)

STATUTORY AUTHORITY: KRS 224.60-130(2)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-130(2)(a) requires the office [fund] to establish criteria to be met by persons who contract to perform corrective action [to be eligible for reimbursement from the fund]. This administrative regulation estab-
lishes [sets forth the] criteria for obtaining certification to be eligible to contract to perform corrective action for a release from an under-
ground petroleum storage tank. This administrative regulation is nec-
essary to set minimum standards for determining:

(1) Technical competency and proficiency in the performance of corrective action; and

(2) General knowledge of:

(a) Cleanup standards required to obtain closure from the Under-ground Storage Tank Branch;

(b) Health and safety standards; and

(c) Petroleum Storage Tank Environmental Assurance Fund administrative regulations.

Section 1. Definitions. (1) ["Certified contractor" means an individ-
ual certified by the office [fund] as qualified to engage in the perform-
ance or supervision of corrective action at a facility in the event of a
release from a petroleum storage tank system.

(2) "Company" means a person, other than an individual, engaged
in the business of performing corrective action for a release from a
petroleum storage tank system and who employs one (1) or more
certified contractors.

(3) "Interim contractor" means an individual who is not a certified
contractor and is identified by a company to replace a certified con-
tractor in accordance with Section 8 of this administrative regulation.

(2) [(4)] "Participation in" means direct and substantial involve-
ment in each aspect of corrective action, including site characteriza-
tion, preparation of a site investigation report [reports], preparation of
a proposed corrective action plan [plans], and implementation of a
corrective action plan [plans] approved by the cabinet.

(3) [(5)] "Supervise" means having the authority and responsibility
for the performance of corrective action at a facility as a result [in the
event] of a release from petroleum storage tank system, and having
the ability to exercise independent judgement and to direct the activi-
ties of an employee or subcontractor [employees or subcontractors]
in the performance of corrective action [to achieve compliance with the
administrative regulations of the cabinet].

[(6)] "Cabinet" is defined by KRS 224.60-115(2).]

Section 2. Applicability. (1) For an application approved after
March 1, 1995, the cost for an action [Beginning March 1, 1995,
costs for actions] performed by a person who contracts to perform
corrective action for a release from a petroleum storage tank system
shall be eligible for reimbursement or payment from the fund if it is
reasonable and necessary, and if the action is:

(a) [They are] Performed or supervised by an individual who is
certified by the office [fund];

(b) [They are performed] In compliance with 401 KAR Chapter 42;
and

(c) [The costs are necessary and reasonable, and performed] In
compliance with 415 KAR Chapter 1.

[(d)] This requirement shall apply only to applications approved
after March 1, 1995.]

(2) A certified contractor [Certified contractors] shall perform or
supervise corrective action such as site checks, site investigations,
and preparation of corrective action plans, in accordance with 401
KAR Chapter 42 [the administrative regulations of the cabinet].

(3) (a) To be eligible for reimbursement from the fund, a [the] per-
son who contracts to perform corrective action shall, prior to incur-
ring cost, notify the office and the owner or operator of the facili-
ty, in writing, of the name of the certified contractor designated

to supervise the corrective action.

(b) ~~[designate the certified contractor responsible for supervision of the corrective action prior to incurring costs by giving written notice to the owner or operator of the facility and the office [fund].]~~ If the certified contractor changes, a new notice shall be given.

(4) A person or company who installs, repairs, closes, or removes an underground storage tank, not involving the performance of corrective action, shall not be subject to this administrative regulation.

Section 3. Application Requirements. (1) An applicant for certified contractor shall:

(a) Submit ~~[an application]~~ to the office ~~[fund]~~ **a completed** ~~[on the]~~ Certified Contractor Application form; ~~[and]~~

(b) Submit verification of experience ~~of [by]~~ participation in the performance of corrective action at facilities where a release occurred from a petroleum storage tank system; and

(c) Complete the examination **requirement** ~~[requirements]~~ of this administrative regulation.

(2) An application to take the certified contractor examination shall be denied if the applicant:

(a) Fails to provide the information required by the application form; or

(b) Fails to comply with the experience **requirement** ~~[requirements]~~ of this administrative regulation; or

(c) Makes a misrepresentation or submits false information in the application.

(3)(a) An applicant **who** ~~[, that]~~ has been assigned a testing date and time **may** ~~[, shall]~~ request a change in **the** ~~[their]~~ testing schedule **by** ~~[in]~~ writing to the office ~~[fund]~~.

(b) If the request for a rescheduled testing date falls into another testing quarter, the applicant **shall** ~~[must]~~ reapply to the office ~~[fund]~~.

(4) An applicant **who wishes** ~~[requesting]~~ to resit the certified contractor examination shall reapply to the office ~~[fund]~~.

Section 4. Experience Requirements. (1) An applicant shall demonstrate participation in ~~[, as defined in Section 1(4) of this administrative regulation,]~~ the performance of corrective action, **as defined in Section 1(2) of this administrative regulation,** at a minimum of six (6) petroleum storage tank facilities within three (3) years immediately prior to making application.

(2) Technical training approved by the office ~~[fund]~~ shall reduce the experience requirement of participation in the performance of corrective action to a minimum of four (4) facilities.

(3) **Registration in Kentucky as** a professional engineer ~~[registration in Kentucky]~~ shall reduce the experience requirements of participation in the performance of corrective action to a minimum of two (2) facilities.

(4) **Registration in Kentucky as** a certified professional geologist ~~[registration in Kentucky]~~ shall reduce the experience requirements of participation in the performance of corrective action to a minimum of two (2) facilities.

Section 5. Examination Requirements. An applicant for certified contractor shall ~~[take and]~~ pass a written examination administered by the office ~~[fund]~~ ~~[in compliance with this section].~~

(1) The examination for certification shall be a written multiple choice examination covering all aspects of:

(a) Corrective action for a release from a petroleum storage tank system. The examination shall test the applicant's knowledge of codes, standards, laws, regulations, current technology, and industry recommended practices with respect to performing corrective action where a release has occurred from a petroleum storage tank system; and

(b) Applicable occupational health and safety and public health and safety requirements. The examination shall test the applicant's knowledge of codes, standards, laws, regulations, current technology, and industry recommended practices with respect to ~~[applicable]~~ occupational health and safety and public health and safety ~~[requirements]~~; and

(c) ~~[Knowledge of]~~ The reporting requirements, documentation requirements and procedures of the regulatory agency (Underground Storage Tank Branch) and the Office of the Petroleum Storage Tank Environmental Assurance Fund. The examination shall test the appli-

cant's knowledge of codes, laws and regulations with respect to these two (2) governmental agencies.

(2) A minimum score of seventy-five (75) percent on the examination shall be considered passing.

(3) **The examination shall be given semiannually.** ~~[Examinations shall be given, at a minimum, quarterly through December 31, 1997, and semiannually thereafter.]~~

(4) An application ~~[to take the examination]~~ shall be filed with the office ~~[fund]~~ at least ten (10) working days in advance of the testing date to take the examination.

(5)(a) **Each examination** ~~[All examinations]~~ shall be graded and the **applicant** ~~[applicants shall be]~~ notified **of the result** within fifteen (15) working days.

(b) Examination papers shall not be returned to or reviewed by the applicant.

(c) **An** ~~[, however, the]~~ applicant may review **his** ~~[their]~~ test response sheet by appointment.

(6) The office ~~[fund]~~ shall furnish the applicant with instructions for taking the examination, upon receipt of a completed application. **The instructions** ~~[instruction sheets]~~ shall refer the applicant to **relevant** ~~[appropriate]~~ laws, regulations and industry publications.

Section 6. Certification and Renewal Procedures. (1) The office ~~[fund]~~ shall issue a certificate to each individual who successfully complies with this administrative regulation. The certificate shall be renewed biannually.

(2) An application for renewal shall be submitted to the office ~~[fund]~~ on the Certified Contractor Application for Renewal form.

(3) **The certificate shall not be renewed if an applicant:** ~~[The renewal of a certificate shall be denied if an applicant:]~~

(a) Fails to provide the information required by the Certified Contractor Application for Renewal form; ~~[or]~~

(b) Makes a misrepresentation or submits false information in the application for renewal; ~~[or]~~

(c) Failed to participate in or supervise a corrective action during the two (2) **year** ~~[years]~~ period prior to renewal; or

(d) Fails to maintain a professional registration.

(4) An applicant denied the opportunity to take the certification test or denied the renewal of their contractor certification may appeal the determination by requesting a hearing pursuant to 415 KAR 1:120.

(5)(a) The office ~~[fund]~~ **shall** ~~[may]~~ require that a certified contractor ~~[take and]~~ pass a written examination to renew a certification if there has been a significant change, **since the date of original certification,** in the **law, code** ~~[laws, codes]~~ or industry recommended **practice** ~~[practices]~~ with respect to performing corrective action ~~[or procedures]~~, reporting ~~[requirements]~~ and document requirements to be submitted to the Underground Storage Tank Branch or the office ~~[of the Petroleum Storage Tank Environmental Assurance Fund since the date of original certification].~~

~~[(a) The office [fund] may waive this requirement for professional engineers and certified professional geologists registered in Kentucky if the applicant has submitted proof of successful completion of pertinent training.]~~

(b) **A professional engineer, or certified professional geologist, registered in Kentucky, shall be exempt from the reexamination requirement of paragraph (a) of this subsection.** ~~[The determination to waive this requirement rests solely in the office [fund].]~~

Section 7. Revocation or Suspension of Certification. (1) **The secretary shall revoke or suspend a certificate issued pursuant to this administrative regulation if the certified contractor:** ~~[A certificate issued pursuant to this administrative regulation may be suspended or revoked if the certified contractor:]~~

(a) Negligently, incompetently, recklessly or intentionally **violates** ~~[violated any]~~ provision of this administrative regulation or any required federal, state or local regulation, code or standard relating to corrective action; ~~[or]~~

(b) Recklessly or intentionally **causes or permits** ~~[caused or permitted]~~ a person under the contractor's supervision to perform corrective action in violation of standards of the State Fire Marshall or the cabinet; ~~[or]~~

(c) Obtained the certification through fraud or misrepresentation;

(d) Fails to perform a corrective action in a manner consistent with

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state and [or] federal law [laws] and regulations for safety or corrective action [actions], or fails to perform a corrective action consistent with generally acceptable professional standards; or

(e) Knowingly or intentionally submits false information, documentation or payment request to an owner, an operator [owners, operators], or the office [fund].

(2) The secretary shall send written notice to a contractor whose certificate has been suspended or revoked. [~~have authority to revoke or suspend a certification. The secretary shall then cause a letter to be issued notifying the certified individual of the office's [fund's] action.~~]

(3) A person whose certificate is suspended or revoked may appeal [~~the determination~~] by requesting a hearing pursuant to 415 KAR 1:120.

Section 8. Interim Contractor. (1) A company engaged in the performance of corrective action at a facility shall immediately notify the office [fund] in writing of the extended absence of a certified contractor due to an emergency or unanticipated circumstance [circumstances]. The notice shall provide the following information:

(a) Name and qualifications of the individual replacing the certified contractor; and

(b) The length of time for which the company seeks to have the interim contractor fulfill the obligations of the certified contractor.

(2) The office [fund] shall evaluate the qualifications of the designated interim contractor and shall notify the company of its [the] determination, in writing, within fifteen (15) days of receipt of the company's notice. The office [determination] shall:

(a) Approve or deny the company's request for designation of the interim contractor; and

(b) Specify conditions [as] appropriate to the facility and the interim contractor's qualifications.

Section 9. (1) The following forms are incorporated by reference:

(a) "Certified Contractor Application Form (June 1996)"; and

(b) "Certified Contractor Application for Renewal Form (June 1996)".

(2) This material [~~These forms~~] may be inspected, copied, or obtained [~~inspected and copied~~] at the Office of the Petroleum Storage Tank Environmental Assurance Fund, 911 Leewood Drive, Frankfort, Kentucky 40601, Monday through Friday, [(502) 564-5984;] 8 a.m. to 4:30 p.m. [; eastern time, Monday through Friday]

LAURA M. DOUGLAS, Secretary

ROBERT E. NICKEL, Executive Director

DAVID B. WICKER, ESQ., Staff Counsel

APPROVED BY AGENCY: October 14, 1998

FILED WITH LRC: October 15, 1998 at 8 a.m.

PUBLIC PROTECTION AND REGULATION CABINET

Office of the Petroleum Storage Tank

Environmental Assurance Fund

(As Amended at ARRS, May 11, 1999)

415 KAR 1:130. Small owners tank removal account.

RELATES TO: KRS 224.60-105, 224.60-130(2)(a), (b), 224.60-140, 40 CFR 280 Part H

STATUTORY AUTHORITY: KRS 224.60-130(2)(a), (b); (j)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-130(2)(j) requires the office [fund] to establish an account to reimburse small owners for the reasonable cost of tank system removal. KRS 224.60-130(2)(a) and (b) require the agency to promulgate administrative regulations to establish and administer the fund. This administrative regulation establishes the eligibility requirements and the ranges of reimbursement for the small owners tank removal [this] account.

Section . Applicability. The provisions of this administrative regulation shall apply to that class of petroleum storage tank owners previously designated by federal law, 40 CFR 280 Part H, as required to remove or upgrade the facility's tanks on or before

December 22, 1998. [an owner of a petroleum storage tank containing motor fuels who is required by state or federal law to remove or upgrade the tanks on or before December 22, 1998. This account shall not be used if the owner intends to replace or upgrade the tank system.]

Section 2. Eligibility. An owner shall be eligible for reimbursement from this account if:

(1) The owner is:

(a) [~~The owner is~~] An individual who:

1. Has a five (5) year average adjusted gross income of \$50,000 or less; and

2. Owns full or partial interest in ten (10) or fewer tanks;

(b) [~~The owner is~~] A partnership that:

1. Has a five (5) year average adjusted gross income of \$50,000 or less; and

2. The members of the partnership own full or partial interest in a total of ten (10) or fewer tanks;

(c) [~~The owner is~~] A corporation:

1. Has a five (5) year average total income of less than \$50,000; and

2. The shareholders of the corporation own full or partial interest in a total of ten (10) or fewer tanks; or

(d) [~~The owner is~~] A nonprofit corporation; and

(2) For an owner who is not a nonprofit corporation:

(a) The tanks are located on a facility that is or was involved in the retail sale or wholesale distribution of motor fuel; [~~fuels. This subsection shall not apply if the owner is a nonprofit corporation;~~]

(b) The tanks are registered with the Division of Waste Management, pursuant to KRS 224.60-105;

(c) The owner certifies that:

1. The retail sale or wholesale distribution of motor fuel [~~fuels~~] at the facility will permanently cease upon removal of the tanks; and

2. [~~and that~~] All known tanks at the facility are being removed or closed in place; and

(d) The owner has owned the tanks for more than one (1) year prior to the date of the application for reimbursement from this account.

(3) The discovery of a previously unknown or abandoned tank [~~tanks~~] shall not affect [~~effect~~] the eligibility of an otherwise eligible owner. [~~and~~]

(4) A tank need not [~~it is not necessary for the tanks to~~] be in operation prior to its [~~their~~] removal.

Section 3. Account Use. (1) Funds in this account shall be used for reimbursing the reasonable and necessary cost of:

(a) [~~The~~] Removal and disposal of petroleum storage tanks containing motor fuel [~~fuels~~];

(b) Disposal of contaminated backfill or contaminated water if required by law; and

(c) [~~Any~~] Post removal or confirmation sampling required by the Division of Waste Management;

(2) The use of this account shall be limited as specified in KRS 224.60-130(j) [~~not be used for replacing or upgrading the tank system~~].

(3)(a) If contamination requiring corrective action is found by analytical sample, the facility shall be eligible for [~~the~~] reimbursement of the cost of [~~the~~] tank system removal, but shall not be eligible for payment of corrective action cost from this account.

(b) If [~~Upon receipt by~~] the office [fund] receives [~~of~~] a notice from the cabinet requiring corrective action at the facility, the owner shall be reimbursed for [~~the~~] tank system removal and his documents then transferred for review under the financial responsibility account, 415 KAR 1:060, or the petroleum storage tank account, 415 KAR 1:070.

(4) If a release requiring corrective action is confirmed from a tank system eligible for participation in this account, and the owner has interest in five (5) or fewer tanks, the eligible corrective action cost may be reimbursed from the office's [~~fund's~~] financial responsibility account, 415 KAR 1:060, or the petroleum storage tank account, 415 KAR 1:070, to be ranked pursuant to 415 KAR 1:090. To qualify, the owner shall [~~is required to~~] file an application for assistance in accordance with 415 KAR 1:080 and shall adhere to the requirements of 415 KAR 1:080, 415 KAR 1:110 and 415 KAR 1:114.

(5) If a release requiring corrective action is confirmed from a tank system eligible for participation in this account, and the owner has interest in six (6) to ten (10) tanks, the eligible corrective action cost may be reimbursed from the office's [fund's] financial responsibility account, 415 KAR 1:060, or the petroleum storage tank account, 415 KAR 1:070, ranked for priority in accordance with 415 KAR 1:090, Section 1(1)(b) or 415 KAR 1:090(6). **To qualify**, the owner **shall [is required to]** file an application for assistance in accordance with 415 KAR 1:080 and **shall** adhere to the requirements of 415 KAR 1:080, 415 KAR 1:110 and 415 KAR 1:114.

(6)(a) If obligations from this account exceed \$3,000,000 during any fiscal year, the secretary may suspend further obligations from this account. The suspension shall be in effect until the secretary determines that further obligations from this account will not threaten the solvency of the fund.

(b) This determination shall be **based upon [made by the secretary by reviewing]**:

1. Fund receipts and expenditures;
 2. Audit reports;
 3. Actuarial studies;
 4. Projected revenue; and
 5. Projections on the number of tanks to be removed.
- (7) Obligations from this account shall cease on June 30, 2002.

Section 4. Application Procedure. (1) The owner shall file a **completed Application for Tank Removal Assistance form [an application]** for participation in this account **at least [no less than]** forty-five (45) days prior to the removal of the tank or tanks. **[Application shall be made on the Application for Tank Removal Assistance form, dated May, 1997. In addition to a complete application.]** The owner shall **also** provide the following information:

- (a) Verification of income level by **copies of the previous five (5) years' [of]** income tax returns;
- (b) A copy of the Notice of Intent to Permanently Close Underground Tank System, filed with the cabinet;
- (c) Proof of tank registration with the cabinet;
- (d) A copy of the contract with a **[State Fire Marshal approved]** tank remover **who has been approved by the State Fire Marshal**;
- (e) A site map delineating the facility boundaries and the location of all tank pits and areas to be impacted by the removal; and
- (f) Color photographs of the facility and the areas to be impacted by the tank removal.

(2)(a) Within 120 ~~[forty-five (45)]~~ days of the receipt of a **completed [complete]** application, the office [fund] **shall [will]** issue a letter notifying the owner ~~[of its] eligibility and of the amount obligated for the removal.] that:~~

1. **He is eligible and stating the amount obligated for removal;**
2. **He is [they are] eligible but that no funds are available for the remaining fiscal year; or**

3. ~~[or notifying that]~~ The facility is not eligible for participation in this account.

(b) Removal of the tank system shall not begin until ~~[the approval of an obligation by]~~ the **office has approved an obligation [fund]**. Failure to comply with this requirement shall result in **denial of [the office [fund] denying]** the reimbursement.

Section 5. Removal Costs. (1)(a) Reimbursement from this account shall be determined from the lesser of two (2) dollars per gallon of tank capacity removed or the following table:

Size of Largest Tank in Pit (gallons)	Number of Tanks in Pit					Each Extra Tank up to 10
	1	2	3	4	5	
Less than 3,100	\$3,000	\$4,900	\$6,400	\$7,900	\$9,400	\$1,500
3,101 to 5,100	\$3,400	\$5,500	\$7,500	\$9,000	\$10,500	\$1,500
5,101 to 10,000	\$4,900	\$7,400	\$9,700	\$11,800	\$13,800	\$1,800
Greater than 10,000	\$5,400	\$8,600	\$11,800	\$14,000	\$16,900	\$2,200

(b) In addition to the cost listed above, the office [fund] shall reimburse a one (1) time amount, which shall not exceed \$2,000, for the

preparation and submission of a Closure Assessment Report. This shall include the cost of a facility classification guide, if required by the cabinet. The office [fund] shall also reimburse a one (1) time amount of \$350 for the mobilization and demobilization of equipment.

(c) If more than one (1) tank pit is located on a facility, the reimbursement shall be calculated by adding the matrix value given for each pit, plus **amount allowed by [allowable]** subsection (3) of this section **[cost]**.

(2) The following costs shall be included in the **cost [costs]** listed in subsection (1)(a) of this section:

- (a) Tank system removal, cleaning and disposal;
- (b) Removal of twenty-five (25) feet of associated piping outside of the tank pit;
- (c) Removal of the pump island and canopy;
- (d) Drumming and disposal of cleaning material;
- (e) Backfilling to **return the excavation to grade. Additional backfill material may be reimbursed in accordance with subsection (3) of this section [replace tank volume];**
- (f) Concrete or asphalt surface removal;
- (g) Equipment and **material [materials]** necessary for the removal and closure of a tank system;
- (h) Preparation of a **[any]** permit **if** required for tank system removal or testing;
- (i) Excavation and loading of **material [materials];**
- (j) Collection of samples;
- (k) **[All]** Labor charges relating to **paragraphs [subsections]** (a) through (j) of this **subsection [section]**.

(3) The following items are not included in the **cost matrix in** subsection (1)(a) of this section. **The cost [costs and the costs]**, including labor, of these items, **if reasonable**, may be added to the **matrix value [appropriate subsection (1)(a) of this section cost]** if necessary to achieve closure **[and the costs are reasonable]**:

- (a) Surface replacement;
 - (b) Transportation, disposal and replacement of contaminated backfill;
 - (c) Disposal of asphalt surface material;
 - (d) Installation of up to three (3) monitoring wells, to the extent required by law. **The** cost of additional wells may be allowed if the additional wells are required in writing by the cabinet. **An additional lump sum of \$500 shall be allowed for planning and reporting of the well installation and sampling;**
 - (e) Disposal or recycling of tank **content [contents]** or waste;
 - (f) Removal, transportation and off-site disposal of water, if required by law; **and**
 - (g) Laboratory analysis, to the extent required by law, **[; and]**
- (4) ~~[(h)-(k)]~~ **All** Costs in this section shall be subject to the ranges set forth in 415 KAR-1:110.

Section 6. Claims. (1) **An owner shall submit a completed Claim Payment Request for Tank Removal form at the time he receives a notice from the cabinet that:**

- (a) **No further action is necessary; or**
- (b) **Corrective action is required.** ~~[Upon receipt of a notice from the cabinet that no further action is necessary at the facility or a notice from the cabinet of the need to perform corrective action, the owner shall submit a request for reimbursement. The owner shall submit the claim on the Claim Payment Request for Tank Removal form established by the office [fund], dated October 1998 [May 1997].]~~

(2) In addition to the completed claim form, the owner shall submit the following in support of the request:

- (a) The Closure Assessment Report;
- (b) Original invoices in support of **[any]** costs claimed under Section 5(3) of this administrative regulation; and
- (c) A copy of the **notice in subsection (1) of this section** **"no further action" notice or the notice requiring corrective action from the cabinet**.

(3) The office [fund] shall review a **claim request [the claim requests]** for the following:

- (a) The number and size of tanks removed;
- (b) Verification of proper costs from Section 5(2) of this administrative regulation; and
- (c) **[Review of]** The necessity and reasonableness of **[any]** costs claimed under Section 5(3) of this administrative regulation.

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(4) The office [fund] shall [may] request additional supporting documentation [in addition to that listed in subsection (1) of this section] if necessary to verify the reasonableness or necessity of a cost.

(5) If circumstances necessitate the closure in place of a tank [tanks], rather than its [their] removal, the cost [costs] incurred may be reimbursed [from this account]. The owners bears the burden of showing the necessity and [for the closure in place and the] cost effectiveness of closure in place versus tank removal.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Application for Tank Removal Assistance (October 1998 [May, 1997]), Public Protection and Regulation Cabinet;

(b) Claim Payment Request for Tank Removal (October 1998 [May, 1997]), Public Protection and Regulation Cabinet.

(2) This material may be inspected, copied, or obtained [These forms may be inspected and obtained] at the Office of the Petroleum Storage Tank Environmental Assurance Fund, 911 Leewood Drive, Frankfort, Kentucky 40601, Monday through Friday, [(502) 564-5981. The business hours of the office [fund] are] 8 a.m. to 4:30 p.m.

LAURA M. DOUGLAS, Secretary
ROBERT E. NICKEL, Executive Director
DAVID B. WICKER, ESQ., Staff Counsel
APPROVED BY AGENCY: October 14, 1998
FILED WITH LRC: October 15, 1998 at 8 a.m.

PUBLIC PROTECTION AND REGULATION CABINET Office of the Petroleum Storage Tank Environmental Assurance Fund (As Amended at ARRS, May 11, 1999)

415 KAR 1:135. Financial audits.

RELATES TO: KRS 61.878(1)(c), 224.60-130(2)(d), (l), (k), 224.60-140(2)(a), (e) [224.60-130, 224.60-140]

STATUTORY AUTHORITY: KRS 224.60-130(2)(k)

NECESSITY, FUNCTION, AND CONFORMITY: [The 1998 General Assembly amended] KRS 224.60-130(2)(k) requires [to allow] the Office of the Petroleum Storage Tank Environmental Assurance Fund to establish the policy, guidelines, and procedures to perform a financial audit of an owner or operator receiving reimbursement from the fund, or of [conduct financial audits on owners and operators of petroleum storage tanks and on] an entity who contracts or subcontracts for corrective action services at a facility eligible for fund reimbursement [by the fund]. [This will allow proper oversight of public monies distributed by the office.] This administrative regulation establishes procedures for [outlines the scope and subject of the] audits and the penalties for noncompliance.

Section 1. An entity shall be subject to financial audit if it is an entity described in KRS 224.60-130(2)(k). [Applicability. This administrative regulation shall apply to any person receiving reimbursement from the fund, pursuant to 415 KAR 1:080, including anyone who has an agency relationship with the petroleum storage tank owner or operator, or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement.]

Section 2. Financial Audit Policy and Procedure. [Audit Procedure:] (1) The office shall audit an entity if:

(a) A document it is required to submit to the office appears to be fraudulent; or

(b) There is evidence or other reason to believe that the entity has violated a federal or state law or regulation related to its actions under the fund.

(2) A record shall be subject to financial audit if it is described in KRS 224.60-130(2)(k). [The fund may conduct financial audits on any entity described in Section 1 of this administrative regulation. These audits may be conducted at the office's discretion.]

(2)(a) The financial audits shall be limited to those files, records, computer records, receipts, invoices, and other documents related to corrective action performed at a facility where the costs of corrective action, or a portion of those costs, have been reimbursed by the fund.

(b) Records including, but not limited to, payroll, contractual arrangements with suppliers, providers, or subcontractors are also subject to audit if they are related to corrective action performed at a facility where the costs of corrective action, or a portion of those costs, have been reimbursed by the fund.

(3) All records relating to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund shall be retained by the person subject to audit for a minimum of three (3) years after the date of final reimbursement by the fund.

(3) [(4)](a) The office shall notify the subject of the audit, in writing, of the date that the audit is scheduled to [will] begin. The notice shall be sent at least ten (10) working days before the scheduled start of the audit.

(b) A [The] decision to reschedule the audit shall rest solely with the office, and it shall not [but in no event shall it] be rescheduled [scheduled] more than thirty (30) days after the date of the original audit [date].

(4) [(5)](a) If the owner or operator fails to maintain records as required by KRS 224.60-130(2)(k) [described in this administrative regulation], the office shall recover money [any monies] reimbursed to the owner or operator for the cost [costs] of corrective action at the facility to which the missing documents relate.

(b) If an eligible contractor or subcontractor [entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement] fails to maintain records as required by KRS 224.60-130(2)(k) [described in this administrative regulation], the office shall recover any monies paid to the entity pursuant to a contract or agreement to perform a corrective action service [services] at that facility. If the entity is certified under 415 KAR 1:116, that certification shall be revoked or suspended in accordance with 415 KAR 1:116, Section 3 [(4)].

[(c) Venue for such actions shall be in Franklin Circuit Court.]

Section 3. Improper Use of Fund Resources. (1) If the audit by the office finds an improper, irregular, or illegal use [uses] of money received directly or indirectly from the fund, or that the money was obtained by fraud or misrepresentation, the office shall report the results of the audit to the proper authorities for civil and criminal investigation.

(2) If the subject of the audit is certified pursuant to 415 KAR 1:114 or 415 KAR 1:116, and the audit conducted by the office finds improper, irregular, or illegal use of money received directly or indirectly from the fund, or that the money was obtained by fraud or misrepresentation, the office shall immediately revoke the certification in accordance with 415 KAR 1:114, Section 7, [(7)] or 415 KAR 1:116, Section 3 [(4)].

(3)(a) Failure by an owner or operator to allow an audit shall prohibit the owner or operator from participating in the fund. Fund money [Any monies] paid to the owner or operator shall be subject to recovery by the office.

(b) Failure by a person certified pursuant to 415 KAR 1:116, or [any entity acting as] a supplier, provider, contract employee, or subcontractor of [to] that person, to allow an audit shall result in the revocation of that certification. Fund money [Any monies] paid to that person pursuant to [by virtue of] a contract for a corrective action service [services that have been reimbursed by the fund], shall be subject to recovery by the office.

[(c) Venue for an action to recover monies paid by the fund, directly or indirectly, shall lie in Franklin Circuit Court.]

[Section 4. Disclosure. Results from the audits conducted under this administrative regulation shall be protected from disclosure as allowed by KRS 61.878(1)(c).]

LAURA M. DOUGLAS, Secretary
ROBERT E. NICKEL, Executive Director
DAVID B. WICKER, ESQ., Staff Counsel
APPROVED BY AGENCY: October 14, 1998

FILED WITH LRC: October 15, 1998 at 8 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Office of the Petroleum Storage Tank
Environmental Assurance Fund
(As Amended at ARRS, May 11, 1999)

415 KAR 1:140. Laboratory certification.

RELATES TO: KRS 224.60-110, 224.60-130, 224.60-140
 STATUTORY AUTHORITY: KRS 224.60-130(2)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.60-130(2)(a) requires the office to establish criteria to certify laboratories that contract with [the] owners or operators of underground storage tanks to perform analytical testing related to Kentucky's underground storage tank program. [After October 1, 1999, all owners and operators shall be required to have all required analytical testing performed at a certified laboratory to be eligible for fund participation.] This administrative regulation establishes [is necessary to detail] the requirements for certification and the parameters and methods on which certification shall [will] be granted. [This administrative regulation will assure that laboratories performing analytical testing relating to the underground storage tank program have the technical proficiency, competency, staffing and management to properly perform analytical testing.]

Section 1. Applicability. (1) An analytical sample required by 401 KAR Chapter 42 shall be submitted to a laboratory certified pursuant to this administrative regulation. [A laboratory certified pursuant to this administrative regulation shall be used for all analytical samples required pursuant to 401 KAR Chapter 42.] This administrative regulation shall apply to [all] analytical testing performed on or after October 1, 1999. An applicant who fails to meet this requirement shall be [Failure to use a laboratory certified under this administrative regulation for analytical testing required pursuant to 401 KAR Chapter 42 on or after October 1, 1999 shall render the applicant] ineligible for fund participation;

(2) This administrative regulation shall not apply to a site for which the office approved an Application for Assistance, pursuant to 415 KAR 1:080, prior to October 1, 1999, unless further analytical sample testing is required by the cabinet after October 1, 1999.

(3) This administrative regulation shall not prohibit fund participation by an applicant who did not receive approval, by October 1, 1999, for an application submitted prior to October 1, 1999. [For those sites having an approved Application for Assistance from the Office, pursuant to 415 KAR 1:080, prior to October 1, 1999, this administrative regulation shall not apply unless further analytical sample testing is required by the cabinet after that date;

(3) For applications received prior to, but not approved by, October 1, 1999, this administrative regulation shall not prohibit fund participation due to analytical samples tested by uncertified laboratories prior to October 1, 1999.]

Section 2. Certification Requirements. (1) A laboratory shall demonstrate [To be certified by the office to perform analytical testing relating to the underground storage tank program, laboratories must show] current accreditation by the American Association for Laboratory Accreditation, 5301 Buckeystown Pike, Suite 350, Fredrick, Maryland 21704-8307, for the "Kentucky Underground Storage Tank Laboratory Accreditation Program" [(January 1999)].

(2) An applicant shall submit to the office a completed "Laboratory Certification Application". The application shall include proof of accreditation as described in subsection (1) of this section. [Application to the office shall be made on the Office of the Petroleum Storage Tank Environmental Assurance Fund "Laboratory Certification Application" (January, 1999). The application shall also include proof of the accreditation for the "Kentucky Underground Storage Tank Laboratory Accreditation Program".]

(3) The fund shall reimburse a laboratory for an analysis if the:

(a) Analysis is conducted in accordance with the estab-

lished parameters and methods; and

(b) Laboratory is certified to conduct that analysis. [only reimburse for analysis conducted for the parameters or methods for which the laboratory providing the analysis is certified.]

Section 3. [4-] Renewal of Certification. A certification [Certifications] issued [by the office] shall be valid for two (2) years from the date of issuance by the office. An applicant for renewal shall submit [Certification may be renewed by submitting] a new application and updated accreditation from American Association for Laboratory Accreditation.

Section 4. [5-] Loss of Certification. (1) The office may revoke or suspend a certification if the applicant: [A certification may be revoked or suspended by the office if:]

(a) [The applicant] Negligently, incompetently, recklessly, or intentionally violates any provision of this administrative regulation, or any state, federal, or local statute, regulation, code or standard concerning the performance of analytical testing;

(b) Obtains [The applicant obtained] the certification through fraud or misrepresentation; or

(c) [The applicant] Knowingly or intentionally submits false information to owners, operators, contractors, or the fund.

(2) A [The] certified laboratory shall [must] maintain accreditation by the American Association for Laboratory Accreditation during the duration [time] of certification.

(3) The executive director shall, within ten (10) days of his determination, notify a laboratory, in writing, of the suspension or revocation of certification. [have the authority to suspend or revoke a certification. The executive director shall then cause a letter to be issued notifying the certified laboratory of the action.]

(4) A laboratory seeking to dispute revocation or suspension shall appeal that decision [Appeal of any such revocation or suspension shall be] pursuant to 415 KAR 1:120.

Section 5. [6-] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The Office of the Petroleum Storage Tank Environmental Assurance Fund "Laboratory Certification Application" (January, 1999), Public Protection and Regulation Cabinet;

(b) The American Association for Laboratory Accreditation, "Kentucky Underground Storage Tank Laboratory Accreditation Program" (January 1999).

(2) This material may be inspected, copied, or [form may be inspected and] obtained at the Office of the Petroleum Storage Tank Environmental Assurance Fund, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, [(502) 564-5981]. The business hours of the office are] 8 a.m. to 4:30 p.m.

LAURA M. DOUGLAS, Secretary

ROBERT E. NICKEL, Executive Director

DAVID B. WICKER, ESQ., Staff Counsel

APPROVED BY AGENCY: January 7, 1999

FILED WITH LRC: January 8, 1999 at noon

JUSTICE CABINET
Sex Offender Risk Assessment Advisory Board
(As Amended at ARRS, May 11, 1999)

501 KAR 6:190. Certification procedures for mental health professionals performing sex offender risk assessments.

RELATES TO: KRS 17.550 [17.510] to 17.991

STATUTORY AUTHORITY: KRS 17.554(1), 17.564

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.554(1) authorizes the Sex Offender Risk Assessment Advisory Board to promulgate administrative regulations to establish certification standards for mental health professionals providing court-ordered risk assessments for sex offenders. This administrative regulation establishes certification requirements to assure the quality of court-ordered sex offender risk assessments.

Section 1. [Purpose. The purpose of this administrative regulation is to establish provider certification requirements. This administrative regulation is necessary to assure the quality of court-ordered sex offender risk assessments.]

Section 2. Definitions. (1) "Board" is defined by KRS 17.550(1). [~~means the Sex Offender Risk Assessment Advisory Board.~~]

(2) "Certified provider" is defined by KRS 17.550(8).

(3) "Corrective action plan" means a plan that requires a certified provider to take specific steps to be in compliance with this administrative regulation. The plan shall be:

(a) Submitted by the certified provider and approved by the board; or

(b) Imposed by the board. [~~an individualized plan submitted by a provider or supervised provider and approved by the board or a plan imposed by the board which requires a provider or supervised provider to take specific steps to be in compliance with the provisions of this administrative regulation.~~]

(4) [(3)] "Court ordered" means by order of any circuit court judge for an offender to be assessed by a certified [~~provider or supervised~~] provider to determine the offender's risk of recommitting a sex crime and the threat posed to public safety.

(5) [(4)] "High risk sex offender" is defined by [~~in~~] KRS 17.550(3).

(6) [(5)] "Low risk sex offender" is defined by [~~in~~] KRS 17.550(5).

(7) [(6)] "Mental or behavioral abnormality" is defined by [~~in~~] KRS 17.550(6).

(8) [(7)] "Moderate risk sex offender" is defined by [~~in~~] KRS 17.550(4).

(9) [(8)] "Personality disorder" is defined by [~~in~~] KRS 17.550(7).

[(9)] "Presentence evaluation" means the evaluation as defined in KRS 532.050(4) prepared in the board's standard approved format.

[(10)] "Provider" means a qualified mental health professional as defined in KRS 202A.011(12) who is certified by the board to perform risk assessments.

(10) [(11)] "Risk assessment" means:

(a) The evaluation of the sex offender's characteristics, using:

1. [~~including~~] The factors listed in KRS 17.554(2); and

2. The factors addressed by the following instruments:

a. Rapid Risk Assessment for Sex Offender Recidivism (RRASOR), (1997 Edition), Solicitor General of Canada;

b. Minnesota Sex Offender Screening Tool - Revised (MnSOST-R), (1998 Edition), Minnesota Department of Corrections;

c. Violence Risk Appraisal Guide (VRAG), (1998 Edition), American Psychological Association; including the Hare Psychopathy Checklist Revised: Interview and Information Schedule (PCL-R), (1991 edition), Multi-Health Systems, Inc.

(b) To reach a recommendation of the:

1. Level or risk that an offender will recommit a sex crime; and

2. Threat posed to public safety. [~~any other factors the board may require, to reach a recommendation for a level of risk of the offender's recommitting a sex crime and the threat posed to public safety. Risk assessments include the evaluations identified in KRS 17.554.~~]

(11) [(12)] "Sex crime" is defined by [~~in~~] KRS 17.500(4).

(12) [(13)] "Sex offender" is defined by [~~in~~] KRS 17.550(2).

(13) [(14)] "Supervised provider" means a certified provider [~~an individual~~] who has been certified under Section 2 [3](2) of this administrative regulation to provide risk assessments under the direct supervision of a supervisor [~~provider~~].

(14) [(15)] "Supervisor" means a certified provider who has been certified under Section 2(1) [as defined in Section 2(10)] of this administrative regulation and who examines and approves the risk assessments [~~work~~] of a supervised provider.

(15) [(16)] "Victim" is defined by [~~in~~] KRS 421.500(1).

Section 2. [3.] Qualifications of Certified Providers and Supervised Providers. (1) To qualify as a certified provider, an appli-

cant shall: [~~An applicant may qualify as a provider if he:~~]

(a) Have completed thirty-two (32) hours of specialty training provided or approved by the board under Section 8 of this administrative regulation including the following: [~~Completes thirty-two (32) hours of specialty training approved or provided by the board including:~~]

1. Characteristics and offense patterns of sex offenders;
2. Treatment modalities used with sex offenders;
3. Legal and ethical issues in the risk assessment of sex offenders;

4. [~~Use of the presentence evaluation;~~
5.] Victim's issues, not to exceed two (2) hours of credit against the total requirement;

5. [6.] Issues related to the assessment of juvenile and female sex offenders [~~; not less than two (2) hours~~]; and

6. Use of the actuarial instruments and risk assessment guides listed in Section 1(10)(a)2 of this administrative regulation; [~~Use of board approved actuarial instruments and risk assessment guides;~~]

(b) Be in compliance [~~Complies~~] with the ethical standards of professional practice as promulgated by the licensing or certifying body under which he has qualified mental health professional status; [~~and~~]

(c) Have [~~Has~~] one (1) year documented experience conducting sex offender evaluations or assessments or [~~however, in lieu of the one (1) year experience,~~] he shall complete a thirty (30) hour practicum administered by the board within the first year [~~six (6) months~~] of practice after certification; and

(d) Be a qualified mental health professional as defined by KRS 202A.011(12).

(2) To qualify as a supervised provider, an applicant shall: [~~An applicant may qualify as a supervised provider if he:~~]

(a) Have met [~~Meets~~] the requirements of subsection (1)(a) of this section;

(b) Be in compliance [~~Complies~~] with the ethical standards promulgated by the appropriate employing agency listed in paragraph (c) of this subsection;

(c) Be [~~Is~~] an employee of the Department of Corrections, Division of Mental Health; Department of Juvenile Justice; or Department of Mental Health and Mental Retardation Services, including an employee of a community mental health center;

(d) Have applied [~~Files a completed application~~] for certification with the board by March 31, 1999;

(e) Maintain [~~Maintains~~] full-time employment with one (1) of the departments listed in paragraph (c) of this subsection as of March 31, 1999; and

(f) Have met [~~Meets~~] one (1) of the following requirements:

1. Have [~~Has~~] a master's degree in psychology, social work, counseling, social gerontology, education, or marriage and family therapy [~~or other human service related discipline~~] and one (1) year of counseling experience; or

2. Have [~~Has~~] a bachelor's degree in a psychology, social work, counseling, social gerontology, education, or marriage and family therapy [~~human service related discipline~~] and two (2) years counseling experience.

Section 3. [4.] Duties. (1) If a certified provider performs a risk assessment for a sex offender, he shall not provide treatment for personal financial gain for the sex offender for six (6) months following that assessment.

(2) If a certified provider is not a supervised provider, he shall: [~~A provider shall:~~]

(a) Submit the first four (4) risk assessments prepared after certification for review by the board;

(b) Comply with the ethical standards of professional practice as promulgated by the licensing or certifying body under which he has qualified mental health professional status; and

(c) Complete eight (8) hours of continuing education approved or provided by the board on an annual basis.

(3) [~~If a supervised provider performs a risk assessment for a sex offender, he shall not provide treatment for personal financial gain for the sex offender for six (6) months following that assessment.~~]

- (4)} A supervised provider shall:
- (a) Comply with the requirements of subsection (2) [(+)](a) and (c) of this section; ~~and~~
 - (b) Comply with the ethical standards promulgated by the employing agency listed in Section 2 [3](2)(c) of this administrative regulation; ~~and~~
 - (c) Comply with the ethical standards of professional practice as promulgated by the licensing or certifying body under which he is licensed or certified in a mental health profession.

Section 4. [5.] Certification Procedures. (1) The board shall certify an applicant as a certified ~~[may certify a provider or supervised]~~ provider if he meets the applicable qualifications specified in Section 2 [3] of this administrative regulation and is not otherwise disqualified by the provisions of Section 5 [6] of this administrative regulation.

(2) An individual may apply to the board for certification as a certified provider ~~[or supervised provider]~~ by submitting:

(a) A written request for certification, which shall include the following:

1. Full name;
2. Business address;
3. Home address;
4. Daytime telephone number;
5. Fax number, if available; and
6. Social Security number; ~~[A completed application for certification on the board's approved form;]~~

(b) Documentary evidence of his qualifications; and

(c) Evidence that he has remedied the cause for the denial or revocation, if certification is denied or revoked under Section 5 [6] of this administrative regulation.

(3) The board shall determine that an application is incomplete if:

(a) The documentation of qualifications is insufficient to meet the required qualifications in Section 2 of this administrative regulation ~~[applicable qualifications];~~

(b) The board is unable to verify the authenticity of the documentation of qualifications; or

(c) Any of the information required in subsection (2) of this section is not submitted.

(4) If the board determines that an application is incomplete, the application shall be returned to the applicant, specifying additional documentation that is required or identifying the information that cannot be verified.

(5) The board shall approve or deny the application for certification in writing no later than sixty (60) days after receiving a complete application for certification.

(6) Certification shall be effective for two (2) years.

(7) Unless certification has been revoked in accordance with Section 5 of this administrative regulation, the board shall renew the certification of a certified provider upon request if he submits documentation of completion of at least eight (8) hours per year of continuing education provided or approved by the board under Section 8 of this administrative regulation. ~~[The board may renew the certification of a provider or supervised provider upon request if the provider or supervised provider submits documentation of completion of at least eight (8) hours per year of continuing education approved or provided by the board, unless the certification has been revoked in accordance with Section 6 of this administrative regulation.]~~

(8) The board shall maintain a list of certified providers ~~[and supervised providers]~~ to be submitted to the Administrative Office of the Courts annually.

Section 5. [6.] Denial or Revocation of Certification. (1) The board shall deny, suspend or revoke certification if an applicant or a certified provider: ~~[a request for certification or revoke the certification of a provider or supervised provider if the board determines that he:]~~

(a) Has been convicted of or pled guilty to a felony criminal offense or a misdemeanor offense against a person; ~~[or]~~

(b) Has had a domestic violence protective order issued against him within the previous five (5) [two (2)] years;

(c) Has failed to meet the qualifications for certification set forth in Section 2 of this administrative regulation;

(d) No longer maintains full-time employment with one (1) of the departments listed in Section 1(2)(c) of this administrative regulation, and is a supervised provider;

(e) Has developed a relationship with the sex offender being assessed other than that necessary to adequately perform a risk assessment;

(f) Has an alcohol or drug abuse problem as defined in KRS 222.005(12);

(g) Has falsified any information or documentation, or has concealed a material fact, in his request for certification;

(h) Has failed to implement a corrective action plan imposed by the board in accordance with Section 7 of this administrative regulation;

(i) Has three (3) or more risk assessments which the board finds are below standard upon review;

(j) Has failed to comply with the risk assessment procedure established in 501 KAR 6:200, Section 2(1) through (7);

(k) Has shown an inability to adequately conduct a risk assessment with reasonable skill;

(l) Has accepted a gift or favor from a sex offender being assessed, from the family of the sex offender being assessed, or from their agent; or

(m) Has provided a gift or favor to a sex offender being assessed, to the family of the sex offender being assessed, or to their agent.

(2) The board may deny, suspend or revoke certification if an applicant or a certified provider has: ~~[a request for certification or revoke the certification of a provider or supervised provider if the board determines that he:]~~

(a) ~~[Has]~~ Been convicted of or pled guilty to any misdemeanor criminal offense that is not against a person;

(b) Had a sanction applied against his mental health professional licensure or certification at any time in the past two (2) years;

(c) Performed risk assessments without supervision, if supervision is required by this administrative regulation;

(d) Failed to comply with the duties set forth in Section 3 of this administrative regulation;

(e) Less than three (3) risk assessments which the board finds are below standard upon review; or

(f) Failed to comply with the risk assessment procedure established in 501 KAR 6:200, Section 2(8) through (12); or

(g) Failed to comply with the requirements set forth by the board for the practicum or to successfully complete the practicum, if so required by Section 2(1)(c) of this administrative regulation. ~~[Has an alcohol or other drug abuse problem as defined in KRS 222.005;~~

(c) ~~Has had a sanction applied against any qualified mental health professional licensure or certification held by him at any time in the past two (2) years;~~

(d) ~~Has performed risk assessments without supervision, if supervision is required by this administrative regulation;~~

(e) ~~Has falsified any information or documentation, or has concealed a material fact, in his request for certification;~~

(f) ~~Has failed to meet the qualifications for certification set forth in Section 3 of this administrative regulation;~~

(g) ~~Has failed to comply with the duties set forth in Section 4 of this administrative regulation;~~

(h) ~~Has failed to implement a corrective action plan approved or imposed by the board in accordance with Section 8 of this administrative regulation;~~

(i) ~~Has two (2) or more risk assessments which the board finds are below standard upon review;~~

(j) ~~Has failed to comply with the risk assessment procedure set forth in 501 KAR 6:200;~~

(k) ~~Has failed to comply with the requirements set forth by the board for the practicum or to successfully complete the practicum, if so required by Section 3(1)(c) of this administrative regulation.~~

(l) ~~No longer maintains full-time employment with one (1) of the departments listed in Section 3(2)(c) of this administrative regulation, and is a supervised provider.~~

(m) ~~Has shown an inability to adequately conduct risk assessments with reasonable skill;~~

(n) ~~Has accepted gifts or favors from the sex offender being assessed, from the family of the sex offender being assessed, or from their agent;~~

(o) ~~Has provided gifts or favors to the sex offender being assessed, to the family of the sex offender being assessed, or to their agent; or~~

(p) ~~Has developed a relationship with the sex offender being assessed other than that necessary to adequately perform a risk assessment;~~

(3) If the board intends to deny, suspend or revoke certification, it shall:

(a) Serve a notice of intent to deny, suspend, or revoke certification to the applicant or certified provider; and

(b) Notify the applicant or certified provider of his hearing rights, in accordance with KRS 17.560, [shall serve a notice of intent to deny or revoke certification, to the individual requesting certification or renewal of certification, which shall include the date of the hearing for the denial or revocation.]

(4) A certified provider [or supervised provider] who has had his certification revoked shall be ineligible for certification or renewal of certification until the second anniversary of the date his certification was revoked.

Section 6. [7:] Scope of Supervision Requirements. A supervisor shall:

(1) Not supervise more than six (6) supervised providers concurrently;

(2) Directly observe the supervised provider's clinical practice in person or through video or audio tape;

(3) Conduct at least one (1) hour per week of face-to-face supervision, including case discussion, review of reading assignments, skill building, and review of audio or video tape of actual clinical practice with the supervised provider;

(4) ~~Assure that a supervised provider conducts risk assessments in accordance with the provisions of this administrative regulation;~~

(5) ~~Examine and approve all risk assessments performed by the supervised provider; and~~

(6) Give written notice to the board if he determines that the supervised provider's performance does not comply with the provisions of this administrative regulation.

Section 7. [8:] Monitoring. (1) The board shall:

(a) Investigate a [any] formal complaint, verified by affidavit, concerning a certified [any] provider [or supervised provider], if the complaint alleges a failure to comply with the provisions of this administrative regulation; and

(b) Refer a [any] complaint against a certified provider, which relates to an unethical practice or practice which may be outside the certified provider's practice, to the appropriate licensure or certification board.

(2) The board may investigate and evaluate a certified provider's [or supervised provider's] adherence to the provisions of this administrative regulation on its own initiative.

(3) Board staff may monitor by the following activities:

(a) Interviewing a sex offender or victim, if consent is given by the sex offender or victim for the interview;

(b) Reviewing assessment records maintained by a certified provider [or supervised provider] on a sex offender;

(c) Direct observation of the risk assessment of a sex offender; or

(d) interviewing judicial, correctional, law enforcement officials or other agency personnel that interact with a certified provider [or supervised provider] in relation to sex offender risk assessments.

(4) If a certified provider [the board determines that a provider or supervised provider] fails to comply with provisions of this administrative regulation, the board shall notify him [the provider or supervised provider] in writing of its determination and may:

(a) Require the certified provider [or supervised provider] to submit a corrective action plan for approval by the board;

(b) Impose a corrective action plan; or

(c) Revoke certification in accordance with Section 5 [6] of this administrative regulation.

(5) If the board requires a certified provider [or supervised provider] to comply with a corrective action plan, it shall review plan compliance [by the provider or supervised provider with the plan] within sixty (60) days.

(6) If the board determines that a supervisor fails to conduct the required supervision of a supervised provider, the board shall notify the supervisor, the supervised provider, and the supervised provider's employer in writing of its determination and may:

(a) Require the supervisor to submit a corrective action plan;

(b) Impose a corrective action plan upon the supervisor;

(c) Prevent the supervisor from continuing to supervise; or

(d) Suspend the certification of the supervised provider.

(7) If the corrective action plan does not correct the supervision problem within sixty (60) days, or if the supervisor notifies the board that he shall no longer be supervising the supervised provider, then the board shall suspend the certification of the supervised provider until another supervisor [a provider] is available and willing to provide the supervision required in Section 6 [7] of this administrative regulation.

Section 8. Approval of Specialty Training and Continuing Education. (1) Specialty training.

(a) Specialty training, as required in Section 2(1) of this administrative regulation, shall be approved by the board, if not provided by the board;

(b) A certified provider seeking approval of a specialty training course shall submit to the board the following:

1. A certificate of attendance which shall include the number of hours of training received; and

2. An agenda from the training seminar which describes topics and length of time spent on each topic.

(c) The board may require the applicant to provide course materials from the training seminar or additional information, if it is unable to adequately determine the nature of the training provided at the seminar from the materials submitted under subsection (1)(b) of this section.

(2) Continuing education.

(a) Continuing education, as required in Section 3(2)(c) of this administrative regulation, shall be approved by the board, if not provided by the board;

(b) A certified provider seeking approval of continuing education hours shall submit to the board the following:

1. A certificate of attendance which shall include the number of hours of education received.

2. An agenda from the seminar, which describes topics and length of time spent on each topic.

(c) The board may require the applicant to provide course materials from the seminar or additional information, if it is unable to adequately determine the nature of training provided at the seminar from the materials submitted under subsection (2)(b) of this section.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Rapid Risk Assessment for Sex Offender Recidivism (RRASOR), (1997 Edition), Solicitor General of Canada;

(b) Minnesota Sex Offender Screening Tool – Revised (MnSOST-R), (1998 Edition), Minnesota Department of Corrections; and

(c) Violence Risk Appraisal Guide (VRAG), (1998 Edition), American Psychological Association; including the Hare Psychopathy Checklist Revised: Interview and Information Schedule (PCL-R), (1991 Edition), Multi-Health Systems, Inc.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Corrections, State Office Building, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 10. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

GARY L. DENNIS, Ph.D., Chairman
 AMY V. BARKER, Staff Attorney
 APPROVED BY AGENCY: January 6, 1999
 FILED WITH LRC: January 14, 1999 at 9 a.m.

JUSTICE CABINET
 Sex Offender Risk Advisory Board
 (As Amended at ARRS, May 11, 1999)

501 KAR 6:200. Sex offender risk assessment procedure.

RELATES TO: KRS 17.550 [17.540] to 17.991

STATUTORY AUTHORITY: KRS 17.554(2), 17.564

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.554(2) authorizes the Sex Offender Risk Assessment Advisory Board to promulgate administrative regulations to establish a risk assessment procedure for court-ordered risk assessments of sex offenders. This administrative regulation establishes the risk assessment procedure to assure the quality of court-order sex offender risk assessments.

Section 1. [Purpose. The purpose of this administrative regulation is to establish the risk assessment procedure. This administrative regulation is necessary to assure the quality of court-ordered sex offender risk assessments:

Section 2. Definitions. (1) "Board" is defined by KRS 17.550(1). [means the Sex Offender Risk Assessment Advisory Board.]

(2) "Certified provider" is defined by KRS 17.550(8).

(3) "Clinically adjusted" means changing the risk level recommendation based on facts or evidence which indicate to a certified provider that the probability of recidivism ranges are inappropriate for a sex offender.

(4) "High risk sex offender" is defined by [in] KRS 17.550(3).

(5) [(3)] "Low risk sex offender" is defined by [in] KRS 17.550(5).

(6) [(4)] "Moderate risk sex offender" is defined by [in] KRS 17.550(4).

[(5)] "Presentence evaluation" means the evaluation as defined in KRS 532.050(4) prepared in the board's standard approved format.

(6) "Provider" means a qualified mental health professional as defined in KRS 202A.011(12) who is certified by the board to perform risk assessments.]

(7) "Risk assessment" means:

(a) The evaluation of the sex offender's characteristics, using:

1. The factors listed in KRS 17.554(2); and

2. The factors addressed by the following instruments:

a. Rapid Risk Assessment for Sex Offender Recidivism (RRASOR), (1997 Edition), Solicitor General of Canada;

b. Minnesota Sex Offender Screening Tool - Revised (MnSOST-R), (1998 Edition), Minnesota Department of Corrections; and

c. Violence Risk Appraisal Guide (VRAG), (1998 Edition), American Psychological Association; including the Hare Psychopathy Checklist Revised: Interview and Information Schedule (PCL-R), (1991 Edition), Multi-Health Systems, Inc.

(b) To reach a recommendation of the:

1. Level of risk that an offender will recommit a sex crime; and

2. Threat posed to public safety. ["Risk assessment" means

the evaluation of the sex offender's characteristics, including the factors listed in KRS 17.554, and any other factors the board may require, to reach a recommendation for a level of risk of the offender's recommitting a sex crime and the threat posed to public safety. Risk assessments include the evaluations identified in KRS 17.554.]

(8) "Sex offender" is defined by [in] KRS 17.550(2).

[(9)] "Supervised provider" means an individual who has been certified under Section 3(2) of this administrative regulation to pro-

vide risk assessments under the direct supervision of a provider.]

Section 2. [3.] Risk Assessment Procedures. (1) A certified provider shall conduct a risk assessment using the instruments listed in Section 1(7)(a)2 of this administrative regulation as appropriate for the sex offender. The appropriateness of the instruments for a sex offender shall be determined as follows:

(a) The RRASOR listed in Section 1(7)(a)2a of this administrative regulation shall be used for an adult male sex offender who has been convicted of at least one (1) sex offense;

(b) The MnSOST-R listed in Section 1(7)(a)2b of this administrative regulation shall be used for:

1. An adult male sex offender whose sex offense was extrafamilial; or

2. An adult male sex offender whose sex offense was intrafamilial, and involved:

a. Penetration; or

b. A high degree of physical force;

(c) The MnSOST-R listed in Section 1(7)(a)2b of this administrative regulation shall not be used for presentence risk assessments; and

(d) The VRAG listed in Section 1(7)(a)2c of this administrative regulation shall be used for an adult male sex offender who has committed an offense involving violence.

(2) If the risk level recommendation is not clinically adjusted by the certified provider, a probability of recidivism on an instrument listed in Section 1(7)(a)2 of this administrative regulation in the range of zero to fifteen (15) percent shall be a recommendation of low risk for the sex offender.

(3) If the risk level recommendation is not clinically adjusted by the certified provider, a probability of recidivism on an instrument listed in Section 1(7)(a)2 of this administrative regulation in the range of sixteen (16) to forty-nine (49) percent shall be a recommendation of moderate risk for the sex offender.

(4) If the risk level recommendation is not clinically adjusted by the certified provider, a probability of recidivism on an instrument listed in Section 1(7)(a)2 of this administrative regulation in the range of fifty (50) to 100 percent shall be a recommendation of high risk for the sex offender.

(5) If the use of the actuarial instruments listed in Section 1(7)(a)2 of this administrative regulation is not appropriate for a sex offender, the certified provider shall use the Hare Psychopathy Checklist Revised: Interview and Information Schedule (PCL-R), (1991 Edition), Multi-Health Systems, Inc., as a guideline to interview the sex offender and to gather information from available records of the sex offender or other available sources. The certified provider shall use clinical judgment to make a risk level recommendation based on the information gathered from the interview and other sources.

(6) If the sex offender is female, the certified provider shall use the Risk Assessment Scale for Females which is incorporated by reference.

(7) A certified provider shall prepare a recommendation report to the court which indicates a recommended risk level for a sex offender for which a risk assessment has been completed.

(8) The recommendation report to the court shall include the following headings and subheadings:

(a) Identifying information:

1. Name;

2. Social Security number;

3. Date of birth and age;

4. Indictment number; and

5. Ethnic background;

(b) Risk level recommendation;

(c) Certified provider;

(d) Date of evaluation and site of evaluation;

(e) Reason for referral;

(f) Information resources; and

(g) Evaluation results:

1. Sex crime information;

2. Criminal justice history;

3. Mental health and medical history;
4. Sexual history;
5. Relationship history;
6. Education, military, occupational, and financial history;
7. Family of origin;
8. Testing results;
9. Behavioral observations and mental status;
10. Diagnostic impressions;
11. Release plans; and
12. Conclusions and recommendations.

(9) If the recommendation report is for presentence evaluation purposes, the report shall also include a heading which states "Amenability to Treatment".

(10) The format of the recommendation report to the court shall be as follows:

(a) The report shall be titled "Sex Offender Risk Assessment: Presentence", if the risk assessment was ordered for presentence evaluation purposes.

(b) The report shall be titled "Sex Offender Risk Assessment: Prerelease", if the risk assessment was not ordered for presentence evaluation purposes.

(11) A certified provider shall place his signature at the end of the recommendation report if he:

(a) Conducted the risk assessment; or

(b) Reviewed and approved the risk assessment.

(12) A certified provider shall not perform a risk assessment if the certified provider previously provided treatment to the sex offender. [In performing a risk assessment, a provider or supervised provider shall conduct a presentence evaluation and use a board-approved protocol to determine if a recommendation of low risk may be made.

(2) If a recommendation of low risk sex offender cannot be made under the above, then the provider or supervised provider shall use an additional board approved protocol to determine the appropriate risk level for the sex offender to be recommended to the court.

(3) The recommendation to the court shall be made in a standard board approved format.

(4) A provider or supervised provider may not perform a risk assessment if the provider or supervised provider has previously provided treatment to the sex offender.]

Section 3. [4.] Recordkeeping. (1) If a sex offender is determined to be a low or moderate risk, the certified provider shall preserve the collected assessment information for a period of fifteen (15) years. [A provider or supervised provider shall preserve and maintain all information or documentation used or gathered in an assessment for fifteen (15) years concerning sex offenders determined to be low or moderate risk.]

(2) If a sex offender is determined to be a high risk, the certified provider shall preserve the collected assessment information for the life of the offender. [A provider or supervised provider shall preserve and maintain all information or documentation used or gathered in an assessment for the life of the sex offender for sex offenders determined to be high risk.]

(3) A certified provider may transmit all collected assessment information [The provider or supervised provider may elect to surrender all information or documentation concerning an assessment] to the board in lieu of maintaining the information for the required number of years.

(4) The original or a copy of all collected assessment information shall be provided to the board:

(a) Upon request; or

(b) At the death of the certified provider. [The original or a copy of all information or documentation concerning a risk assessment shall be surrendered to the board upon request at any time or at the death of the provider.]

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Rapid Risk Assessment for Sex Offender Recidivism (RRASOR), (1997 Edition), Solicitor General of Canada;

(b) Minnesota Sex Offender Screening Tool - Revised (MnSOST-R), (1998 Edition), Minnesota Department of Correc-

tions; and

(c) Violence Risk Appraisal Guide (VRAG), (1998 Edition), American Psychological Association; including the Hare Psychopathy Checklist Revised: Interview and Information Schedule (PCL-R), (1991 Edition), Multi Health Systems, Inc.;

(d) Risk Assessment Scale for Females, (1999 Edition), Sex Offender Risk Assessment Advisory Board.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Corrections, State Office Building, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 5. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

GARY L. DENNIS, Ph.D., Chairman

AMY V. BARKER, Staff Attorney

APPROVED BY AGENCY: January 6, 1999

FILED WITH LRC: January 14, 1999 at 9 a.m.

JUSTICE CABINET

Sex Offender Risk Assessment Advisory Board (As Amended at ARRS, May 11, 1999)

501 KAR 6:210. Sex offender community notification.

RELATES TO: KRS 17.570(8), 17.572 [17-564]

STATUTORY AUTHORITY: KRS 17.564(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.564(1)

authorizes the Sex Offender Risk Assessment Advisory Board to promulgate administrative regulations necessary to establish a procedure for community notification regarding sex offenders. This administrative regulation establishes guidelines and procedures for consistent community notification.

Section 1. Definitions. (1) "Law Information Network Kentucky" or "LINK" is defined by 502 KAR 40:010.

(2) "Sex offender" is defined by KRS 17.550(2).

(3) "Victim" is defined by KRS 421.500(1). [Purpose: The purpose of this administrative regulation is to establish guidelines and procedures for consistent community notification concerning sex offenders.

Section 2. Definitions. (1) "Sex offender" is defined in KRS 17.550:

(2) "Statewide media outlets" as used in KRS 17.572 means the Kentucky News Network.

(3) "Victim" is defined in KRS 421.500.]

Section 2, [3.] Sheriff's Duty to Notify. (1) In a [The sheriff having the duty to notify under KRS 17.572 may contract with a paid or unpaid organization or individual to carry out the notification function.

(2) In any] county with a population over 70,000, the sheriff shall designate an individual within the sheriff's office who shall be responsible for:

(a) Receiving and processing risk determination information and notification requests; and

(b) Seeing that notification is carried out as required by KRS 17.572. [carrying out the notification.]

(2) If an agency, organization, or group is eligible for notification under KRS 17.572(1)(e) or (4)(e) and desires to receive notification, it shall designate a person to request and receive notification from the sheriff.

(3) If a victim, agency, organization, or group is eligible for release notification pursuant to KRS 17.572(1)(c), (e), (4)(d), (e), or (5)(c), and desires to receive that notification, he shall deliver to the sheriff's office a written request for notification.

(4) Upon receiving the order of sex offender risk determination from the sentencing court, the sheriff shall make reasonable efforts to acquire sex offender information from the Law Information Network Kentucky (LINK) as soon as it becomes

available. The sheriff shall complete notification within twenty (20) days of obtaining the sex offender information.

(5) Upon receiving a request for notification of updated offender information from any victim or organization entitled to notification pursuant to KRS 17.572, the sheriff shall determine current offender information within ten (10) days of the request and shall complete notification within twenty (20) days of the determination.

(6) The sheriff may, in accordance with KRS 61.870, provide a photo or fingerprints of a sex offender, if available, to a victim, group, or entity entitled to notification under KRS 17.572. [(3) Only a victim or a designated person, from an agency, organization, or group eligible for notice under KRS 17.572, who completes and delivers a written request for notification form to the sheriff's office, shall receive notice from the sheriff or his agent.

(4) Upon receiving the order of sex offender risk determination from the sentencing court, the sheriff or his agent shall acquire sex offender information from the Law Information Network-Kentucky (LINK), the Kentucky State Police, or other available source as soon as it becomes available. The sheriff or his agent shall complete notification within twenty (20) days of obtaining the sex offender information.

(5) Upon receiving a request for notification of updated offender information from any victim or organization entitled to notification pursuant to KRS 17.572, the sheriff or his agent shall determine current offender information within ten (10) days of the request and shall complete notification within twenty (20) days of the determination.

(6) This administrative regulation shall not prohibit the sheriff or his agent from notifying local and regional newspapers, radio stations, and television stations or notifying by the Internet.

(7) The sheriff or his agent may provide a photo or fingerprints, if available, of the offender in notification under KRS 17.572.]

GARY L. DENNIS, Ph.D., Chairman

AMY BARKER, Staff Attorney

APPROVED BY AGENCY: January 6, 1999

FILED WITH LRC: January 14, 1999 at 9 a.m.

JUSTICE CABINET

Kentucky Department of Criminal Justice Training
(As Amended at ARRS, May 11, 1999)

503 KAR 3:040. Telecommunications academy trainee requirements; misconduct; penalties; discipline procedures.

RELATES TO: KRS 15.530 through 15.590 [15.550, 15A.070]
STATUTORY AUTHORITY: KRS 15.550 [Chapter 13A], 15.590, 15A.160]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.070 authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel, and any other justice or nonlaw-enforcement-related personnel as prescribed by the secretary, which includes law enforcement telecommunications pursuant to KRS 15.560. This administrative regulation prescribes conduct requirements of trainees attending the telecommunications academy conducted by the Department of Criminal Justice Training, prescribes procedures for disciplinary action, and sets penalties.

Section 1. Uniforms Required. (1) A trainee shall wear a uniform, approved by the department, while participating in the telecommunications academy.

(2) The required uniform shall consist of:

(a) Men:

1. Solid white button-down dress shirt with collar, long or short sleeves;

2. Necktie;

3. Dress pants with belt loops, solid black, dark gray, or dark blue;

4. Black belt;

5. Black or navy blue socks;

6. Black, plain-toe, dress shoes. Athletic shoes shall not be worn with the uniform.

(b) Women:

1. Solid white plain dress shirt with collar, button-front, long or short sleeves;

2. Necktie or scarf;

3. Dress pants or skirt, solid black, dark gray, or dark blue;

4. Black belt;

5. Black or navy blue socks. Solid color hose may be substituted, black, navy blue, or flesh tones;

6. Black, plain, closed-toe, dress shoes. Athletic shoes shall not be worn with the uniform.

(3) The following may be worn with the uniform:

(a) Dress jacket or sport coat, solid gray or dark blue is recommended;

(b) Pins issued by the trainee's agency;

(c) The Department of Criminal Justice Training cap which shall be issued to the trainee on the first day of the academy. [A trainee shall provide the uniforms required by the department to participate in the telecommunications academy.]

Section 2. Removing a Trainee from the Academy. (1) Unqualified trainee. If a trainee does not meet the law enforcement telecommunicator qualifications in KRS 15.540, he shall:

(a) Be removed from the academy by the:

1. Director;

2. Branch manager; or

3. Section supervisor;

(b) Not receive credit for completed portions of academy training.

(2) If a trainee is removed from the academy, pursuant to subsection (1) of this section, within thirty (30) days of the removal, he may request in writing an administrative hearing, which shall comply with KRS Chapter 13B.

(3) Agency request. The department shall remove a trainee from the academy upon written request of the trainee's law enforcement agency. The trainee shall not receive credit for completed portions of academy training. [Unqualified trainee: The director, branch manager or section supervisor shall remove from the telecommunications academy a trainee who is not qualified to participate in the academy. The trainee shall receive no credit for the part of the academy he has completed.]

(2) Agency's request. A trainee shall be removed from the telecommunications academy upon the department's receipt of a written request from the trainee's agency. The trainee shall receive no credit for the part of the academy he has completed.]

Section 3. Gifts. A gift from trainees to department staff shall conform with the requirements of KRS Chapter 11A, the executive branch code of ethics. [Gifts from trainees to department staff members shall conform with the Executive Branch Code of Ethics (KRS Chapter 11A).]

Section 4. Penalties for Misconduct. (1) The following penalties shall apply to a trainee's failure to meet conduct or honor code requirements of the department. The penalties are listed in order of decreasing severity.

(a) Expulsion. The trainee is dismissed from the academy, and all privileges are terminated.

(b) Suspension. The trainee is suspended from the academy for a specified period of time; all privileges are rescinded during the suspension period.

(c) Loss of privileges. The trainee's privileges as specified in the imposed penalty are rescinded for a stated period of time. The trainee's participation in academy activities is not affected.

(d) Written reprimand. The trainee is reprimanded in writing for violating a conduct or honor code requirement.

(e) Verbal warning. The trainee is warned verbally that he has violated a conduct or honor code requirement.

(2) Second and subsequent violations.

(a) If a trainee has received a penalty for violating a conduct or honor code requirement, upon a second violation of any conduct or honor code requirement the next higher penalty shall be added to

the list of penalties which may be imposed for the second violation.

(b) If a trainee has previously received two (2) penalties for violating two (2) conduct or honor code requirements, upon a third or subsequent violation of any conduct or honor code requirement the next two (2) higher penalties shall be added to the list of penalties which may be imposed for the third or subsequent violation.

(3) Giving notice of disciplinary action to trainee and trainee's agency. The department shall give written notice to a trainee of any penalty imposed upon him. The trainee's agency shall be given written notice of any penalty imposed upon the trainee except a verbal warning, and shall be given verbal notice when a trainee has been charged with a violation of a conduct or honor code requirement and has requested a hearing.

(4) Penalty records.

(a) The department shall keep a written record of a [any] penalty imposed on a trainee **by placing it in the trainee's file.**

(b) **Except where required by law, a trainee's training file shall not be available for access except by:**

1. The department;

2. The trainee; or

3. The trainee's agency head. [A copy of any penalty imposed on a trainee shall be placed in his training file.]

(c) ~~Only the department, the trainee, and the trainee's agency head shall have access to the penalty records in a trainee's training file unless broader access is required by law.]~~

Section 5. Termination of Dangerous or Disruptive Situation. If the conduct or condition of a trainee constitutes an immediate danger or an immediate threat of danger to self or others, or is disruptive of, or is an immediate threat to be disruptive of a department activity, a department staff member may take all reasonable steps necessary to terminate the situation.

Section 6. Conduct Requirements. A trainee attending the telecommunications academy shall meet the following conduct requirements:

(1) General conduct - chain of command. All communications shall follow chain of command of the department. Exceptions are the unavailability of a supervisor, or the trainee's complaint regarding a supervisor. Penalty: verbal warning or written reprimand.

(2) General conduct - insubordination. A trainee shall:

(a) Obey a lawful order from a department staff member. Penalty: verbal warning, written reprimand, loss of privileges, or suspension.

(b) Refrain from vulgarity, rudeness, confrontation, or other disrespectful conduct directed toward a department staff member, trainee or other department trainee or guest. Penalty: verbal warning, written reprimand or suspension.

(3) General conduct - grooming.

(a) A male trainee:

1. Shall be clean shaven with sideburns no longer than the bottom of the ear lobe;

2. May wear a mustache if he had it upon arrival and keeps it neatly trimmed;

3. Shall not wear a beard unless he receives permission from the department, based upon:

a. A written request from the trainee's agency; and

b. A showing of good cause.

(b) A trainee's hair shall:

1. Not be unkempt; and

2. Be kept above the collar.

(c) Penalty: verbal warning or written reprimand. [The trainee shall be clean shaven with sideburns no longer than the bottom of the ear lobe. A mustache is permitted if the trainee has the mustache upon arrival and keeps it neatly trimmed. A beard shall not be permitted unless the trainee receives permission from the department based upon a written request from the trainee's agency and good cause shown. A trainee's hair shall not be unkempt and shall not be over the collar. Penalty: verbal warning or written reprimand.]

(4) General conduct - alcoholic beverages and other intoxicants.

(a) A trainee shall not possess, consume nor be under the influence of alcoholic beverages, controlled substances, or other intoxicating substances not therapeutically prescribed by a physician while enrolled in a telecommunications academy. Penalty: written reprimand, loss of privileges, suspension or expulsion.

(b) If a trainee has taken a controlled substance as prescribed by a physician or has taken any other medication, whether prescribed or not, he shall not participate in any academy activity if he is under the influence thereof to the extent that the trainee may be impaired or may endanger himself or other persons or property. A trainee shall advise the class coordinator or the section supervisor in writing of the use of controlled substance or medication whether or not it has been prescribed by a physician. Penalty: verbal warning, written reprimand or suspension.

(c) Confiscation.

1. If a dormitory staff member, department instructor, section supervisor, or branch manager observes an unlawfully-possessed intoxicating substance, he shall immediately confiscate it.

2. A confiscated item shall be stored in a secure facility of the department until the item is returned to the trainee at the completion of the academy, or disposed of by the department. [Confiscated items shall be stored in a safe and secure facility of the department pending appropriate disposition.]

(5) General conduct - weapons and other dangerous devices.

(a) A trainee shall not possess deadly weapons (as defined in KRS 500.080), ammunition, destructive devices or booby trap devices (as defined in KRS 237.030), hazardous substances (as defined in KRS 224.01-400), fireworks, or instruments used by law enforcement for control purposes (such as batons, stun guns, Mace, and pepper spray) on property used by the department except under circumstances specifically authorized by the department. Penalty: verbal warning, written reprimand, loss of privileges, suspension, or expulsion.

(b) Weapons specifically designated by the department to be used for training purposes shall be stored in a vault provided by the department at all times when they are not being used directly in academy activities and may be removed only for scheduled training, servicing, cleaning, or repair. Servicing, cleaning, and repairs of weapons (other than repairs which may require the expertise of a qualified gunsmith) shall be carried out only as authorized by the section supervisor and only in the presence of a certified firearms instructor. Penalty: verbal warning or written reprimand.

(c) Confiscation.

1. If a dormitory staff member, department instructor, section supervisor, branch manager, director or commissioner observes an unlawfully-possessed weapon or other dangerous device he shall immediately confiscate it.

2. Confiscated items shall be stored in a safe and secure facility of the department pending appropriate disposition.

(6) General conduct - department property.

(a) A trainee shall not damage, destroy, fail to return, or be wasteful of property of the department or any other facility used by the department. Penalty: verbal warning, written reprimand, loss of privileges, suspension or expulsion.

(b) A trainee shall not have successfully completed the telecommunications academy, and shall not be allowed to graduate until he has returned all issued items or made satisfactory arrangements to pay for unreturned or damaged items.

(7) General conduct - conduct unbecoming a trainee. A trainee shall not:

(a) Engage in criminal activity, including acts which would constitute a felony, misdemeanor or violation, while enrolled in the telecommunications academy. Depending on the nature of the conduct, the trainee shall be penalized by a verbal warning, written reprimand, loss of privileges, suspension or expulsion.

(b) Engage in conduct which creates a danger or risk of danger to the trainee or another, possess obscene material as defined in KRS 531.010, engage in conduct which is unreasonably annoying, engage in fighting or in violent, tumultuous or threatening conduct, engage in sexual harassment or conduct which is patently offensive. Penalty: verbal warning, written reprimand, loss of privileges, or expulsion.

(8) Academy activities - uniforms.

(a) A trainee shall **wear the uniform required by Section 1 of this administrative.** Penalty: verbal warning or written reprimand.

~~mand. [acquire all necessary uniforms and wear them as required by the department. Penalty: verbal warning or written reprimand.]~~

~~(b) Uniforms shall be clean, pressed and in good condition. Penalty: verbal warning or written reprimand. [Uniforms shall be:~~

- ~~1. Clean, pressed and in good condition;~~
- ~~2. Worn over a clean white tee-shirt, visible at the neck; and~~
- ~~3. Worn with a black belt, clean black footwear, black or navy-blue socks, and when outdoors, a department cap. Penalty: verbal warning or written reprimand.~~

~~(c) The only collar pins a trainee may wear are ones provided by his agency. Penalty: verbal warning or written reprimand.]~~

~~(c) [(d)] A name tag, provided by the department, shall be worn on the left shirt **breast** [pocket flap]. Penalty: verbal warning or written reprimand.~~

~~(d) Sleeves on long-sleeved shirts shall not be rolled up. Penalty: verbal warning or written reprimand.~~

~~(e) [Sleeves on winter shirts shall not be rolled up outside the classroom. Penalty: verbal warning or written reprimand.~~

~~(f) Additional clothing may be worn during an [a] academy activity if authorized by the instructor.~~

~~(g) Academy activities - absences.~~

~~(a) A trainee **shall be considered** [is] absent if he is not physically present in a class or other required department activity for more than ten (10) minutes. A trainee **shall be considered** [is] tardy if he is not physically present at a class or other required department activity for fewer than ten (10) minutes. A trainee shall give advance notice of an absence **if** [when] possible. Penalty: **verbal warning or written reprimand.** [for an unexcused absence: verbal warning or written reprimand; penalty for an unexcused tardiness: verbal warning or written reprimand.]~~

~~(b) **An absence shall be excused if the trainee was absent due to:**~~

- ~~1. Illness;~~
- ~~2. Illness of an immediate family member;~~
- ~~3. Death of an immediate family member;~~
- ~~4. Necessity of trainee's agency; or~~
- ~~5. Emergency circumstances.~~

~~(c) **An absence from the telecommunications academy shall be approved by the section supervisor or branch manager.** [All absences from the telecommunications academy must be approved by the section supervisor or branch manager.]~~

~~(d) [(c)] If a trainee is absent, excused or unexcused, he shall make up for the absence by completing an assignment provided by the instructor who taught the missed unit. Failure to make up the work shall be deemed a failure for that academy area.~~

~~(10) Academy activities - breaks. Trainees shall be allowed a ten (10) minute break per hour of instruction if possible. **A trainee shall not take a break in an area restricted by the department.** [Breaks shall be taken only in areas designated by the department.] Penalty: verbal warning or written reprimand.~~

~~(11) Academy activities - general conduct.~~

~~(a) A trainee shall be attentive during academy activities. Penalty: verbal warning or written reprimand.~~

~~(b) A trainee shall not use tobacco products during, or bring food or drink into a academy activity unless so permitted by the training director or commissioner. Penalty: verbal warning or written reprimand.~~

~~(c) A trainee shall not engage in conduct which creates or may create a risk of injury to others during a training session.~~

~~(12) Academy activities - dishonesty. A trainee shall not cheat or attempt to cheat on a test or on any other assignment or activity; or alter or attempt to alter a test grade or other evaluation result; or engage in any other conduct intended to gain an undeserved evaluation for himself or another. Penalty: verbal warning, written reprimand, loss of privileges, suspension or expulsion.~~

~~(13) Residence hall.~~

~~(a) During the telecommunications academy, when attending in Madison County, a trainee shall reside in the residence hall designated by the department.~~

~~(b) A trainee shall return to his residence hall at curfew times designated by the commissioner, Sunday through Thursday evenings, and remain there until 5 a.m. the next morning. Exceptions shall be approved by the class coordinator and reported in writing~~

through channels to the director. Penalty: verbal warning, written reprimand, loss of privileges.

~~(c) A trainee shall observe "lights out" by 11:30 p.m. Sunday through Thursday except on nights prior to an academic test when the time shall be extended to 12 midnight. Penalty: verbal warning or written reprimand.~~

~~(d) Each trainee shall be responsible for cleaning his area. Each morning, prior to leaving for class training, a trainee shall ensure his room is clean and free of trash, with beds made and the room ready for inspection. Penalty: verbal warning, written reprimand, loss of privileges.~~

~~(e) Doors shall be locked whenever a room is unoccupied. Penalty: verbal warning or written reprimand.~~

~~(f) The use of **hot plates** [cooking appliances or space heaters] is prohibited. Penalty: verbal warning, written reprimand, loss of privileges.~~

~~(g) All residence hall rooms, closets, and containers therein may be inspected by department staff for purposes of safety, sanitation and rule violations.~~

~~(h) A trainee residing at the residence hall shall not:~~

~~1. Have any person of the opposite sex in his room without the permission of the department. Penalty: verbal warning, written reprimand, loss of privileges, or suspension.~~

~~2. Have a visitor in his room after 9 p.m. Penalty: verbal warning or written reprimand, loss of privileges.~~

~~3. Keep pets, animals, or birds of any kind in his room. Penalty: verbal warning, written reprimand, loss of privileges.~~

~~4. Engage in dangerous, disruptive, immoral or obscene behavior. Penalty: verbal warning, written reprimand, loss of privileges, or suspension.~~

Section 7. Honor Code. (1) The trainee shall abide by the provisions of the honor code which reads as follows:

We are a dynamic team of individuals who possess a wide array of talent and strengths. In order for our team to grow and be successful, we will respect the leadership of the agency and follow directives to the best of our ability. We will make sacrifices for the benefit of the team. We will practice humility and show a spirit of compromise. As trainees of the Department of Criminal Justice Training, Telecommunications Academy, we will not lie, steal or cheat nor tolerate any among us who do.

We will keep our private lives honorable as an example to all. We will be exemplary in obeying the laws of the Commonwealth and the administrative regulations of the Department of Criminal Justice Training. Whatever we see or hear of a confidential nature of confided to us in our official capacity shall be kept confidential unless revelation is necessary in the performance of duty. We will never allow personal feelings, prejudices, ill will or friendships to influence our decisions.

We know that each of us is individually responsible for standards of professional performance. Therefore, we will make the utmost effort to improve our level of knowledge and competence.

We recognize the badge of our office as a symbol of public faith and accept it as a public trust to be held so long as we are true to the ethics of the police service. We will constantly strive to achieve these ideals, dedicating ourselves to our chosen profession - law enforcement. ~~[Penalty: verbal warning, written reprimand, loss of privileges, suspension or expulsion.]~~

(2) The penalty for violating the honor code shall be: verbal warning, written reprimand, loss of privileges, suspension or expulsion.

(3) The class shall elect an honor code representative during the first week of the academy.

(4) [(3)] All trainees shall report honor code violations to the honor code representative who shall report the offense to the class coordinator. The representative will recommend the penalty to be imposed for the violation.

(5) [(4)] All disciplinary procedures contained in this administrative regulation shall apply to the honor code violation. The department may pursue separately any additional offenses discovered during the investigation of the honor code violation.

Section 8. Department's Responsibilities to Trainee's Agency. In

order to keep the agency advised of the trainee's progress and performance in the telecommunications academy so that the agency may adequately assess the trainee's ability to perform required duties, the department shall provide the following to the police chief, sheriff or chief administrator of the trainee's agency:

(1) Trainee performance report which shall be completed at four (4) week intervals and shall include trainee conduct, demonstrated leadership abilities, examination scores, physical fitness scores and overall effort on performance, observed social/interpersonal skills, and appearance.

(2) Immediate notice of specific nonperformance, misconduct or lack of progress.

(3) Immediate notice of any off-campus activity which reflects negatively on the profession, including the following:

(a) Parking a marked police vehicle parked at a:

1. Bar;
2. Tavern;
3. Lounge;
4. Nightclub; or

5. Other establishment with the primary purpose of serving alcoholic beverages;

(b) Disorderly conduct;

(c) Speeding; or

(d) Other behavior that gives rise to a citizen's complaint.

Section 9. Summary Discipline. Except for summary discipline, **a penalty shall not [no penalty shall]** be imposed upon a trainee unless charges have first been brought by the legal officer.

(1) The following department staff members **shall** have the authority to impose the specified penalties summarily without meeting the requirements of the formal disciplinary procedures provided by Sections 10 through 15 of this administrative regulation. To have the authority to impose summary discipline, the staff member **shall believe by a preponderance of the evidence that [must have reasonable grounds to believe]** the trainee has engaged in the misconduct.

(a) A department instructor may summarily impose a verbal warning.

(b) The section supervisor, branch manager, director, or commissioner may summarily impose a verbal warning, written reprimand, or loss of privileges.

(2) Before imposing a penalty summarily, the staff member shall give the trainee the opportunity to give an explanation.

(3) A summarily imposed penalty shall be reviewed by, and may be rescinded or modified by, the immediate supervisor of the staff member imposing the penalty. The reviewer shall provide the trainee with the opportunity to give an explanation.

Section 10. Removal From the Academy Pending an Initial Appearance Before the Commissioner. (1) When a request for charges is filed against a trainee, the commissioner or director may remove the trainee from some or all training until the trainee's initial appearance before the commissioner if he has reasonable grounds to believe the alleged misconduct took place and:

(a) He has reasonable suspicion to believe the trainee would be dangerous or disruptive if not removed; or

(b) The trainee may be charged with misconduct serious enough to authorize expulsion.

(2) A trainee who has been removed from the academy pending an initial appearance before the commissioner shall be provided the initial appearance within three (3) training days of the removal.

Section 11. Complaint. Anyone having reasonable grounds for believing that a trainee has violated **a conduct or honor code requirement [any of the conduct or honor code requirements]** identified in this administrative regulation may file a complaint with the section supervisor. This complaint shall be in writing setting forth the facts upon which the complaint is based.

Section 12. Investigation by Section Supervisor. (1) If the section supervisor receives a complaint of or witnesses apparent misconduct, he shall take statements and otherwise investigate the matter.

(2) After investigating the matter, the section supervisor shall:

(a) Take no action if none is justified by the evidence; or

(b) Impose appropriate summary discipline; or

(c) File, with the legal officer, a written request that charges be brought against the trainee. The request for charges shall describe the alleged misconduct and designate the specific conduct requirements violated. All pertinent evidence and documents including the complaint, and statements of the trainee and witnesses shall be forwarded to the legal officer.

Section 13. Review by Legal Officer; Placing Charges. (1) The legal officer shall review the request for charges and the supporting evidence and documents.

(2) The legal officer may make or cause further inquiry into the matter for additional information.

(3) The legal officer shall either:

(a) File such charges against the trainee as he believes are justified by the evidence; or

(b) Deny the request for charges if the evidence does not support any charges. If the legal officer declines to file charges, he shall provide the commissioner with a statement of his reasons for not filing charges.

(4) The charging document shall:

(a) Be in writing;

(b) Particularly describe the alleged misconduct so as to reasonably inform the trainee of the nature of the allegation;

(c) State the time, date and place the trainee shall make an initial appearance before the commissioner to answer the charges.

(d) Be signed by the legal officer; and

(e) Be served upon the trainee at least one (1) hour before his initial appearance before the commissioner.

Section 14. Initial Appearance Before the Commissioner. (1) The initial appearance before the commissioner shall be held no more than three (3) training days after the charges have been served on the trainee. If the trainee, after receiving proper notice, fails to appear, the commissioner may proceed in his absence and the trainee shall be notified in writing of any action taken.

(2) At the initial appearance before the commissioner:

(a) The legal officer shall:

1. Read the charges to the trainee;

2. Explain to the trainee:

a. The charges;

b. His right to a hearing in accordance with KRS Chapter 13B; and

c. His right to be represented by legal counsel.

(b) The legal officer shall explain to the trainee the possible answers to the charges: admit the charges are true, deny the charges are true but waive a hearing, or deny the charges are true and ask for a hearing.

(c) The commissioner shall advise the trainee of the penalty which shall be imposed if the trainee admits the charges or waives a hearing.

(d) The trainee shall be requested to answer the charges.

(e) If the trainee chooses to waive his rights and admits the charges or denies the charges but waives a hearing:

1. He shall be permitted to make a statement of explanation; and

2. The commissioner shall impose a penalty.

(f) If the trainee denies the charges and requests a hearing, **or refuses to answer the charges**, the commissioner shall set a date for the hearing. A notice of administrative hearing as required by KRS 13B.050 shall be served on the trainee within forty-eight (48) hours of the initial appearance before the commissioner.

~~[(g) If the trainee remains silent or refuses to answer the charges, the commissioner may suspend the trainee from the academy until the trainee answers the charges or the legal officer drops the charges.]~~

(3) The commissioner may remove the trainee from some or all training until the hearing if:

(a) He has reasonable grounds to believe the trainee would be dangerous or disruptive if not removed; or

(b) The trainee is charged with misconduct serious enough to

authorize expulsion as a possible penalty.

Section 15. Hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.

Section 16. Appeal. (1) A trainee may appeal an order entered by the commissioner which imposes a penalty adverse to the trainee by filing a written notice of appeal to the Secretary of the Justice Cabinet.

(a) The notice of appeal shall state the points on which the appeal is based and shall be on a form provided by the department. [The form is made a part of 503-KAR-3:010 by reference.]

(b) A copy of the order being appealed shall be attached to the notice of appeal.

(c) A copy of the notice of appeal shall be delivered to the commissioner of the department by certified mail.

(2) The appeal shall not be heard de novo but shall be determined upon the audio record and any written or physical evidence introduced at the hearing.

(3) The Secretary of the Justice Cabinet shall render an opinion within sixty (60) days of receipt of the notice of appeal.

Section 17. Incorporation by Reference. (1) "Notice of Appeal", (October 15, 1998), Department of Criminal Justice Training, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Department of Criminal Justice Training, Funderburk Building, Richmond, Kentucky 40475-3137, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN W. BIZZACK, Ph.D., Commissioner
STEPHANIE C. BINGHAM, General Counsel
APPROVED BY AGENCY: January 15, 1999
FILED WITH LRC: January 15, 1999 at 11 a.m.

**TRANSPORTATION CABINET
Department of Fiscal Management
(As Amended at ARRS, May 11, 1999)**

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

RELATES TO: KRS 177.035, 177.170, 177.430(5), 179.265, 23 CFR 140, 645, 646, 48 CFR 31

STATUTORY AUTHORITY: KRS [177.035, 177.170; 177.430(5); 179.265, 23 CFR 140, 645, 646]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.430(5) authorizes the cabinet to promulgate administrative regulations relating to utilities on a turnpike project. This administrative regulation establishes the audit methodology to be used by a cabinet auditor for auditing reimbursable expenses incurred by a railroad or utility under an agreement with the Transportation Cabinet; establishes the requirements for keeping financial records; and requires all utilities and railroads contracting with the cabinet to comply with the federal regulations. [KRS 177.035 provides that the Transportation Cabinet shall pay for the cost of relocating any utility equipment which belongs to a publicly-owned utility if the relocation is occasioned by a highway construction project. KRS 179.265 requires the Transportation Cabinet to pay for the cost of relocation of utility facilities if they were constructed on other than public right-of-way and the relocation is occasioned by a state highway construction project. KRS 177.170 requires a railroad and the Transportation Cabinet to each pay one-half (1/2) of the cost of the highway construction work accomplished within the right-of-way of the railroad. KRS 177.430(5) gives the Transportation Cabinet the authority to promulgate administrative regulations relating to utilities on turnpike projects. The U.S. Department of Transportation requires all projects which it funds to be subject to the cost principles or accounting standards established in 48 CFR 31. This administrative regulation establishes the audit methodology to be used by a cabinet auditor for auditing reimbursable expenses incurred by a railroad or utility under an agreement

~~with the Transportation Cabinet; establishes the requirements for keeping financial records; and requires all utilities and railroads contracting with the cabinet to comply with the federal regulations.]~~

Section 1. Utility's Eligible Costs. (1) The eligible costs a utility incurs in participating in a highway construction project by providing relocation or reconstruction of its facility shall be governed by 23 CFR 645.

(2) If the utility owner is a county or other local public agency, 23 CFR 140, subpart G shall govern the eligibility of the costs of salaries, wages and other related costs incurred by its employees.

(3) A cost not in compliance with 23 CFR 140, Subpart G or 23 CFR 645 shall be disallowed.

Section 2. Railroad's Eligible Costs. (1) The eligible costs a railroad incurs in participating in a highway construction project by providing relocation, construction, or reconstruction of its facility or the elimination of a hazardous highway-rail crossing, shall be governed by 23 CFR 646 and 23 CFR 140, Subpart I.

(2) A cost not in compliance with 23 CFR 140, Subpart I or 23 CFR 646 shall be disallowed.

Section 3. Financial Records of a Utility or Railroad. (1) A railroad or utility shall provide the cabinet timely access to all financial and cost information necessary to verify the railroad's or utility's actual costs for the relocation, construction or reconstruction of its facilities directly associated with a cabinet project.

(2) A railroad or utility shall maintain payroll and time records for all employees for three (3) years from the final payment or until an audit has been performed, whichever is first. ~~[until final payment as stated in the project agreement;]~~

(3) A utility or railroad which is required to relocate its facilities for a state-funded highway construction project shall maintain its records in accordance with the provisions of 48 CFR 31.

(4) If a railroad or utility is notified by the Transportation Cabinet of a pending audit, the railroad or utility shall provide the following:

- (a) Time sheets;
- (b) Labor agreements;
- (c) Vendor invoices;
- (d) Equipment usage;
- (e) Indirect cost analysis;
- (f) Direct cost summary;
- (g) Budgetary information;
- (h) Betterment determination;
- (i) Project-related employee expenses;
- (j) Payroll register; and
- (k) Cancelled payroll checks.

Section 4. Audit Standards. The Transportation Cabinet, if auditing a railroad or utility, shall abide by the accounting and auditing standards contained in the following:

(1) "Government Auditing Standards, 1998 Revision" ~~[by the Comptroller General of the United States];~~

(2) "Codification of Statements on Auditing Standards, (Including Statements on Standards for Attestation Engagements)" ~~[copyright 1997 by the American Institute of Certified Public Accountants, Inc.]; and~~

(3) "Original Pronouncements, Accounting Standards as of June 1, 1998, Volume I and Volume II" ~~[published by the Financial Accounting Standards Board].~~

Section 5. Audit Findings. (1) Prior to the issuance of a final report, the auditor from the Transportation Cabinet shall present the preliminary findings and relevant work papers to the railroad or utility.

(2)(a) A comment about or objection to the preliminary findings shall be submitted to the originating office within the Transportation Cabinet in writing within fifteen (15) calendar days of the railroad's or utility's receipt of the preliminary findings.

(b) A comment or objection shall be taken into consideration by the external audit staff ~~[Transportation Cabinet]~~ prior to finalizing the report.

(3)(a) If a railroad or utility disagrees with the results of a final

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report issued by the external audit staff [Transportation Cabinet], the railroad or utility may request a review by the External Audit Review Committee within thirty (30) calendar days of the date the final report is received by the utility or railroad.

(b) The request shall be in writing and clearly state the concern with the final report and the reason for the concern.

(c) If the concern and the reason are not clearly stated, the request for review shall not be accepted.

Section 6. External Audit Review Committee. (1) The External Audit Review committee shall consist of the following:

(a) The Commissioner of the Department of Fiscal Management, Chairperson;

(b) Executive Director, Office of Project Development;

(c) Executive Director, Office of Policy and Budget; and

(d) General Counsel, Office of General Counsel.

(2) A committee member may appoint a proxy to serve on this committee.

(3) The External Audit Review Committee may request the utility, railroad or the auditor to answer questions. The request shall state if a representative is to appear in person, by electronic communication, or in writing.

(4)(a) If the railroad or utility is not satisfied with the decision of the Audit Review Committee, an appeal may be made to the Secretary of the Transportation Cabinet within thirty (30) calendar days of receipt of the committee's decision.

(b) An administrative hearing to hear the appeal shall be held pursuant to the provisions of KRS Chapter 13B.

Section 7. Material Adopted. (1) The following material is adopted:

(a) 23 CFR 140, Subparts G and I, effective April 1, 1998;

(b) 23 CFR 645, effective April 1, 1998;

(c) 23 CFR 646, effective April 1, 1998; and

(d) 48 CFR 31, effective October 1, 1998.

(2) This material may be viewed or copied at the Transportation Cabinet, External Audit Branch, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 8. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "Government Auditing Standards, 1994 Revision" by the Comptroller General of the United States;

(b) "Codification of Statements on Auditing Standards, (Including Statements on Standards for Attestation Engagements)", copyright 1997 by the American Institute of Certified Public Accounts, Inc.;

(c) "Original Pronouncements, Accounting Standards as of June 1, 1997, Volume I and Volume II" published by the Financial Accounting Standards Board;

(d) 63 Federal Register 58595, October 30, 1998; and

(e) 63 Federal Register 70287, December 18, 1998.

(2) This material may be inspected, copied, or obtained, subject to copyright law, at:

(a) ~~Inspected at~~ the External Audit Branch, 3rd Floor, State Office Building, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.; ~~or~~

(b) ~~Obtained by contacting:~~

1. ~~For a copy of "Government Auditing Standards, 1994 Revision" the U.S. Government Printing Office, Superintendent of documents, Mail Stop: SSOP, Washington, D.C. 20402-9328;~~

2. ~~For a copy of "Codification of Statements on Auditing Standards, (Including Statements on Standards for Attestation Engagements)", the American Institute of Certified Public Accountants, Inc. Harborside Financial Center, 201 Plaza Three, Jersey City, New Jersey 07311-3811; or~~

3. ~~For a copy of "Original Pronouncements, Accounting Standards as of June 1, 1997, Volume I and Volume II" the Financial Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk, CT 06856-5116;~~

GLENN MITCHELL, Acting Commissioner
JAMES C. CODELL, III, Secretary
PATRICIA K. FOLEY, Deputy General Counsel

APPROVED BY AGENCY: April 5, 1999
FILED WITH LRC: April 12, 1999 at 4 p.m.

TRANSPORTATION CABINET Department of Highways Division of Traffic (As Amended at ARRS, May 11, 1999)

603 KAR 4:035. Logo signs; placement along fully-controlled and partially-controlled access highways.

RELATES TO: KRS 177.0734 through 177.0738

STATUTORY AUTHORITY: KRS 177.0736, 177.0738

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.0734 through 177.0738 require the Commissioner of Highways to prescribe by administrative regulations reasonable standards for the erection of specific information panels within highway rights-of-way to provide directional information for business establishments offering goods and services in the interest of the traveling public. This administrative regulation sets forth the criteria to be followed in the erection and maintenance of specific motorist signing designed to inform motorists where travel related goods and services are available.

Section 1. Definitions. (1) "Business sign" means a separately attached sign mounted on the specific information panel to show the name, brand name or trademark of a qualified motorist service available near the interchange.

(2) "Clear zone" means the area between the edge of the driving lane of a fully controlled or partially-controlled access highway and an imaginary line running parallel to the highway but thirty (30) feet (9.15 meters) away from the highway.

(3) ~~"Combination specific information sign" means a specific information sign with more than one (1) of the services "gas", "food", "lodging", "camping", or "tourist activities" listed on it.~~

~~(4)~~ "Contractor" means the entity selected by the Department of Highways pursuant to KRS Chapter 45A and 600 KAR 6:070 to administer the specific information signing program in Kentucky. The activities of the contractor shall include marketing; determination of business eligibility; maintenance, erection, and removal of the specific information panels and installation and removal of business signs.

~~(4)~~ ~~(5)~~ "Contract year" means July 1 through the following June 30.

~~(5)~~ ~~(6)~~ "Cover" means place a protective shield over a business sign to prohibit viewing of the sign.

~~(6)~~ ~~(7)~~ "Double exit interchange" means a grade-separated crossing of roadways having two (2) mainline off-ramps in one (1) direction to provide access to the crossroad.

~~(7)~~ ~~(8)~~ "Fully controlled access highway" means as defined in KRS 177.0734(1).

~~(8)~~ ~~(9)~~ "Highway guide sign" means an official highway sign which is erected by the Department of Highways to:

~~(a)~~ Give directions;

~~(b)~~ ~~(t)~~ Furnish advance notice of the approach to an intersection or interchange; [intersections or interchanges];

~~(c)~~ ~~(t)~~ Direct drivers into appropriate lanes;

~~(d)~~ ~~(t)~~ Identify routes and directions on the [those] routes;

~~(e)~~ ~~(t)~~ Show distances to destinations;

~~(f)~~ ~~(t)~~ Indicate access to general:

1. Motorist services;

2. Rest areas;

3. Scenic areas; or

4. ~~[and]~~ Recreational area [areas]; and

~~(g)~~ ~~(t)~~ Provide other information of assistance [value] to the traveling public.

~~(9)~~ ~~(t)~~ "Interchange" means a junction of two (2) or more highways by a system of separate levels that permit traffic to pass from one to another without the crossing of traffic streams.

~~(t)~~ ~~(t)~~ "Intersection" means a junction of two (2) roads at the same grade level;

~~(10)~~ ~~(t)~~ "Logo" means as defined in KRS 177.0734(2).

~~(11)~~ ~~(t)~~ "Motorist service" means a place of business providing gas, food, lodging, tourist activities, or camping facilities or a combina-

tion thereof.

(12) "MUTCD" means Manual on Uniform Traffic Control Devices.

(13) "Partially-controlled access highway" is defined in KRS 177.0734(4).

(14) "Ramp sign" means a sign that is placed along the ramp or at the ramp terminal for service facilities which have business logos displayed along the main roadway.

(15) "Single exit interchange" means a grade-separated crossing of roadways having one (1) mainline off-ramp per direction to provide access to the crossroad.

(16) "Specific information panel" means an official sign placed within the highway right-of-way with:

(a) The following words:

1. "GAS";

2. "FOOD";

3. "LODGING";

4. "CAMPING";

5. "TOURIST ACTIVITIES"; or

6. A combination of the words listed in subparagraphs 1 through 5 of this paragraph; and

(b) Space for one (1) or more individual business signs that may be attached to the panel. [the words "GAS," "FOOD," "LODGING," "CAMPING," or "TOURIST ACTIVITIES" or combinations thereof, and space for one (1) or more individual business signs which may be attached to the panel.]

(17) "Tourist activities" means activities or locations that are:

(a) Natural phenomena;

(b) Historic;

(c) Cultural;

(d) Scientific;

(e) Educational; **[and]**

(f) Religious;

(g) [sites; or areas] Of natural beauty or naturally suited for outdoor recreation; or

(h) Similar activities of interest to the traveling public. [These activities are deemed to be in the interest of the traveling public.]

(18) "Trailblazing sign" means a sign similar to a ramp sign used on nonfully controlled access highways from which a service is available to indicate the direction to the service.

[(19) "Partially-controlled access highway" means as defined in KRS 177.0734(4).]

Section 2. General Provisions. (1) The Commissioner, Department of Highways, shall authorize the placement of specific information panels with business signs within the right-of-way of fully controlled and partially-controlled access highways.

(2) The Department of Highways shall control the erection and maintenance of panels and 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 and Contracts for Specific Information Signs. (1) Application for a business to place a logo relating to gas, food, lodging, camping, or tourist activities on a specific information panel shall be on "Application for Highway Logo Signing" forms [prepared by Kentucky Logos, Inc. in March 1997].

(2) [The notice by the business to the Department of Highways' contractor of the number, type and placement of each logo sign shall be on "Logo Program Billing Information" forms prepared by Kentucky Logos, Inc. in January 1997.]

~~(3) The contract to be entered into between the participating business and the Department of Highways' contractor shall be the "Highway Logo Program Agreement" form [prepared by Kentucky Logos, Inc. as revised March 1997]. Addenda to this form may be included in the contract where appropriate.~~

Section 4. Location and Erection of Specific Information Panels.

(1) A specific information panel bearing separately attached business signs shall not be erected less than 800 feet (244 meters) in advance of the exit direction sign at the interchange where motorist services

are available.

(2) Spacing between each specific information panel shall be at a minimum of 800 feet (244 meters) and shall be spaced at least 800 feet (244 meters) from any other highway guide signs in existence or proposed for that area.

(3) A specific information panel shall not be erected;

(a) If there is sufficient space between the previous interchange and the interchange where the motorist services are available for the required highway guide signs and a specific information panel.

(b) At an interchange which intersects another limited access facility.

(c) At an intersection which does not have a convenient reentry in the same direction of travel. [if there is insufficient space between the previous interchange and the interchange where the motorist services are available for the required highway guide signs and a specific information panel.]

~~(4) [A specific information panel shall not be erected at an interchange [or intersection] which intersects another limited access facility.~~

~~(5) A specific information panel shall not be erected at any interchange [or intersection] which does not have a convenient reentry in the same direction of travel.~~

~~(6) [(a) Except as provided in subsection (9) of this section, there shall not be more than one (1) specific information panel erected in each direction of an interchange or intersection for the following:~~

~~1. "GAS";~~

~~2. "FOOD";~~

~~3. "LODGING";~~

~~4. "CAMPING"; or~~

~~5. "TOURIST ACTIVITIES".~~

~~(b) There shall not be more than four (4) specific informational panels erected in one (1) direction of travel for an interchange or intersection.~~

~~(c) In one (1) direction of travel, the successive panels shall be erected in the order of "TOURIST ACTIVITIES" or "CAMPING," "LODGING," "FOOD," and "GAS" unless a combination specific information sign is erected in accordance with Section 5(9) or (10) of this administrative regulation.~~

~~(d) At an interchange with insufficient space available in a single direction for four (4) specific information panels, or at an interchange with requests for all five (5) type services, service signing preference shall be in the order "gas," "food," "lodging," "camping," and "tourist activities," with "gas" having the highest priority.~~

~~(5) [(7)] The specific information panels shall be located to:~~

~~(a) Take advantage of natural terrain;~~

~~(b) Have the least impact on the scenic environment; and~~

~~(c) Avoid visual conflict with other signs within the highway right-of-way.~~

~~(6) [(8)] Unprotected sign panel supports located within the clear zone shall be of a breakaway design.~~

~~(7) [(9)] (a) If a specific information panel has at least two (2) unused display spaces, and if another of the specific information panels is full but there is an additional eligible business requesting logo space for that panel or service, the panel with the unused space may be converted to a combination specific information sign to include the additional service.~~

~~(b) A qualified motorist service logo displayed as a result of the creation of a combination specific service information sign in paragraph (a) of this subsection shall have a lower priority than a qualified motorist service of the type initially displayed on the panel.~~

Section 5. Interchange Specific Information Panel Composition.

(1) A specific information panel shall have a blue background with a white reflectorized border.

(2) The directional arrows and all letters and numbers used in the name of the type of service and the directional legend shall be white and reflectorized.

(3) All letters used in the name of service and the directional legend shall be ten (10)-inch (254-millimeter) capital letters.

(4) All numbers shall be ten (10) inches (254 millimeters) in height.

(5) The size of the specific information panel shall comply with the requirements of the MUTCD.

(6) An average measured retroreflectivity of fifty (50) percent or greater shall be maintained on each specific information panel.

(7)(a) For single exit interchanges, a standard full-size specific information panel shall accommodate a maximum of six (6) business signs.

(b) If the number of businesses does not warrant a full-size panel, a half-size or combination panel may be used.

(8)(a) At a double exit interchange, the specific information panel shall consist of two (2) sections, one (1) for each exit, mounted on the same base.

(b) The top section shall display business signs for the first exit and the lower section shall display business signs for the second exit.

(c) Each section shall accommodate a maximum of four (4) business signs for each service per exit, with the total number of signs not to exceed six (6).

(d) If a type of motorist service is to be signed for only one (1) exit, one (1) section of the specific information panel may be omitted or a single exit interchange sign may be used.

(9) Business signs for two (2) types of services may be displayed on the same combination specific information sign under the following conditions:

(a) For the two (2) types of services there is a total of not more than six (6) qualified businesses at the interchange unless as set forth in Section 4(9) of this administrative regulation;

(b) Up to four (4) business signs may be displayed for a type of service in combination on a panel;

(c) If four (4) business signs are displayed for one (1) type of service on a combination specific information sign, more than two (2) business signs for the other type of service shall not be displayed on the combination specific information sign; and

(d) The name of each type of service shall be displayed above its respective business signs.

(10) Business signs shall not be combined on a panel as described in subsection (9) of this section if:

(a) It is anticipated that additional service businesses shall become available in the near future; or

(b) It becomes necessary to display more than a total of six (6) business signs for the two (2) types of services displayed in combination.

(11)(a) Except at an unnumbered exit, the exit number shall be displayed above the name of the type of service; and

(b) At an unnumbered exit, the legend "NEXT RIGHT" or "NEXT LEFT" shall be displayed above the name of the type of service.

Section 6. Ramp Signs. (1) At a single-exit interchange, an exit ramp sign shall be installed except that the logo for a facility visible from the ramp terminal may be omitted.

(2) The business sign on a ramp sign shall be a duplicate of the corresponding logo installed along the main roadway, but reduced in size.

(3) A ramp sign for a service facility not visible from the ramp terminal may include the distance to the service facility. Direction to the service facility shall be indicated by an arrow.

(4) Ramp signing may be used on ramps at double-exit interchanges.

Section 7. Business Signs. (1) Each business sign shall have a legend and border. However, if the business identification symbol or trademark is used alone for a business sign, the border may be omitted.

(2) Each business sign on the specific information panel shall be contained within a forty-eight (48)-inch (1219.2-millimeter) wide and thirty-six (36)-inch (914.4-millimeter) high rectangular background area which includes the border, if required.

(3) The principal legend shall be legible from the main traveled way of the highway under normal driving conditions.

(4) A symbol or trademark shall be reproduced in the colors and general shape consistent with customary use and an integral legend shall be in proportionate size.

(5) A message, symbol, or trademark which resembles any official traffic control device shall be prohibited.

(6) The vertical and horizontal spacing between business signs on specific information panels shall not exceed eight (8) inches (203.2

millimeters) and twelve (12) inches (304.8 millimeters), respectively.

(7) The reflectivity, material composition, and adhesiveness of a business sign shall comply with "LOGO PROGRAM SPECIFICATIONS" form 99.133. ~~[The required reflectivity, material composition, and adhesiveness of the business signs are set forth in the "LOGO PROGRAM SPECIFICATIONS" form 99-133 last revised by the Kentucky Transportation Cabinet in April 1991.]~~

(8) If a business ceases to exist or is not in operation for thirty (30) days, the business sign shall be immediately covered or removed as circumstances of each closing or cessation of business dictate.

(9) Any business which operates on a seasonal basis shall make provisions for removing or covering business signs during the off season. A business of this type shall notify the Department of Highways' contractor in writing thirty (30) days before the opening or closing occurs.

(10) In the absence of an official trademark or logo, the official name as indicated in partnership agreements, incorporation documents, or otherwise documented may be substituted on the business sign.

(11)(a) With the exception of "Open 24 Hours" or "24 Hours," descriptive advertising words, phrases or slogans shall not be allowed on a business sign; i.e., "Joe's 24-Hour Market," "Free Coffee," "Credit Cards Accepted," etc.

(b) Descriptive words which are part of the official name of the business shall be permitted on a business sign; i.e., "hotel," "motel," "inn," "lodge," "restaurant," "cafe," "cafeteria," "diner," or others with a similar meaning.

(c) The word "Diesel" on a "GAS" business sign shall be permitted.

(12) If there is more than one (1) eligible business at an interchange with the same business symbol, brand, trademark or logo, more than one (1) business symbol, brand, trademark or logo with the same design may be placed on a specific information panel or on a ramp sign to indicate the distances to the individual businesses.

(13)(a) The Transportation Cabinet shall review and approve the design of a "TOURIST ACTIVITIES" business sign prior to its placement on a panel.

(b) The Transportation Cabinet shall not approve the design of a business sign which would be difficult to comprehend by the traveling public at highway speeds and under normal atmospheric conditions.

Section 8. Business Criteria, Eligibility, and Priority. (1) motorist service business located at, or conveniently accessible from, an interchange or intersection of a fully-controlled and partially-controlled access highway shall be eligible for placement of a business sign on a specific information panel if it qualifies under the following conditions:

(a) Each business shall offer written assurance that it conforms with all applicable laws and administrative regulations concerning the provision of public accommodations with regard to race, religion, color, sex, age, disability, or national origin.

(b) To qualify for a "GAS" business sign, a business shall:

1. Be in operation seven (7) days a week, and continuously open for sixteen (16) hours a day; and

2. Have motor vehicle fuel, oil, water, drinking water, restroom facilities, and a telephone available for use by the traveling public.

(c) To qualify for a "FOOD" business sign, a business shall:

1. Be licensed in accordance with KRS Chapter 219;

2. Be in continuous operation to serve three (3) meals a day, seven (7) days a week;

3. Have a seating capacity for a minimum of six (6) guests at sit-down, eat-in service; and

4. Have a telephone and restroom available for use by the traveling public.

(d) To qualify for a "LODGING" business sign, a facility shall:

1. Be licensed in accordance with KRS Chapter 219;

2. Have a minimum of two (2) rooms available for sleeping accommodations; and

3. Have a telephone available for use by the persons staying at the facility.

(e) To qualify for a "CAMPING" business sign, a facility shall:

1. Be licensed in accordance with KRS Chapter 219; and

2. Have a minimum of ten (10) parking accommodations which have modern sanitary facilities and drinking water.

(f) To qualify for a "TOURIST ACTIVITIES" business sign, a facility shall:

1. Be an activity or location that is one (1) or more of the following:
 - a. Natural phenomena;
 - b. Historic site;
 - c. Cultural site;
 - d. Scientific site;
 - e. Educational site;
 - f. Religious site;
 - g. Area of natural beauty; or
 - h. Area naturally suited for outdoor recreation.
2. Maintain regular hours for that type of establishment;
3. Be licensed in accordance with KRS Chapter 219, if applicable;
4. Have restroom facilities available for use by the traveling public;
5. Have drinking water available for the traveling public;
6. Have an on-premise or nearby public telephone available for use by the traveling public; and
7. Have adequate parking to accommodate its traffic with a minimum of ten (10) spaces.

(2)(a) The eligible business making application for a logo of a specific service which is located nearest to the interchange or intersection shall receive first priority in the selection process.

(b) Subsequent proximities to the interchange or intersection shall establish subsequent priorities.

(c) A business further than fifteen (15) miles (24.15 kilometers) from the interchange shall not be eligible to qualify for placement of a business sign. However, any business at a distance greater than fifteen (15) miles (24.15 kilometers) from the interchange with a business sign in place on January 1, 1994, may continue to display the business sign until the business fails to meet another criterion of this administrative regulation or is bumped pursuant to Section 9 of this administrative regulation.

(3)(a) A qualifying food business which is open sixteen (16) hours a day beginning no later than 7 a.m. each day shall have priority over another qualifying food business which does not provide service for this entire time period.

(b) Distance from the interchange shall only be considered in determining priority after the business hours for a qualifying food business have been considered.

(4) A business with an outdoor advertising device determined by the Transportation Cabinet pursuant to 603 KAR 3:080 to be in violation of KRS 177.830 through 177.890 shall not be eligible to qualify for a business sign until the violation has been removed.

(5) A business with an advertisement on an outdoor advertising device determined by the Transportation Cabinet pursuant to 603 KAR 3:080 to be in violation of KRS 177.830 through 177.890 shall not be eligible to qualify for a business sign until the violation has been removed.

(6) An activity which is identified at an interchange by a highway guide sign pursuant to Chapter 2F of the "MUTCD (Manual on Uniform Traffic Control Devices)" may also be identified with a logo, but shall have a lower priority for selection than any other eligible business with the same activity.

(7) A business offering more than one (1) motorist service shall not be eligible to display more than one (1) business sign with the same logo at an interchange or intersection unless no other eligible business has applied for use of the available space on the second specific information panel.

Section 9. Bumping. (1) An eligible business with a higher priority, pursuant to Section 8 of this administrative regulation, shall be permitted to display its sign at the beginning of the next contract year, in the place of a currently displayed, lower priority business if:

- (a) The information panel is fully utilized; and
- (b) It files an application by April 1;

(2) The business with the lowest priority shall have its business sign removed at the end of the current contract year.

Section 10. Fees. (1) The qualifying business shall pay to the department's contractor an annual fee of \$600, in advance, for each business sign placed on the fully controlled access highway for gas, food, and lodging and \$300 for camping and tourist activities.

(b) The annual fee for the first year shall accompany the initial

application.

(c) If the first contract is for less than one (1) year, the first year's annual fee shall be prorated on a monthly basis with each portion of a month the business sign is up requiring payment of one-twelfth (1/12) of the fee.

(d) The yearly renewal fee and application for renewal shall be due forty-five (45) days prior to the annual renewal date.

(e) The payment of this fee guarantees that the business sign will be displayed for one (1) contract year or portion of the first contract year as long as the business does not violate any part of its agreement with the Department of Highways' contractor.

(2) If a sign for a business is removed or covered for any reason, a fee of \$100 shall be charged for the reinstallation or uncovering of the sign for each business at each interchange.

(3) The qualifying business shall be responsible for damage to its business sign caused by an act of vandalism or natural causes requiring repair or replacement of a business sign.

(4) A business sign shall provide a new or renovated business sign if the displayed sign:

- (a) Would misinform the traveling public; or
- (b) Is unsightly, badly faded, or in a state of dilapidation.

Section 11. Trailblazing Signs For Campgrounds. (1) Only those campgrounds within fifteen (15) miles (24.15 kilometers) of the centerline of a fully controlled access highway shall be eligible for new trailblazing signs.

(2) Only one (1) specific service trailblazing sign shall be erected for each business with a logo. This sign shall be placed a minimum of 300 feet (91.5 meters) in advance of the intersection from which the camping service is available.

(3) A trailblazing sign shall not be erected or displayed if the business is visible from a point on the fully controlled access highway within 300 feet (91.5 meters) prior to intersection.

Section 12. Measurements. (1) Measurements in the selection of qualified businesses for business signs shall be from the juncture of the center line, measured between the center edges of the main traveled way of the fully controlled or partially-controlled access road and the center line of a nonlimited access crossroad.

(2) Selection of businesses for display of business signs shall begin at the point of measurement described in subsection (1) of this section to the nearest point of vehicle travel to the exit from the crossroad or public thoroughfare to the particular motorist service.

Section 13. Business Sign Contract. (1)(a) A Highway Logo Program Agreement between a participating business and the department's contractor shall be approved by the Transportation Cabinet prior to the erection of a business sign.

(b) Each business sign and contract shall be subject to review by the Transportation Cabinet at any time.

(c) Failure to comply with any of the requirements set forth herein including nonpayment by the participating business shall be cause for the revocation of a business sign contract.

(d) If the contract is revoked for cause, the prepaid fees for a contract year or portion thereof, shall not be refunded.

(2) If the Department of Highways or its contractor determines that a contract, business, or business sign does not comply with the requirements of this administrative regulation, the Department of Highways' contractor shall notify the business in writing of the violation.

(3) If the business fails to comply with the requirements of this administrative regulation within fifteen (15) days after receiving the notification, the Department of Highways' contractor shall take immediate action to cancel the contract and remove, replace, or cover the business signs.

(4) If, in a single contract year, a business has been issued a notice pursuant to subsection (2) of this section and is again in non-compliance with this administrative regulation, the Department of Highways' contractor shall take immediate action to cancel the contract and remove, replace, or cover the business signs.

Section 14. Appeal to the Commissioner of Highways for Exemption. (1) The Commissioner of Highways may grant an exemption to a business from the necessity of complying with a requirement set forth

in this administrative regulation ~~if [provided]:~~

(a) It is determined by the commissioner that the exemption is in the public interest;

(b) The business conforms to the Federal Highway Administration standards for specific information signs; and

(2) ~~[(c)-That]~~ A business which conforms to all the requirements set forth in this administrative regulation shall be given a preference over a business not conforming to all of the requirements in qualifying for placement of a business sign on a specific information panel.

(3) ~~[(2)]~~ An appeal of the denial of a request for an exemption by a business to the Commissioner of Highways shall be filed in the form of an appeal as prescribed for in Section 16 of this administrative regulation.

Section 15. Encroachment Permits. The Department of Highways' contractor shall apply for an encroachment permit pursuant to 603 KAR 5:150 for each new specific information panel proposed to be erected, modified, or removed from state-owned right-of-way.

Section 16. Appeal of Department of Highways Action. (1) A business or person aggrieved by the action taken by the Department of Highways or its contractor in administering this administrative regulation may request a formal hearing before the Commissioner of the Department of Highways.

(2) The request for the formal hearing shall:

(a) Be filed in writing with the Commissioner, Department of Highways, 501 High Street, Frankfort, Kentucky 40622; and

(b) Set forth the nature of the complaint and the grounds for the appeal.

(3)(a) Upon receipt of a request for a hearing, the general counsel of the Transportation Cabinet shall assign the matter to a hearing examiner.

(b) The hearing officer shall issue his recommended order to the Commissioner of the Department of Highways.

(c) The Commissioner of the Department of Highways shall issue the final order of the department in this matter.

(4) A party aggrieved by the final order of the Department of Highways may appeal pursuant to the provisions of KRS 13B.140.

Section 17. Material Incorporated by Reference. (1) The following material is incorporated by reference as part of this administrative regulation:

(a) "Application for Highway Logo Signing" forms prepared by Kentucky Logos, Inc. in March 1997;

(b) ~~["Logo Program Billing Information" forms prepared by Kentucky Logos, Inc. in January 1997;~~

(c) ~~["Highway Logo Program Agreement" form prepared by Kentucky Logos, Inc. in March 1997; and~~

(d) ~~["Logo Program Specifications" form 99-133 last revised by the Kentucky Transportation Cabinet in April 1991.~~

(2) The material incorporated by reference may be viewed, copied, or obtained from the Kentucky Logos, Inc., Suite 6, State National Bank Building, 305 Ann Street, Frankfort, Kentucky 40601. The telephone number is 1-800-469-5646 or (502) 227-0802. The fax number is (502) 227-7286. The forms may also be viewed, copied, or obtained from the Transportation Cabinet, Department of Highways, Division of Traffic [Permits Branch], 501 High Street, ~~[Mail Code 11-2]~~ Frankfort, Kentucky 40622. The telephone number is (502) 564-4105. The hours of operation are 8 a.m. through 4:30 p.m. eastern time on weekdays.

J.M. YOWELL, P.E., State Highway Engineer

JAMES C. CODELL, III, Secretary

E. JEFFREY MOSLEY, Executive Director

APPROVED BY AGENCY: January 19, 1999

FILED WITH LRC: January 19, 1999 at noon

TRANSPORTATION CABINET

Department Of Highways

Division Of Traffic

(As Amended at ARRS, May 11, 1999)

603 KAR 4:045. Cultural and recreational supplemental guide signs.

RELATES TO: KRS 189.337, 23 CFR Subpart F

STATUTORY AUTHORITY: KRS 189.337(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.337(2) authorizes the Transportation Cabinet to promulgate standards and specifications for uniform system of traffic control devices. This administrative regulation sets forth standards to be used in the erection and maintenance of cultural and recreational supplemental guide signs.

Section 1. Definitions. (1) "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 AASHTO Roadside Design Guide (current edition).

(2) "Cover" means a protective shield over a cultural and recreational supplemental guide sign which prohibits viewing of the sign.

(3) "Cultural and recreational supplemental guide sign panel" means an official sign placed within the highway right-of-way with space for one (1) or more individual signs to be attached to it.

(4) "Cultural or recreational" means a public or private activity which provides a tourist attraction, cultural or recreational activity to the traveling public.

(5) "Cultural or recreational activity" means a cultural, historical, recreational, agricultural, educational or entertainment activity.

(6) "Department" is defined by KRS 189.010(1). ["Department" means the Kentucky Department of Highways.]

(7) "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.

(8) "Illegal sign" means an advertising device which has been determined by the cabinet to be illegal according to the provisions of 603 KAR 3:080.

~~[(6) "Cultural and recreational supplemental guide sign panel" means an official sign placed within the highway right-of-way with space for one (1) or more individual signs to be attached to it.]~~

(9) "Intersection" is defined by KRS 189.010(4). [- means a junction of two (2) or more highways which meet and cross at a common point requiring the intermingling of traffic streams between the highways.]

(10) "Interstate or parkway" means a highway that has fully-controlled access and is part of the National Interstate and Defense System of Highways or is now, or once was, a toll road.

(11) "MUTCD" means the Federal Highway Administration's "Manual on Uniform Traffic Control Devices" incorporated by reference in 603 KAR 5:050.

(12) "Public road" means all state-maintained roads other than interstate or and parkways.

(13) "Ramp" means the on- or off-access road from an interstate highway or parkway to or from the first public road.

~~[(12) "Cultural or recreational" means a public or private activity which provides a tourist attraction, cultural or recreational activity to the traveling public.~~

~~[(13) "Cultural or recreational activity" means:]~~

~~[(a)] a cultural, historical, recreational, agricultural, educational or entertainment activity; or~~

~~[(b)] A commercial activity which is unique and local or indigenous in nature;.]~~

Section 2. General Provisions. The Department of Highways shall control the erection and maintenance of cultural and recreational supplemental guide signs in accordance with the MUTCD and this administrative regulation.

Section 3. Applications and Contracts for Cultural and Recreational Supplemental Guide Signs. An application for cultural and recreational supplemental guide signs shall be made to the Department of Highways by the city or community preparing the signage program.

Section 4. Information Panels for Cultural and Recreational Supplemental Guide Signs. (1) General requirements for information panels.

- (a) The information panels 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 other signs within the highway right-of-way.

(b) Information panels for cultural and recreational supplemental guide signs shall not be erected:

- 1. On interstates or parkways;
- 2. On the on ramp or off ramp of an interstate or parkway; [On the on/off ramps of interstates or parkways;]
- 3. Where there is insufficient space to locate both other traffic control devices and the information panels; or
- 4. So that the traffic is directed onto an interstate or parkway;

(c) Unprotected information panel supports located within the clear zone shall be of a breakaway design.

(d) An information panel may be located laterally outside the normal longitudinal alignment of other traffic control signs, but shall be erected within the highway right-of-way.

(e) The location of any other traffic control device shall at all times take precedence over the location of an information panel.

(2) Intersection approach information panels.

(a) Information panels may be erected on the approach to an intersection on a public road.

(b) Except as provided in paragraph (g) of this subsection, each intersection approach information panel shall be located at least 200 feet from the intersection.

(c) Except as provided in paragraph (g) of this subsection, an intersection approach information panel shall be spaced at least 200 feet from any other traffic control device including another intersection approach information panel.

(d) A separate information panel shall be installed for each of the directions of traffic on an approach to an intersection at which cultural and recreational supplemental guide signs will be placed for the identification of cultural and recreational activities. The directions of traffic are the following:

- 1. A left [right] turn;
- 2. A right [left] turn;
- 3. No turn, if the activity or business is located ahead and if allowed by the provisions set forth in Section 6 of this administrative regulation.

(e) In the direction of traffic, the order of placement for separate information panels shall be for facilities to the left, to the right and straight ahead.

(f) If the AHEAD sign is used pursuant to the provisions of Section 6 of this administrative regulation, an attempt shall be made to locate it to the far right corner of the intersection, but it shall not obstruct the driver's critical viewing of other traffic control devices.

(g) The spacing requirements set forth in paragraphs (b) and (c) of this subsection may be waived by the State Highway Engineer's Office if, based on sound engineering judgment, it is determined that the intersection can safely accommodate the reduced spacing.

Section 5. Cultural and Recreational Supplemental Guide Sign Design and Composition. (1) Each cultural and recreational supplemental guide sign shall:

- (a) Be rectangular in shape;
- (b) Have a white legend and border on a brown background;
- (c) Have reflective legends, arrows, backgrounds and borders;
- (d) Contain the name of the business in not more than two (2) lines of legend which shall not include promotional advertising.

(2) Each cultural and recreational supplemental guide sign on an intersection approach information panel shall have:

(a) A separate directional arrow as set forth in Section 2D-8 of the MUTCD;

(b) The distance to the activity or business may be shown beneath

the arrow;

(c) Arrows pointing to the right at the extreme right of the cultural and recreational supplemental guide sign; and

(d) Arrows pointing to the left or up at the extreme left of the cultural and recreational supplemental guide sign.

(3)(a) The arrangement of the cultural and recreational supplemental guide signs on the advance information panel shall be the same as the arrangement on the intersection information panel except the directional arrows and distance shall be omitted.

(b) The appropriate legend "NEXT RIGHT", "NEXT LEFT", or "AHEAD" in letters of the same size as legends shall [should] be placed on the advance information panels above the cultural and recreational supplemental guide sign.

(c) The legend "RIGHT X MILE", "LEFT X KILOMETERS", or similarly worded legend may be used if [when] there are intervening minor roads.

(4) There shall not be [No] more than four (4) cultural and recreational supplemental guide signs [shall be] installed on a single information panel.

(5) Cultural and recreational supplemental guide signs shall be arranged vertically on the information panels. Information panels shall be located so that the right turn signs are closer to the intersection. If [When] no more than four (4) cultural and recreational supplemental guide signs are to be installed on an approach to an intersection, the cultural and recreational supplemental guide signs may be combined on the same information panel with the cultural and recreational supplemental guide sign for left turns placed above the cultural and recreational supplemental guide signs for right turns.

(6) The standard lettering for cultural and recreational supplemental guide signs shall be in upper case letters of the type provided in the "Standard Alphabets for Highway Signs and Pavement Markings" book published in 1977 by the U.S. Department of Transportation. Capital letters shall be six (6) inches in height. [Spacing between characters shall conform to the tables in the metric edition of "Standard Alphabets for Highway Signs and Pavement Markings" published in 1977 by the U.S. Department of Transportation.]

(7)(a) A cultural and recreational supplemental guide sign shall not exceed seventy-two (72) inches wide and eighteen (18) inches tall.

(b) The cultural and recreational supplemental guide signs on the same information panel shall all be the same width.

(c) The directional arrow with the distance to the activity or business underneath shall not exceed twelve (12) [sixteen (16)] inches wide and sixteen (16) inches tall.

(d) Cultural and recreational interstate area symbols may be used. These symbols shall be consistent with the MUTCD.

(e) There shall be a one (1) inch white border surrounding the sign and separating the directional arrow and legend.

(f) [(e)] There shall be a one (1) inch spacing between the border and legend and two (2) inch spacing between lines of legend.

(g) [(f)] The maximum length of the legend shall be five (5) feet and four (4) inches per line.

(h) [(g)] In areas of reduced speeds or forty-five (45) mph or less the size of the cultural and recreational supplemental guide signs and lettering shall be set by the State Highway Engineer's Office, considering the location and terrain of the area.

(8) Clearance of panels should be governed by Sections 2A and 2D of the MUTCD.

Section 6. Ahead Signing. (1) The legend "AHEAD" may be used in lieu of the up directional arrow set forth in Section 5(2)(d) of this administrative regulation.

(2) Signing for cultural and recreational activities in the AHEAD direction shall be considered only under the following circumstances:

(a) There is signing for a similar facility in either the right or left direction;

(b) Through traffic is not the normal traffic pattern; or

(c) The visibility of the establishment is obscured until a motorist is within 800 feet of the entrance.

Section 7. Cultural and Recreational Activity Eligibility. A cultural and recreational activity shall meet the following requirements to qualify for cultural and recreational signing. A cultural and recreational supplemental guide sign shall not be erected until the activity or site

has been approved in accordance with this administrative regulation.

(1) The activity shall be open to the general public during regular and reasonable hours, and not by appointment or reservation only.

(2) Approval shall not be granted if the cultural and recreational activity is using an illegal sign at any location in the Commonwealth of Kentucky.

(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. Each activity identified on a cultural and recreational supplemental guide sign shall provide assurance of its conformance with all applicable federal, state or local laws and regulations. If a cultural and recreational 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.

(4) The activity shall be conducted in an appropriate building or area. The activity shall not be conducted in a building principally used as a residence unless there is a convenient, separate and well-marked entrance or the cultural and recreational activity is a bed and breakfast lodging. The building or area shall be maintained in a manner consistent with standards generally accepted for that type of business or activity.

(5) Any activity which operates on a seasonal basis shall make provisions to remove or cover the activity's sign during the off season. The Transportation Cabinet shall be notified at least thirty (30) days before the opening or closing occurs and proper arrangements made to remove or cover the sign or signs.

(6) A cultural and recreational supplemental guide sign shall not be displayed which would misinform the traveling public or is unsightly, badly faded, or in a state of dilapidation. In these instances the business shall make arrangements for a new cultural and recreational activity.

(7) The Transportation Cabinet shall not be responsible for business lost due to signs or information panels becoming temporarily out of service.

(8) The display of the activity sign on the cultural and recreational structure shall not be considered an endorsement or recommendation by the state of Kentucky on behalf of the cultural and recreational activity.

(9) To qualify for a cultural and recreational supplemental guide sign, a business or activity shall:

(a) Be open a minimum of eight (8) hours a day, five (5) days a week, one (1) of which is a weekend, any time the sign is displayed or receives a waiver from the Transportation-Tourism Interagency Committee;

(b) Have adequate parking on site or nearby for the facility;

(c) Be listed on or eligible for listing on the [state or] National Register of Historic Places [sites] if the cultural and recreational activity is an historic site; and

(d) Have an eligibility distance of fifteen (15) miles or less.

Section 8. Changes. Any changes to the original approved set of signs as it relates to the location and or approved activities shall be permitted by the cabinet according to criteria set forth in Section 7 of this administrative regulation.

Section 9. Measurements. Measurements for the qualification of activities for display of a cultural and recreational supplemental guide sign shall begin at the point of measurement described in this section to the nearest point of vehicle travel to the exit from the crossroad to the activity.

Section 10. Permits. The city or local community wishing to install signs shall apply for an encroachment permit pursuant to 603 KAR 5:150 for each information panel proposed to be erected, changed or removed from the state-owned right-of-way.

Section 11. **Incorporation by Reference.** (1) **The following material is incorporated by reference:**

(a) "TC 99-1 Encroachment Permit", (3/99 Edition), Transportation Cabinet; and

(b) "Standard Alphabets for Highway Signs and Pavement Markings", (1977 Edition), U. S. Department of Transportation.

(2) **This material may be inspected, copied, or obtained at the Transportation Cabinet, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. [Material Incorporated by Reference. The following material is incorporated by reference as part of the administrative regulation: Transportation Cabinet Form TC 99-1 "Encroachment Permit", March 1999 Edition.] [TC99-300 "Cultural and Recreational Supplemental Guide Sign Application", January 1999 edition.]**

J.M. YOWELL, P.E., State Highway Engineer

JAMES C. CODELL, III, Secretary

E. JEFFREY MOSLEY, Office of General Counsel

APPROVED BY AGENCY: April 6, 1999

FILED WITH LRC: April 7, 1999 at 10 a.m.

**TRANSPORTATION CABINET
Department of Highways
Division of Transportation Planning
(As Amended at ARRS, May 11, 1999)**

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. **Removal of Scenic Highway and Byway Designation.** (1) **When the Transportation Cabinet is notified that a road or road segment meets the criteria required to remain in the system, the Transportation Cabinet shall research the claim and make a determination on the removal of the scenic designation.**

(2) **The Transportation Cabinet shall notify interested individuals of the decision.**

(3) **Appeal procedures.**

(a1) **A party aggrieved by the action of the Transportation Cabinet pursuant to the provisions of this administrative regulation within twenty (20) days of the date of the action may file a written appeal with the Transportation Tourism Interagency Committee.**

2. **The appeal shall set forth in detail, the nature of the complaint and the grounds for the appeal.**

(b) **The appeal shall be placed on the agenda for the next Transportation Tourism Interagency Committee (TTIC) meeting. The Transportation Tourism Interagency Committee shall issue a recommendation on the appeal within sixty (60) days to the Secretary of Transportation.**

(4) **The Secretary of Transportation shall issue a decision on the appeal within ten (10) days. [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) **"Scenic Highways and Byways Guidelines and Application" TC 52-200, (2/99 Edition), Transportation Cabinet, is incorporated by reference.**

(2) **It may be inspected, copied, or obtained at Transportation Cabinet, Department of Highways, Division of Transportation Planning, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. [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

**TRANSPORTATION CABINET
Department of Highways
Division of Multimodal Programs
Department of Vehicle Regulation
Division of Motor Vehicle Enforcement
(As Amended at ARRS, May 11, 1999)**

603 KAR 7:080. Human service transportation delivery.

RELATES TO: KRS Chapters 96A, 151B, 157, 163, 194, 195, 202A, 202B, 205, 209, 210, 216, 273, 281, 645, 49 USC Chapter 53
STATUTORY AUTHORITY: KRS 96A.095, 281.600, 281.605, 49 USC Chapter 53

NECESSITY, FUNCTION, AND CONFORMITY: 49 USC Chapter 53 authorizes the formation and funding of human service transportation deliveries to transportation providers in urban, urbanized, and nonurbanized areas. KRS 96A.095 allows the Transportation Cabinet to accept funding from any source and to use the funding to promote and develop mass transportation services in Kentucky. For the purpose of providing efficient, effective, safe, and coordinated transportation delivery to clients of the program groupings the Empower Kentucky Transportation Delivery work group recommended that a single agency be responsible for the transportation component of the programs. The function of this administrative regulation is to implement the procedures required to administer this program. Since many of the transportation providers are required by federal law or regulation to comply with safety and accountability procedures and the Transportation Cabinet is authorized in KRS 281.600 to establish safety criteria for a commercial transportation provider, all of the transportation providers, except a volunteer transportation provider, which receive funding under the provisions of this administrative regulation shall be required to comply with the same safety and accountability requirements.

Section 1. Definitions. (1) **"Ambulatory disoriented and nonambulatory" means as defined in 907 KAR 1:061, Section 1(15).**

(2) "Human service transportation" means the provision of mass transportation and taxi services to transport an individual who is eligible to receive state services from one (1) or more of the programs listed in Section 3 of this administrative regulation.

(3) [(2)] "Mass transportation" means as defined in KRS 96A.010.

(4) [(3)] "Mileage reimbursement" means a fixed rate per mile a motor vehicle is operated. The rate shall not exceed the expense of operating the motor vehicle. Mileage reimbursement is not considered to be a benefit or payment of wages.

(5) [(4)] "Subcontractor" means a transportation provider who contracts with the regional transportation broker/provider to provide human service transportation.

(6) **"Supports for community living (SCL)" means as defined in 907 KAR 1:145.**

(7) [(5)] "Transportation broker/provider" means the entity awarded a contract to provide human service transportation in a specified region.

(8) [(6)] "Volunteer transportation" means transportation provided by a person or entity as a charitable act without the expectation of receiving a benefit or being paid a wage.

Section 2. Human Service Transportation Regions. The Transportation Cabinet shall divide the state into sixteen (16) human service transportation regions. The regions shall consist of the following counties:

- (1) Region 1:
 - (a) Ballard;
 - (b) Calloway;
 - (c) Carlisle;
 - (d) Fulton;
 - (e) Graves;
 - (f) Hickman;
 - (g) Marshall; and
 - (h) McCracken.
- (2) Region 2:
 - (a) Caldwell;
 - (b) Christian;
 - (c) Crittenden;
 - (d) Hopkins;
 - (e) Livingston;
 - (f) Lyon;
 - (g) Muhlenberg;
 - (h) Todd; and
 - (i) Trigg.
- (3) Region 3:
 - (a) Daviess;
 - (b) Hancock;
 - (c) Henderson;
 - (d) McLean;
 - (e) Ohio;
 - (f) Union; and
 - (g) Webster.
- (4) Region 4:
 - (a) Breckinridge;
 - (b) Grayson;
 - (c) Hardin;
 - (d) Larue;
 - (e) Marion;
 - (f) Meade; and
 - (g) Nelson.
- (5) Region 5:
 - (a) Adair;
 - (b) Allen;
 - (c) Barren;
 - (d) Butler;
 - (e) Edmonson;
 - (f) Green;
 - (g) Hart;
 - (h) Logan;
 - (i) Metcalfe;
 - (j) Taylor;
 - (k) Simpson; and
 - (l) Warren.
- (6) Region 6: Jefferson.
- (7) Region 7:
 - (a) Bullitt;
 - (b) Henry;
 - (c) Oldham;
 - (d) Shelby;
 - (e) Spencer; and
 - (f) Trimble.
- (8) Region 8:
 - (a) Anderson;
 - (b) Boyle;
 - (c) Casey;
 - (d) Franklin;
 - (e) Garrard;
 - (f) Jessamine;
 - (g) Lincoln;
 - (h) Mercer;
 - (i) Scott;
 - (j) Washington; and
 - (k) Woodford.
- (9) Region 9:

- (a) Boone;
- (b) Campbell;
- (c) Carroll;
- (d) Gallatin;
- (e) Grant;
- (f) Kenton;
- (g) Owen; and
- (h) Pendleton.
- (10) Region 10: Fayette.
- (11) Region 11:
 - (a) Bourbon;
 - (b) Clark;
 - (c) Estill;
 - (d) Harrison;
 - (e) Madison;
 - (f) Montgomery;
 - (g) Nicholas; and
 - (h) Powell.
- (12) Region 12:
 - (a) Bell;
 - (b) Clinton;
 - (c) Cumberland;
 - (d) Knox;
 - (e) Laurel;
 - (f) McCreary;
 - (g) Monroe;
 - (h) Pulaski;
 - (i) Rockcastle;
 - (j) Russell;
 - (k) Wayne; and
 - (l) Whitley.
- (13) Region 13:
 - (a) Breathitt;
 - (b) Clay;
 - (c) Harlan;
 - (d) Jackson;
 - (e) Knott;
 - (f) Lee;
 - (g) Leslie;
 - (h) Letcher;
 - (i) Owsley;
 - (j) Perry; and
 - (k) Wolfe.
- (14) Region 14:
 - (a) Floyd;
 - (b) Johnson;
 - (c) Magoffin;
 - (d) Martin; and
 - (e) Pike.
- (15) Region 15:
 - (a) Bath;
 - (b) Boyd;
 - (c) Carter;
 - (d) Elliott;
 - (e) Greenup;
 - (f) Lawrence;
 - (g) Menifee;
 - (h) Morgan; and
 - (i) Rowan.
- (16) Region 16:
 - (a) Bracken;
 - (b) Fleming;
 - (c) Lewis;
 - (d) Mason; and
 - (e) Robertson.

Section 3. Service Programs. (1) Human service transportation delivery shall be made available to each eligible participant in the following program groupings:

- (a) Nonemergency medical transportation pursuant to KRS Chapter 205 and 907 KAR 3:065, excluding nonemergency ambulance stretcher transportation;
- (b) Mental health, mental retardation, development disabilities,

or substance abuse services pursuant to KRS Chapters 202A, 202B, 210, or 645;

(c) Kentucky Works Program pursuant to KRS Chapters 194 or 195 and 904 KAR 2:018;

(d) Aging pursuant to KRS Chapters 205, 209, 216, or 273;

(e) Vocational rehabilitation pursuant to KRS Chapters 151B or 157; and

(f) Vocational rehabilitation for the blind pursuant to KRS Chapter 151B or 163.

(2) The state government agency responsible for implementing the programs set forth in subsection (1) of this section shall provide to the Transportation Cabinet:

(a) A list of the persons eligible to receive human services transportation pursuant to the programs set forth in subsection (1) of this section;

(b) The address of each person on the list;

(c) The program for which each person on the list is eligible; and

(d) The administrative regulation setting forth the human service transportation requirements of the program.

(3) In order to deal with this program in an orderly manner and so as not to overwhelm the administrative functions of the transportation provider/brokers and the participating cabinet, the Transportation Cabinet may phase in the implementation of this administrative regulation by region or program.

(4) Right to choose.

(a) Brokers shall provide the right to choose any participating provider in the regional network to eligible persons. Eligible persons are those individuals who are nonambulatory, or ambulatory disoriented and are currently in the Medicaid Supports for Community Living (SCL) Waiver Program.

(b) If the eligible recipient's first choice is unavailable, that recipient shall have the opportunity to select a second choice from the participating providers in the region.

(c) The broker shall schedule the trip with a participating provider if the recipient does not express a preference.

(5) The broker and transportation provider shall evaluate routes presently utilized by the eligible recipients. If the broker determines that a route is inefficient under the Coordinated Human Service Transportation Delivery Network Plan, the broker shall offer a more efficient route which meets the approval of the affected eligible recipient.

(6) The Transportation Cabinet shall resolve any disputes regarding eligible recipient's routes and provider choices.

Section 4. Transportation Broker/Provider. (1) Pursuant to KRS Chapter 45A, the Transportation Cabinet shall select and contract with a transportation broker/provider in each of the sixteen (16) regions set forth in Section 2 of this administrative regulation.

(2) The transportation broker/provider shall operate the human service transportation delivery service pursuant to the Transportation Cabinet's "Kentucky Coordinated Human Service Transportation Delivery Network Plan." This shall include:

(a) Recruiting transportation providers;

(b) Making payment to transportation providers;

(c) Verifying recipient's eligibility;

(d) Determining the appropriate type of transportation for each recipient;

(e) Establishing a reservation confirmation system for recipients; and

(f) Maintaining all records for five (5) years.

(3) The transportation broker/provider shall not enter into an agreement with a subcontractor without the prior written approval of the Transportation Cabinet.

(4) If requested, the transportation broker/provider shall provide mileage reimbursement to a volunteer transportation provider.

(5) The Transportation Cabinet shall conduct monitoring activities to ensure compliance with the requirements of the human service transportation delivery programs.

Section 5. Financing. (1) Funding for the human services transportation program shall be provided to the Transportation Cabinet from the following cabinets:

- (a) Health Services;

- (b) Families and Children; and
- (c) Workforce Development.
- (2) The level of funding shall be annually determined by considering the following:
 - (a) Historical amounts the provision of transportation services has cost the agency;
 - (b) Number of persons projected to be eligible for human service transportation;
 - (c) Services needed; and
 - (d) Negotiations between the cabinets.

Section 6. Program Administration Contracts. (1) Each funding cabinet shall enter into a program administration contract with the Transportation Cabinet.

(2) A program administration contract shall set forth the following provisions:

- (a) Amount of funding for each program;
- (b) Monitoring of a transportation broker/provider;
- (c) Reimbursement through either a capitated rate or fee for service for transportation brokers/providers;
- (d) Recordkeeping, accounting, and reporting procedures to be maintained by the Transportation Cabinet; and
- (e) Annual renegotiation of funding amounts for each program.

Section 7. Safety and Accountability. (1) Each transportation broker/provider and subcontractor shall comply with the safety and operational provisions of the Transportation Cabinet's "Kentucky Coordinated Human Service Transportation Delivery Network Plan."

(2) The following federal regulations are adopted as part of this administrative regulation and shall govern each transportation broker/provider and subcontractor:

- (a) 49 CFR 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," effective October 1, 1997;
- (b) 49 CFR 37, "Transportation Services for Individuals With Disabilities (ADA)," effective October 1, 1997; and
- (c) 49 CFR 38, "Americans With Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles," effective October 1, 1997.

(3) Each transportation broker/provider and subcontractor subject to the provisions of 601 KAR 1:005 shall comply with the provisions of the administrative regulation.

(4) Each transportation broker/provider and subcontractor not subject to the provisions of 601 KAR 1:005 shall comply with the provisions of the following federal regulations:

- (a) 49 CFR 653, "Prevention of Prohibited Drug Use in Transit Operations," effective October 1, 1997; and
- (b) 49 CFR 654, "Prevention of Alcohol Misuse in Transit Operations," effective October 1, 1997.

(5)(a) Each transportation broker/provider and subcontractor who operates a motor vehicle which is not subject to the provisions of 601 KAR 1:005 shall maintain each of the vehicles in a safe operating condition.

(b) Each motor vehicle being operated pursuant to the provisions of this administrative regulation and which is not subject to the provisions of 601 KAR 1:005 shall be inspected on an annual basis by an automotive technician who has an automotive service excellence (ASE) certification.

(c) Prior to being operated pursuant to this administrative regulation, the transportation broker/provider shall have proof that the motor vehicle has passed a safety inspection by an automotive technician who has an ASE certification.

Section 8. Operating Authority. Except for a volunteer provider, each transportation provider shall have operating authority issued by the Transportation Cabinet pursuant to KRS Chapter 281 or 96A.

Section 9. Adoption and Incorporation by Reference. (1) The Kentucky Transportation Cabinet's "Kentucky Coordinated Human Service Transportation Delivery Network Plan," as effective March 1998, is hereby incorporated by reference as a part of this administrative regulation.

(2) The following federal regulations are adopted in this administrative regulation:

(a) 49 CFR 653, "Prevention of Prohibited Drug Use in Transit Operations," effective October 1, 1997;

(b) 49 CFR 654, "Prevention of Alcohol Misuse in Transit Operations," effective October 1, 1997;

(c) 49 CFR 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," effective October 1, 1997;

(d) 49 CFR 37, "Transportation Services for Individuals With Disabilities (ADA)," effective October 1, 1997; and

(e) 49 CFR 38, "Americans With Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles," effective October 1, 1997.

(3) The documents and materials adopted or incorporated by reference in this section may be viewed, copied, or obtained in the Division of Multimodal Programs, 3rd Floor, State Office Building Annex, 125 Holmes Street, Frankfort, Kentucky 40622. The office hours are 8 a.m. to 4:30 on weekdays. The telephone number is (502) 564-7433.

Section 10. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

ED LOGSDON, Commissioner
J.M. YOWELL, P.E., State Highway Engineer
JAMES C. CODELL, III, Secretary
GERI GRIGSBY, General Counsel

APPROVED BY AGENCY: November 10, 1998

FILED WITH LRC: November 13, 1998 at 10 a.m.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Office of District Support Services
(As Amended at ARRS, May 11, 1999)

703 KAR 4:021. Repeal of 703 KAR 4:020[~~Annual performance reports and standards of student, program, service, and operational performance;~~] and 703 KAR 4:050[~~Operational standards defining ratios for the major classifications of classified employees~~].

RELATES TO: KRS 158.6453, 158.650 to 158.710, 158.780, 158.785

STATUTORY AUTHORITY: KRS 156.070, 156.160, 158.6453

NECESSITY, FUNCTION, AND CONFORMITY: 703 KAR 4:020 is no longer required because 1998 amendments to KRS 158.6453 deleted the requirement for districts to publish an annual performance report. In addition, as of June 30, 1996, KRS 158.710(6) provides that KRS 158.650 to 158.710, relating to educationally deficient districts, is null and void. 703 KAR 4:050 is no longer required since the 1992 General Assembly Budget Memorandum, directing the adoption of operational standards defining ratios for classified employees, expired June 30, 1994.

Section 1. The following administrative regulations are hereby repealed:

(1) 703 KAR 4:020, Annual performance reports and standards of student, program, service, and operational performance; and

(2) 703 KAR 4:050, Operational standards defining ratios for the major classifications of classified employees.

WILMER S. CODY, Commissioner of Education
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney

APPROVED BY AGENCY: February 12, 1999

FILED WITH LRC: February 12, 1999 at 1 p.m.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Bureau of Learning Support Services
(As Amended at Education Assessment and
Accountability Review Subcommittee, May 6, 1999)

703 KAR 5:060. Interim accountability model.

RELATES TO: KRS 158.645, 158.6451, 158.6453, 158.6455;
~~156.160(2)~~

STATUTORY AUTHORITY: KRS 156.070, 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6455 requires the Kentucky Board of Education to promulgate an administrative regulation to establish a formula for school accountability and a school improvement goal for each school for the 1998-99 and 1999-2000 school years. This administrative regulation establishes procedures for determining successful schools, school rewards, and classifications of schools applied as school performance judgments.

Section 1. Definitions. (1) "Accountability index" means the statistic that combines a school's academic, nonacademic, and other appropriate data into a single index.

(2) "Regression model" means a procedure used for predicting future performance based on past performance.

(3) "School" means an A1 school as defined in 703 KAR 5:040, Section 1(1).

(4) "Standard error of estimate" means the standard deviation of the predicted index scores from the prediction [line] resulting from the regression analysis.

Section 2. Interim Accountability Model (1996-1997 – 1999-2000). (1) After consultation with and review by the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall use an appropriate regression model to establish predicted or expected accountability growth indices for the biennium ending in the 1999-2000 school year [assessments]. The basis of the predictions shall be data from the 1996-1997 and 1997-1998 school [schools] years. Accepted statistical practices shall be applied.

(2) A school's actual accountability index for the biennium ending with the 1999-2000 school year shall be compared to its predicted level of performance. ~~[In the regression procedure, a school's 1999-2000 biennium index shall be compared to the 1999-2000 biennium indices of those schools that had comparable 1997-1998 biennium accountability indices.]~~ If a school's 1998-2000 biennium index equals or exceeds its predicted 1998 ~~[1999]~~-2000 biennium index ~~[in its comparison group of schools]~~, the school shall be eligible to receive a reward ~~if the school meets the dropout criteria under KRS 158.6455(5)(b)1.~~

(3) If a school's accountability index [school] falls below its predicted performance by at least one (1) standard error of estimate, a school shall be subject to the provisions of KRS 158.6455(5)(b)2, including a review by a scholastic audit team, eligibility for school improvement funds, and ~~[developing]~~ a required school improvement plan.

Section 3. Nonacademic Index Calculations. (1) The values for attendance rate and successful transition to adult life shall be the actual percentage reported. The values entered into formula calculations for retention rate and dropout rate shall be 100 minus the actual percentage calculated. Nonacademic data for a particular assessment year shall be calculated using the data from the previous school year. Nonacademic data shall be based on all grades within a school building generating appropriate data as follows:

- (a) Attendance, primary through grade twelve (12);
- (b) Retention rates, grades four (4) through (12);
- (c) Dropout rates, grades seven (7) through twelve (12); and
- (d) Successful transition to adult life for the graduating students.

Section 4. Alternative Portfolios. Scores from alternate portfolios shall be included in the academic indices so that the data from an alternative portfolio completed by a student eligible to participate

with an alternate portfolio contributes the same weight to the academic component of the accountability index as would the data for a student participating in the regular components of the assessment program at the elementary, middle, or high school levels.

Section 5. Schools Not Conforming to the Standard Grade Configuration. (1) If a school does not have grades four (4) and five (5) at the elementary level, grades seven (7) and eight (8) at the middle school level, or grades ten (10), eleven (11), and twelve (12) at the high school level, the school shall be combined with the school or schools having the missing grade(s) its students previously attended or would subsequently attend, forming a single school accountability unit.

(2) A school or school district may request a waiver of the requirements of subsection (1) of this section or from the normal configuration of schools (elementary, middle, or high school) from the Kentucky Board of Education specifying other combinations of schools and assessment data if all students in an accountability grade are included, and all schools are accountable for all content areas assessed. A condition for the granting of a waiver shall be that each affected school and school district shall waive **in writing its right to make the school configuration for which it sought a waiver** the basis of a subsequent appeal of a school's classification. A waiver request shall be received by the Kentucky Department of Education by September 1, 1999.

Section 6. Schools Having More than One (1) Accountability Level. If a school has more than one (1) accountability level, the school's accountability index shall be the average of the academic and nonacademic data for the school.

Section 7. School Service Area Reconfigurations. (1) If as a result of a change in service area boundaries or local board of education policies affecting student population served by a school, less than eighty (80) percent of a school's student population at its accountability grades is stable, the school shall be considered a reconfigured school. To determine if eighty (80) percent of the population is stable, the number of students in the stable population shall be divided by the sum of that number, plus the lost population, plus the gained population. If the result is less than eight-tenths (.8), the school shall be considered a reconfigured school.

(2) A school that would be considered a reconfigured school in the first year of the accountability cycle shall be treated as if it were not reconfigured, with the exception that the nonacademic index for the district from the previous year at the corresponding level (elementary, middle, or high school) shall be substituted for that school's nonacademic data.

(3) A school that is considered a reconfigured school in the second year of the accountability cycle shall have its baseline calculated from the second year of the accountability cycle, as opposed to the normal weighted average of the first two (2) years of the cycle, with the nonacademic index for the district from the previous year at the corresponding level (elementary, middle, or high school) substituted for that school's nonacademic data.

(4) A school that is considered a reconfigured school in the third or fourth year of an accountability cycle shall have the performance judgment that would have applied to the district at that level (elementary, middle, or high school), if separate decisions were to be applied at the district level.

(5) A school that has contained more than one (1) level (elementary, middle, or high school) and is reconfigured by removing an entire level of the accountability grades may request that the portion of the school remaining stable be considered within the accountability system using its established historical data.

(6) A school in transition because of a new building or a new policy affecting population served and being phased in may request that the Department of Education establish data to maintain the continuity of accountability data if the request does not require the tracking of individual student data. This request shall require the approval of each affected school council (or the principal, if a school does not have a council) and the local board of education upon the recommendation of the superintendent.

(7) A school district shall notify the Department of Education of

any school considered a reconfigured school as provided in this administrative regulation by September 30 of the school year in which the reconfiguration occurs.

WILMER S. CODY, Commissioner of Education
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney
APPROVED BY AGENCY: April 14, 1999
FILED WITH LRC: April 14, 1999 at 4 p.m.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Office of Learning Programs Development
(As Amended at ARRS, May 11, 1999)

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

RELATES TO: KRS 65.250, 156.160, 157.3175, 158.032(3), 214.034, 34 CFR Part 99

STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.3175

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 authorizes the Kentucky [State] Board of [for Elementary and Secondary] Education to promulgate [adopt] administrative regulations establishing standards which school districts shall meet in student, program, service and operational performance, ~~[- and]~~ KRS 157.3175 authorizes preschool education programs for "at risk" four (4) year old children and authorizes that administrative regulations be promulgated to establish eligibility criteria, program guidelines, and standards for personnel. This administrative regulation establishes [sets forth] the criteria for the preschool education program for "at risk" four (4) year old children, including procedures for a grant allocation system, eligibility criteria for children to be served, guidelines for program operation, and standards for personnel.

Section 1. Definitions. (1) ~~[Children eligible for enrollment in the preschool program shall include children who are:~~

- (a) Residents of the district;
 - (b) Four (4) years old by October 1 of the school year; and
 - (c) ~~Approved for free lunch based on federal free lunch criteria as of the child's initial day of attendance in preschool. Once free lunch eligibility has been approved, the child remains eligible for enrollment in the preschool program for the remainder of the school year.~~
- (2) ~~Resident children who are four (4) years old by October 1 but who are not eligible for the free lunch program may be served if space is available.~~

(3) The following definitions apply to this administrative regulation:

- (a) ~~"Developmentally appropriate preschool program" means a program as defined by KRS 157.3175(2).~~
- (b) ~~"Day care" means a program which is designed to supplement but not substitute for the parent's responsibility for the child's protection, development and supervision, when it is necessary or desirable for the parent or child to be out of the home for all or part of the day or night.~~
- (2) "Developmentally appropriate preschool program" means a program as defined by KRS 157.3175(2).

~~[(c) "Screening" means a systematic process for determining which children from the general population may need further evaluation in a particular area.]~~

~~[(d) "Double session" means a variation of the program that operates with one (1) teacher who works with a group of children in a morning session and a different group of children in the afternoon session.~~

~~[(4) "Screening" means a systematic process for determining which children from the general population may need further evaluation in a particular area.~~

Section 2. Eligibility. (1) Except as provided in subsection (2) of this section, a child shall be eligible for enrollment in the preschool program if the child is: [Children eligible for enrollment in the preschool program shall include children who are:]

- (a) A resident [Residents] of the district;
- (b) Four (4) years old by October 1 of the school year; and
- (c) Approved for free lunch based on federal free lunch criteria in effect as of the child's initial day of attendance in preschool. Pre-school eligibility may be determined up to four (4) months prior to the start of school. Once free lunch eligibility has been approved, the child shall remain eligible for enrollment in the preschool program for the remainder of the school year.

(2) A resident child who is [Resident children who are] four (4) years old by October 1 but who is [are] not eligible for the free lunch program may be served if space is available.

Section 3. ~~[Section 2:]~~ Grant Allocation System. (1) A local school district [districts] shall submit a proposal [proposals] to the Kentucky Department of Education to operate or oversee the operation of a developmentally appropriate preschool education program [programs] for eligible children. Each proposal shall include [at a minimum] the requirements set forth in KRS 157.3175(5).

~~(2) [The chief state school officer shall [receive and] review proposals from local school districts for the preschool program for eligible children. Programs shall be implemented only on the basis of an approved preschool proposal.~~

~~(3) In developing the proposal for the program, the district shall work with existing preschool programs to avoid duplication of programs and services to the same children.~~

~~(4) The proposal may include activities to implement new services to be operated by the district, enhance existing preschool services, contract for services, or any combination of these [the above] strategies which will enable the district to assure that a developmentally appropriate program is available for each eligible child.~~

~~(5) Funding for districts shall be based on the preschool grant allocation system established in 702 KAR 3:250.~~

Section 4. ~~[3:]~~ Interagency Agreements. (1) A [Any] preschool facility or service [facilities or services] provided by a local school district, either directly or by contract or cooperative agreement with another provider, shall meet the requirements of this administrative regulation and all other applicable school laws and administrative regulations.

(2) A contract [Contracts] or cooperative agreement [agreements] for operating the preschool program may be negotiated with another school district, another public agency, private school or preschool program. A [All] nonpublic school program [programs] providing preschool services shall be approved for that purpose by the Kentucky [State] Board of [for Elementary and Secondary] Education.

(3) A contract [All contracts] or [and] cooperative agreement [agreements] shall be in writing and shall include at a minimum the contents set forth in KRS 65.250.

(4) State preschool funds may be used in a private program [programs only] if a signed contract or cooperative agreement is on file in the district which documents that:

- (a) The program is separately incorporated from a [any] religious institution;
- (b) The program maintains a nonsectarian board of directors;
- (c) All proceeds and debts are the property of that corporation;
- (d) The program pays [only] reasonable rent; and
- (e) [No part of] The program's curriculum is not religious in nature.

Section 5. ~~[4:]~~ Enrollment. (1) Enrollment of a child [children] in the preschool program shall be [is] at the discretion of the parent or legal guardian. Each local school district shall establish and maintain an active recruitment process which systematically assures enrollment of eligible children. This process shall be outlined in a written plan which includes procedures for:

- (a) Notification of the right to participate, presented in the parent's primary language or natural mode of communication;
- (b) Identification of all eligible children regardless of race, sex, creed, color, national origin or handicapping condition;
- (c) Written documentation to demonstrate that emphasis has been given to recruiting those eligible children not currently served by a [any] preschool program; and
- (d) Contact to agencies and programs serving local preschool children or their families to encourage participation in the recruitment

process, taking into account the demographic makeup of the community and the needs of the children and their families.

(2) Prior to attendance [enrollment], each child shall have on file [at a minimum]:

(a) A copy of a legal birth certificate as required by KRS 158.032(3) [156.495];

(b) A Kentucky Certificate of Immunization as required by KRS 214.034;

(c) A medical examination meeting requirements of 704 KAR 4:020 conducted within six (6) months prior to entry into the school program [Social Security number]; and

(d) Information as to eligibility [A completed application form] for the National School Lunch Program.

(3) An [All] educational record [records] shall be kept confidential according to the requirements of the Family Education Rights and Privacy Act regulations, 34 CFR Part 99.

(4) Daily attendance records shall be maintained and submitted through the district's standard attendance reports or an approved, verifiable alternative method. A parent [Parents] or legal guardian [guardians] shall be contacted with respect to an enrolled child whose participation in the program is irregular or who has been absent for four (4) consecutive program days.

Section 6, [5.] Program Operation. (1) The local school district shall [may] select one (1) [any] of the following program options:

(a) Standard half-day, five (5) day a week program (single session [only]);

(b) Half-day, four (4) day a week program in single or double session, with the fifth day for services to children and their families, such as home visits, special experiences for children, parent training, or coordination of medical or social services; or

(c) A locally-designed program [programs] approved by the chief state school officer.

(2) If a double session program is utilized, the following provisions shall be made:

(a) Time shall be allotted prior to each session to allow staff to prepare for the session as well as give individual attention to children entering and leaving the program;

(b) Adequate break time shall be provided for staff during the course of the day;

(c) Staff assignments shall provide time for parent involvement activities and coordination of services described in subsections (5) through (8) of this section [6-5 through (8) of this administrative regulation]; and

(d) Maximum number of children assigned to one (1) lead teacher shall be limited to the ratio established [guidelines] in Section 7 [6](4) of this administrative regulation.

(3) The hours of operation of the half-day program may vary but shall provide a minimum of two and one-half (2 1/2) hours of classroom time per day, which shall [does] not include the time required to provide breakfast or lunch. The program shall provide direct services for children or parents for the minimum number of teaching days set by the local school district for the school year.

(4) Maximum group size for eligible children shall be [is] twenty (20) children. The staff ratio in the classroom shall consist of one (1) adult for a maximum of ten (10) children pursuant to staff qualifications established [described] in Section 7 [6] of this administrative regulation. Consideration shall be given to increasing the number of staff or decreasing the group size depending upon the needs of the children, including [but not limited to] the needs of children with disabilities [handicapping conditions]. An adult shall not [never] be left alone with more than ten (10) preschool children. [and] The local school district shall have a written policy for assistance from another adult if [when-ever only] one (1) adult is responsible for a group of children.

(5) The program shall allow for active parental involvement. Consideration of the different types of family structures, such as the single parent, foster parent and extended family, shall be made when planning activities. At least the following opportunities shall be made available to parents:

(a) Participation in classroom and other preschool activities as volunteers or observers;

(b) Parent training, education or other activities which the parent has helped to develop;

(c) Working with the child in cooperation with preschool staff;

(d) Meeting with preschool and other appropriate staff regarding the child's individual needs and progress or other two (2) way communication systems developed with the parent; and

(e) Periodic home visits by preschool staff, with a minimum of two (2) visits per child per year and with the first visit conducted within sixty (60) school days after enrollment.

(6) [In order] To meet the comprehensive needs of children, the program shall collaborate with medical, health, mental health and social service agencies. Information about community services, resources and facilities shall be made available to parents. Program staff shall assist parents in coordinating interagency services for children and families.

(7) A [Each] local school district shall assure through coordination with existing medical and social services that all children participating in the program receive child development and health screening.

(a) Health screening shall include [at a minimum] growth assessment, vision and hearing screening, assessment of current immunization status, and general health status.

(b) Child development screening shall include [at a minimum] screening of gross and fine motor skills, cognitive functioning, communication skills, self-help skills and social-emotional skills.

(c) Child development screening may be accomplished through various means, including [but not limited to] systematic observation in the classroom or other natural setting [settings]. Screening results shall not be used for determining placement or planning the curriculum.

(d) Child development and health screening shall be completed within thirty (30) school days of enrollment by personnel trained in the procedures utilized.

(e) Contact shall be made with the parent or legal guardian if screening results indicate a need for further assessment by a specialist, follow-up, or referral for special education and related services or other appropriate resources.

(8) A [Each] local school shall assist the parent or legal guardian as needed through cooperation with existing medical and social services to obtain the physical examination required of all children prior to school [kindergarten] enrollment.

(9) The preschool program shall include developmentally appropriate experiences in cognitive, communication, social, physical, and emotional development as well as creative expression. The preschool program shall assist young children with their intrapersonal and interpersonal skills and in maximizing self-management and independence. The program shall include appropriate learning activities and teaching techniques in accordance with each child's level of comprehension and maturation.

(10) The program shall provide [provided] a supportive social and emotional climate which:

(a) Enhances children's understanding of themselves as individuals, and in relation to others, by providing for individual, small group, and large group activities; and

(b) Gives children many opportunities for success through developmentally appropriate program activities; and

(c) Provides an environment of acceptance which helps each child develop a positive self-concept, enhance his or her individual strengths, build ethnic pride, and facilitate social relationships.

(11) The program shall promote the development of intellectual skills by:

(a) Encouraging children to solve problems, initiate activities, explore, experiment, question, and gain mastery through learning by doing (concrete experiential learning);

(b) Promoting language understanding and use in an atmosphere that encourages each communication among children and between children and adults;

(c) Utilizing a curriculum in which a variety of skills are integrated into activities targeted toward the interests of children;

(d) Encouraging children to organize their experiences and understand concepts;

(e) Utilizing a language experience approach to introduce printed materials according to the individual developmental level of the child; and

(f) Providing a daily balance of activities in the following dimensions:

1. Indoor ~~and~~ [] outdoor;
2. Quiet ~~and~~ [] active;
3. Individual ~~and~~ [] group;
4. Large ~~and~~ [] small ~~groups~~ [group];
5. Child ~~and~~ [] staff initiated; and
6. Structured ~~and~~ [] spontaneous.

(12) The program shall promote physical growth by:

(a) Providing adequate indoor and outdoor space pursuant to Section 8 [7] of this administrative regulation;

(b) Providing developmentally appropriate materials and equipment, in sufficient quantity to allow choice, and providing supervised time for children to use large and small muscles to increase their physical skills;

(c) Providing appropriate guidance while children use equipment and materials which promote children's physical growth;

(d) Providing breakfast or lunch to each eligible child, pursuant to the requirements of the National School Breakfast Program ~~or~~ [] National School Lunch Program;

(e) Providing developmentally appropriate information regarding nutrition, involving children as feasible in the planning and preparation of snacks and meals, and providing appropriate supervision during meals to develop language, understanding and problem-solving skills; and

(f) Providing developmentally appropriate information about health as an integral part of program activities.

(13) The program shall promote social skills and social interactions by:

(a) Providing positive guidance with consistent, clear rules presented in developmentally appropriate ways; and

(b) Providing positive adult and peer role models, focusing on the level of the child.

(14) The program shall be individualized to meet the special needs of children by:

(a) Having a curriculum which is relevant and reflective of the needs of the population served (such as, bilingual ~~or~~ [] bicultural, multicultural, rural, urban, or migrant);

(b) Having staff and program resources reflective of the racial and ethnic population of the children in the program; and

(c) Providing adaptations for children with special needs.

(15) The program shall utilize developmentally appropriate materials and equipment as follows:

(a) Furniture, equipment and materials shall be of sufficient quantity, quality and variety to meet the needs of the children and shall be arranged in [such] a way as to facilitate learning, assure a balanced program of spontaneous and structured activities, and encourage self-reliance in the children. Test sheets, workbooks and ditto sheets shall not be used as they are not developmentally appropriate for [use with] preschool children.

(b) The equipment and materials shall be:

1. Consistent with the specific educational objectives of the local program;

2. Consistent with the cultural and ethnic background of the children;

3. Geared to the age, ability, and developmental needs of the children;

4. Safe, durable, and kept in good condition;

5. Stored in a safe and orderly fashion when not in use;

6. Accessible, attractive, and inviting to the children; and

7. Designed to provide a variety of learning experiences and to encourage experimentation and exploration.

(16) Space shall be arranged so that children may work individually, together in small groups, and in a large group. Space shall be arranged to provide clear pathways for children to move from one area to another.

(17) Centers or areas in the classroom shall include space for [such] activities including [as] art, blockbuilding, cooking, gross motor, housekeeping ~~or~~ [] dramatic play, language arts ~~or~~ [] library, manipulative materials, math ~~or~~ [] problem solving, multimedia, music, science ~~or~~ [] social studies, and wood working.

(18) Assessment of children within the preschool program shall be for the purpose of planning activities and evaluating progress, and shall not be used to restrict entry into or exit from the preschool program. The program shall include developmentally appropriate as-

essment of children which:

(a) Provides for ongoing observation, recording and evaluation of each child's growth and development for the purpose of planning activities to suit individual needs;

(b) Is accomplished by observation or activity with the child in familiar structured and informal situations;

(c) Includes information from parents;

(d) Is used to inform parents on a regular basis regarding the child's progress in physical, intellectual, communication, social, emotional, intrapersonal, and interpersonal skills and development; and

(e) considers the cultural background of the child.

(19) Children shall not be retained in the preschool program.

(20) The preschool program shall provide developmentally appropriate instruction to children regarding safety procedures, such as riding the bus and emergency procedures.

(21) The preschool program shall utilize the local school district's current safety policies regarding accident records, medical emergency plans, fire and disaster plans, first aid, dispensing of medications, and reporting of child abuse and neglect, with modification as needed to accommodate young children.

Section 7. [6:] Personnel. (1) Instructional staff in the preschool shall include[~~;~~ but not be limited to;] the following types of personnel:

(a) A lead teacher who meets the following [interim] qualifications:

1. Beginning with the 2002-2003 school year, a person [one (1)] who holds a certificate or statement of eligibility for a certificate in interdisciplinary early childhood education, or has been exempted by the Kentucky Education Professional Standards Board from additional certification in order to continue teaching in an early childhood position. A school district may request approval from the Department of Education to use as the instructional lead a person [one (1)] who meets the preschool associate teacher qualifications and who has been employed prior to school year 2004-2005 to perform paraprofessional instructional duties pursuant to 704 KAR 3:420; or

2. Prior to the 2002-2003 school year, if a person [one (1)] meeting qualifications listed in subparagraph 1 of this paragraph is not available, [until superseded by the Education Professional Standards Board. This] interim approval shall be issued in accordance with the following criteria:

[1. Level I approved preschool instructional personnel include:]

a. Personnel with a baccalaureate or higher degree in child development, early childhood education, or early childhood special education;

b. Personnel with kindergarten certification;

c. Personnel with special education certification valid for primary grades; [and]

d. Personnel with a master's degree, bachelor's degree or licensure in communication disorders, speech and language, or speech pathology;

3. If a person who meets the qualifications established in subparagraph 1 or 2 of this paragraph [e. if one (1) meeting qualifications listed in subparagraph 1 of this paragraph or clauses a through d of this subparagraph] is [2. If Level I personnel are] not available, a [the] local board may develop a training plan in early childhood education and request approval for [Level II personnel. These individuals shall complete training activities in early childhood education as specified by the Kentucky Department of Education. Level II approved preschool instructional personnel include] an individual [individuals] with a minimum of one (1) year of early childhood training or experience and a degree in family studies, social work, psychology, nursing, or other related area, including education if not specified under subparagraph 1 or 2 of this paragraph. [or clauses a through d of this subparagraph; and]

4. [f:] A [Level I:

3:] local board [boards] may [also] request approval for a person [one (1)] who meets the preschool associate teacher qualifications to perform paraprofessional instructional duties pursuant to 704 KAR 3:420; and [Level III personnel. These individuals shall:

a. Be supervised by Level I preschool instructional personnel or by local school district staff currently directing special education or kindergarten programs; and

b. Complete training activities in early childhood education as specified by the Kentucky Department of Education. Level III approved

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preschool instructional personnel include individuals with the following:

- (i) An associate (AA) degree in early childhood;
- (ii) A child development associate credential (CDA);
- (iii) Completion of a vocational child care worker training program;

or

(iv) A high school diploma or GED and minimum one (1) year early childhood training or experience.

(b) A teaching assistant who is ~~[associate, such being]~~ an instructional aide ~~[meeting the qualifications required under 704 KAR 15:080].~~

(2) ~~A~~ [Every] preschool classroom shall have at least one (1) lead teacher. ~~A teaching assistant [associates]~~ or other professional personnel shall be used in addition to the lead teacher to provide an appropriate adult-child ratio in each classroom, pursuant to Section ~~6(4)~~ 5[(5)] of this administrative regulation. A ~~[Each]~~ lead teacher shall provide instructional services to a maximum of twenty (20) children, within the parameters of subsection (4) of this section.

(3) ~~A~~ [The] lead teacher ~~shall be~~ [is] responsible for organizing the classroom, providing a developmentally appropriate curriculum, and supervising and assigning the activities of teaching ~~assistants~~ [associates], student helpers, and other noncertified staff in the preschool class. A ~~[The]~~ lead teacher ~~shall~~ [is] ~~[also]~~ be responsible for at least the following parental activities, described in Section ~~6~~ 5[(5)] of this administrative regulation:

- (a) Parent participation in the classroom;
- (b) Parent-teacher conferences; and
- (c) A minimum of two (2) home visits per child per year.

(4) ~~A~~ [The] local school district shall assign professional staff, including ~~[but not limited to]~~ the lead teacher, to conduct parental involvement activities and coordination with health and social services, pursuant to Section ~~6~~ 5[(5)] through (8) of this administrative regulation. A lead ~~teacher~~ [teachers] who ~~has~~ [have] been assigned coordination responsibilities related to parent involvement activities and health and social services and who ~~operates~~ [operate] double sessions ~~shall be~~ [are] considered to be going beyond responsibilities set out in subsection (3) of this section and shall provide services to a maximum of thirty-four (34) children total, within ~~[the guidelines for]~~ the adult-child ratio per classroom ~~established~~ [established] in Section ~~6(4)~~ 5[(5)] of this administrative regulation.

(5) A ~~lead teacher~~ [Lead teachers] shall participate in the required number of professional development days applicable to certified personnel in the local school district. A ~~teaching assistant~~ [Teaching associates] shall participate annually in a minimum of eighteen (18) hours of professional development. Professional development activities shall be related to the nature and needs of young children and their families, including those with special needs. Records shall be kept for all personnel documenting ~~[attendance and]~~ participation in professional development training.

(6) At all times, ~~a~~ [the] program shall have a staff person on the premises who is trained in emergency first aid and cardiopulmonary resuscitation (CPR).

Section 8. ~~[7.]~~ Facilities and Transportation. (1) ~~A~~ [The] preschool program shall operate in compliance with administrative regulations promulgated by the ~~Kentucky~~ [State] Board of ~~[Elementary and Secondary]~~ Education in areas including ~~[but not limited to:]~~ facilities, safety, health, and transportation.

(2) If ~~a~~ [the] program is extended to provide child care before or after the standard operating hours of the preschool program, ~~[then]~~ that portion of the program ~~shall be~~ [is] considered day care and shall meet the standards for day care facilities promulgated by the Cabinet for ~~Families and Children~~ [Human Resources] and ~~established~~ [set forth] in 905 KAR Chapter 2 and 922 KAR Chapter 2 ~~[2:010]~~.

(3) ~~A~~ [The] local school district may provide transportation to preschool children. If a local school district transports preschool children, ~~[such]~~ services shall be operated in conformance with administrative regulations pertaining to the transportation of school children, as ~~established~~ [set forth] in 702 KAR Chapter 5.

(4) Regardless of whether transportation is provided, ~~a~~ [the] local school district shall make provisions for safe arrival and departure of all children, with a procedure for ensuring that preschool children are released ~~[only]~~ to the parent or ~~a person~~ [person(s)] authorized by the parent.

Section 9. ~~[8.]~~ Program Evaluation. (1) At least annually, parents, staff and other professionals shall be involved in evaluating the local preschool program's effectiveness in meeting the needs of participating children.

(2) The program evaluation shall address ~~[at a minimum]:~~

- (a) Rate of participation by eligible children;
- (b) Parental satisfaction with services provided;
- (c) Success of participating children as they complete the preschool program and progress through the primary school program; and

(d) Adherence to state administrative regulations on the subject area.

(3) ~~A~~ [The] local school district ~~preschool program~~ shall ~~be subject to evaluation by the Department of Education to determine the effectiveness of the statewide preschool program. [provide data on the preschool program according to guidelines determined by the chief state school officer] for evaluating the effectiveness of the statewide preschool program.]~~

~~[(4) Monitoring of the preschool program shall occur in conjunction with the monitoring of the local school district's educational program, as deemed necessary by the State Board for Elementary and Secondary Education.]~~

WILMER S. CODY, Commissioner of Education

HELEN MOUNTJOY, Chairperson

KEVIN M. NOLAND, Attorney

APPROVED BY AGENCY: February 12, 1999

FILED WITH LRC: February 12, 1999 at 1 p.m.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Office of Learning Programs Development
(As Amended at ARRS, May 11, 1999)

704 KAR 3:420. Preschool associate teachers.

RELATES TO: 156.160, 157.3175

STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.3175

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160

authorizes the Kentucky Board of Education to ~~promulgate~~ [adopt] administrative regulations establishing standards which school districts shall meet in student, program, service and operational performance. KRS 157.3175 authorizes preschool education programs and authorizes that administrative regulations be promulgated to establish eligibility criteria, program guidelines, and standards for personnel. This administrative regulation ~~establishes~~ [sets forth] the criteria for paraprofessional instructional personnel, including a differentiated job description from certified teachers, qualifications for the position, and responsibilities for certified personnel providing supervision of preschool associate teachers.

Section 1. Definitions. (1) "Curriculum oversight" means supervision of a preschool associate teacher by a qualified professional.

(2) "Preschool associate teacher" means a classified employee employed by a local school district in a paraprofessional role to organize, manage and provide direct instruction to children below primary school age under the supervision of a qualified professional.

(3) "Qualified professional" means a person who:

(a) Meets one (1) of the criteria ~~established~~ [listed] in Section 3(2) of this administrative regulation; and

(b) ~~[who]~~ is responsible for the curriculum in an early childhood classroom or program operated by a paraprofessional preschool associate teacher.

Section 2. Role of a Preschool Associate Teacher. (1) A local school district may employ a preschool associate teacher to do the following:

- (a) Manage the daily operation of preschool classrooms or other early childhood programs;
- (b) Provide direct instruction to children based on identified

skills:

- (c) Assist in assessing the skills of individual children;
- (d) Assist in implementing individual education programs (IEP's) of children with disabilities; and

(e) Provide parent information on progress of individual children.

(2) A preschool associate teacher shall receive at least weekly contact and consultation by a qualified professional regarding the classroom, the curriculum and ~~the [other]~~ teacher performance standards in interdisciplinary early childhood education established [contained] in 704 KAR 20:084.

(a) The qualified professional shall determine a regular schedule for onsite visits and observation no less than monthly and based on the skills and experience of the preschool associate teacher. Additional onsite contact and consultation for individual children with disabilities shall be provided as specified in the IEP.

(b) The activities of the preschool associate teacher shall reflect the guidance of the professional assigned to provide curriculum oversight.

Section 3. Qualifications. (1) A preschool associate teacher shall hold one (1) of the following or its equivalent as approved by the Department of Education:

(a) An associate degree with a professional core of courses in early childhood education or child development;

(b) A child development associate certificate conferred by the Council for Early Childhood Professional Recognition; or

(c) A Kentucky vocational diploma for preschool teacher.

(2) ~~[In unusual circumstances,]~~ A local board may request approval of a preschool associate teacher who has begun and is in the process of completing a degree, diploma or certificate specified [listed] in subsection (1) ~~[(a) through (c)]~~ of this section.

(3) Curriculum oversight shall be provided by an individual [one (+)] who meets one (1) of the following criteria:

(a) Holds certification or a statement of eligibility for interdisciplinary early childhood education;

(b) Has been exempted by the Kentucky Education Professional Standards Board from additional certification in order to continue teaching in an early childhood position;

(c) Provided supervision to a preschool Level III teachers [Teachers] under the interim requirements in 704 KAR 3:410 prior to the 1999-2000 school year; or

(d) Is qualified to serve on an internship team for interns in Interdisciplinary Early Childhood Education pursuant to 704 KAR 20:690.

WILMER S. CODY, Commissioner of Education

HELEN MOUNTJOY, Chairperson

KEVIN M. NOLAND, Attorney

APPROVED BY AGENCY: February 12, 1999

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EDUCATION, ARTS, AND HUMANITIES CABINET

Kentucky Board of Education

Department of Education

Office of Learning Programs Development

(As Amended at ARRS, May 11, 1999)

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

RELATES TO: KRS 156.160(1), 157.226, 157.280, 157.3175, 158.032(3), 214.034, 34 CFR 99, 20 USC 1400-1420

STATUTORY AUTHORITY: KRS 156.070(5), 156.160(1), 157.226(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1) requires [authorizes] the Kentucky [State] Board of ~~[for Elementary and Secondary]~~ Education to promulgate [adopt] administrative regulations establishing standards which school districts shall meet in student, program, services and operational performance, ~~[and]~~ KRS 157.226 authorizes preschool education programs and related services for handicapped children who are three (3) or four (4) years of age or who become five (5) after October 1 of the current year and

requires [mandates] that administrative regulations be promulgated related to the administration and supervision of programs, eligibility criteria, personnel requirements, and the use of funds. This administrative regulation implements that state board duty.

Section 1. Definitions. (1) "Preschool education" means programs which:

(a) Focus on the physical (e.g., motor development, self-help or ~~[f]~~ adaptive behavior), intellectual (e.g., cognition, communication), and social and emotional development of the child;

(b) Include appropriate student learning activities to assist the child with intrapersonal, interpersonal and socialization skills development; and

(c) Meet the unique needs of a child with disabilities.

(2) "Related services" means transportation, ~~[and such]~~ developmental or other supportive services ~~[as are]~~ required to assist an eligible child to benefit from preschool education, including [Related services for preschool children include]; ~~[but are not limited to,]~~ parent education and service coordination to assist the parent in coordinating services for the child with disabilities.

Section 2. Free Appropriate Preschool Education. (1) ~~[Effective at the beginning of the 1991-92 school year,]~~ Each local school district shall make available a free appropriate preschool education and related services to all eligible children with disabilities.

(2) A child shall be eligible for enrollment in the preschool program if the child: ~~[Children shall meet the following criteria to be eligible for this program:]~~

(a) ~~[The child]~~ Is a resident of the school district;

(b) ~~[The child]~~ Is three (3) or four (4) years of age, or becomes five (5) years of age after October 1 of the current year; and

(c) ~~[The child]~~ Has disabilities as identified under Sections 4 and 5 of this administrative regulation.

(3) Enrollment of an eligible child [children] shall be [is] at the discretion of the parent or legal guardian. Prior to attendance [enrollment], each child shall have on file ~~[at a minimum]:~~

(a) A copy of a legal birth certificate as required by KRS 158.032(3) [156.495];

(b) A Kentucky certificate of immunization as required by KRS 214.034; and

(c) A medical examination meeting requirements of 704 KAR 4:020 conducted within six (6) months prior to entry into the school program [Social Security number].

(4) State funding shall be provided to local school districts for serving eligible children and shall be based upon funding allocation procedures established by 702 KAR 3:250.

(5) Daily attendance records shall be maintained and submitted through the district's standard attendance reports or an approved, verifiable alternative method. A parent or legal guardian [Parents or legal guardians] shall be contacted with respect to an enrolled child whose participation in the program is irregular or who has been absent for four (4) consecutive program days.

Section 3. Child Identification and Location. (1) A [The] local school district shall advise parents of eligible children of the availability of services, pursuant to child location and identification requirements established [contained] in 707 KAR Chapter 1 for children and youth with disabilities, and pursuant to preschool recruitment requirements established [contained] in 704 KAR 3:410, Section 5 [4].

(2) Referral procedures shall enable the individual education plan (IEP) to be developed and services initiated for eligible children, pursuant to timelines and procedures for IEP development and service initiation established [set forth] in 707 KAR Chapter 1.

(3) For a child who has [those children who have] been referred to the school district prior to the child's third birthday, referral procedures shall:

(a) Include district collaboration in the development of the Individual Family Service Plan (IFSP) transition plan prepared by the early intervention agency if the child is receiving early intervention services; and

(b) Allow initiation of preschool services upon the third birthday.

Section 4. Due Process Procedures. (1) An eligible child [Eligible]

children] shall be afforded all the rights and protections afforded to children with disabilities, pursuant to 707 KAR Chapter 1.

(2) An [The] Admissions and Release Committee shall include among its membership a representative from each agency [representative(s) from agencies] providing early childhood or intervention services to the child or family which relate to the child's preschool education needs.

(3) An [The] Admissions and Release Committee shall assign a specific person [person(s)] to report to a parent [parent(s)] or legal guardian on at least a semiannual basis regarding the child's progress toward and mastery of the objectives on the IEP.

(4) A district [Districts] may [shall have the option to] develop local policies and procedures on alternate membership of an administrative admissions and release committee [committees] for a preschool child who is [children who are] not attending a preschool program directly operated by the district, within the requirements of 20 USC 1400 to 1420.

Section 5. Evaluation. (1) A multidisciplinary evaluation [evaluations] for determining the eligibility of a preschool child with suspected disabilities shall include:

(a) Current information on hearing, vision and health to determine if there is a need for further assessment;

(b) Developmental and social history, including any health or medical concerns;

(c) At a minimum, information across all areas of development sufficient to determine if there is need for further assessment in [any areas:] cognition, communication, motor development, social-emotional development, or self-help or [if] adaptive behavior;

(d) Norm-referenced and informal assessment of basic skills in an [any] area of suspected delay: cognition, communication, motor development, social-emotional development, or self-help or [if] adaptive behavior;

(e) A written behavioral observation in a natural setting or familiar environment; [Written behavioral observations in natural settings and familiar environments;]

(f) [Any] Additional information required under 707 KAR Chapter 1 if the child is to be determined eligible under a specific category of disability; and

(g) Additional reports, information, and assessments as deemed necessary by the Admissions and Release Committee.

(2) For a preschool child [children], the educational evaluation used in specific categories of disability under 707 KAR Chapter 1 shall refer to evaluation of developmental, rather than academic, skills. The school district shall not routinely use intelligence (IQ) testing with a preschool child [children], and, if [but when] appropriate, shall use alternative tools, including norm-referenced instruments which assess cognitive function.

(3) If [When] a preschool child has been or is currently being provided early childhood or intervention services by another agency, the school district shall contact these agencies for available data and assessment information. Available information which is current within one (1) year shall be used in conjunction with other new or existing data, unless the Admissions and Release Committee determines a need for further information to meet evaluation and eligibility requirements under subsection (1) of this section [and Section 5(1) of this administrative regulation].

(4) An [The] Admissions and Release Committee shall assure that the parent, legal guardian, or parent's designee is interviewed as part of the evaluation process to obtain information about the child's developmental history and current functioning levels.

Section 6. Criteria for Identification. (1) For a preschool child who is [all preschool children who are] suspected of having a disability, the Admissions and Release Committee shall [may] use a specific categorical identification established under [other sections of] 707 KAR Chapter 1 or [may] identify the child as having a developmental delay if the child is determined to be eligible.

(2) An [The] Admissions and Release Committee shall determine that a child has a developmental delay [only] if the child:

(a) [The child] is under six (6) years of age;

(b) [The child] Has not acquired skills or achieved commensurate with recognized performance expectations for the child's [his or her]

age in one (1) or more of the following developmental areas: cognition, communication, motor development, social-emotional development, or self-help or [if] adaptive behavior; and

(c) [The child] Demonstrates a measurable, verifiable discrepancy between expected performance for the child's chronological age and the current level of performance. The discrepancy shall be documented by:

1. Scores of two (2) standard deviations or more below the mean in one (1) of the five (5) developmental areas, as obtained using norm-referenced instruments and procedures;

2. Scores of one and one-half (1 1/2) standard deviations below the mean in two (2) or more of the five (5) developmental areas, as obtained using norm-referenced instruments and procedures; or

3. The professional judgment of the Admissions and Release Committee that there is a significant atypical quality or pattern of development. Professional judgment shall be used if [only where] normed scores are inconclusive and the Admissions and Release Committee documents in a written report the reasons for concluding that the child has a developmental delay based on the required evaluation information.

(3) An [The] Admissions and Release Committee shall review progress data on an annual basis to determine a [any] need to re-evaluate the child for purposes of ongoing eligibility.

Section 7. Individual Education Programs. (1) A [The] local school district shall have policies and procedures for the development of an IEP for each eligible child prior to the delivery of preschool education and related services, pursuant to 707 KAR Chapter 1.

(2) An [The] Admissions and Release Committee shall consider the need for parent education and self-advocacy in coordination as related services on the child's IEP.

Section 8. Placement in the Least Restrictive Environment. (1) To the maximum extent appropriate, a preschool child [children] with disabilities shall be educated with children without disabilities, pursuant to 707 KAR Chapter 1. A [The] district shall not routinely place a child [children] with disabilities in a setting [settings] serving exclusively [only other] children with disabilities.

(2) In developing the IEP, an [the] Admissions and Release Committee shall consider the child's need for the development of interpersonal and socialization skills and for the maintenance and generalization of developmental skills in natural settings.

(3) A [The] school district shall make available to preschool children with disabilities the same or similar learning opportunities which are available through the district to nondisabled preschool children of the same age.

Section 9. Delivery of Services. (1) Preschool education and related services shall be made available to eligible children through programs directly operated by the school district or contractual or other cooperative agreements between the district and other agencies, pursuant to Section 10 of this administrative regulation.

(2) For a child [children] with disabilities who is [are] four (4) years of age by October 1, the district shall make available preschool services which are operated according to the requirements for four (4) year old children at risk of educational failure, pursuant to 704 KAR 3:410, Section 6 [5], or as determined by the Admissions and Release Committee based on the options established [described] under subsection (3) of this section.

(3) A [The] district shall make preschool services available to eligible children through a variety of program options. Options may include [but are not limited to:] the following:

(a) Parent-child programs which are provided in the home or a center to work with the child and parent together shall include one and one half (1 1/2) hours or more of service per child per week and allow socialization experiences with other children at least once per month, or as determined by the Admissions and Release Committee;

(b) Itinerant programs which are provided by personnel who travel to the child's class, day care center, or other setting shall include one (1) or more hours of services for each child per week, either direct or in consultation with the staff in the setting, or as determined by the Admissions and Release Committee;

(c) Preschool class programs which provide educational services

in a setting with other children shall provide six (6) or more hours of instruction per week for three (3) year olds or ten (10) or more hours per week for four (4) year olds, or as determined by the Admissions and Release Committee; or

(d) Combinations of any of the above options.

(4) ~~If [When] a preschool child [children] with disabilities is [are]~~ placed in classes ~~in which [where]~~ the majority of the children do not have disabilities, the Admissions and Release Committee shall determine any modifications or support needed to implement the IEP, including ~~[but not limited to]~~ the need for decreasing the maximum group size allowed for nondisabled children of that age or increasing the minimum adult-to-child ratio required for nondisabled children of that age, as ~~established [set forth]~~ in 704 KAR 3:410.

(5) The maximum number of preschool children with disabilities who may be present at ~~[any]~~ one (1) time in a class ~~in which [where]~~ half or more of the children have disabilities shall be six (6), with at least one (1) adult for every three (3) children with disabilities, or as determined by the Admissions and Release Committee.

(6) Instructional staff providing preschool and related services to eligible children under each of the program models shall include~~[-but not be limited to;]~~ the following types of personnel as required by subsections (8), (9), and (10) of this section:

(a) A lead teacher meeting the qualifications set forth in 704 KAR 3:410, Section 7 [6](1)(a);

(b) A teaching ~~assistant who is [associate, such-being]~~ an instructional aide ~~[meeting the qualifications required under 704 KAR 15:080]; and]~~

(c) Related services personnel who meet licensing requirements specific to the discipline; ~~and~~

(d) ~~Itinerant, resource, diagnostic, special class or consulting personnel who hold appropriate special education certification valid for primary ages.~~

(7) ~~A [Each]~~ parent-child and itinerant program shall be operated by at least one (1) lead teacher with responsibility for providing preschool and related services as indicated on the IEP, supervising and assigning the activities of teaching ~~assistants [associates]~~ and other noncertified staff in the program, and conducting parent-teacher conferences.

(8) ~~A [Each]~~ preschool class shall have at least one (1) lead teacher.

(a) Teaching ~~assistants [associates]~~ and other personnel shall be used in addition to the lead teacher to provide an appropriate adult-child ratio in each classroom. The local school district shall have policies and procedures for additional adult support whenever an adult is to be alone with a group of children.

(b) ~~A [The]~~ lead teacher is responsible for organizing the classroom, providing preschool and related services as indicated on the IEP, supervising and assigning the activities of teaching ~~assistants [associates]~~ and other noncertified personnel in the classroom, and conducting parent-teacher conferences.

(9) ~~A [The]~~ local school district shall assign staff, including ~~[but not limited to]~~ the lead teacher, to implement parent education and service coordination activities indicated as related services on the IEP, pursuant to Section 6(2) of this administrative regulation.

(10) Maximum caseloads for lead teachers shall be individually determined by the district to allow for the time required to provide the preschool and related services required for the assigned children under the parent-child, itinerant or class program~~[(s)]~~, travel to and from sites as needed and a minimum of one-half (1/2) day per week for planning for a full-time position.

(11) ~~A [The]~~ preschool program shall operate in compliance with administrative regulations promulgated by the Kentucky [State] Board of ~~[for Elementary and Secondary]~~ Education in areas including ~~[but not limited to]~~ facilities, safety, health, transportation, finance and food services.

Section 10. Confidentiality. A district ~~[Districts]~~ shall maintain the confidentiality of the child's educational records as required under 707 KAR 1:240 ~~[1:051]~~ and the Family Educational Rights and Privacy Act regulations, 34 CFR Part 99. A ~~[The]~~ school district shall obtain the parent's consent prior to collecting information from other agencies about any early intervention services provided to the child under an individual family service plan (IFSP) prior to the age of three (3).

Section 11. Interagency Services. (1) ~~A preschool facility or service [Any preschool facilities or services]~~ provided by a local school district, either directly or by contract or cooperative agreement with another provider, shall meet the requirements of this administrative regulation and all other applicable school laws and administrative regulations.

(2) ~~A contract [Contracts]~~ or cooperative ~~agreement [agreements]~~ for operating a preschool program may be negotiated with another school district, another public agency, or a nonpublic school preschool program. A ~~[All]~~ nonpublic school ~~program [programs]~~ providing preschool placements shall be approved for that purpose by the Kentucky [State] Board of ~~[for Elementary and Secondary]~~ Education, pursuant to KRS 157.280, and shall meet the requirements for interagency agreements specified for the preschool program for four (4) year old children at risk of educational failure, as contained in 704 KAR 3:410, Section 4 [3].

Section 12. Personnel Development. (1) ~~A lead teacher [Lead teachers]~~ shall participate in the required number of professional development days applicable to certified personnel in the district.

(2) ~~A teaching assistant [Teaching associates]~~ shall participate annually in a minimum of eighteen (18) clock hours of professional development.

(3) Professional development activities shall be related to the nature and needs of young children and families, including those with special needs. Records shall be kept for all personnel documenting ~~[attendance and]~~ participation in professional development activities.

WILMER S. CODY, Commissioner of Education

HELEN MOUNTJOY, Chairperson

KEVIN M. NOLAND, Attorney

APPROVED BY AGENCY: February 12, 1999

FILED WITH LRC: February 12, 1999 at 1 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Financial Institutions
(As Amended at ARRS, May 11, 1999)

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: KRS 294.060 was amended to establish the amount required for corporate surety bonds, rather than require the commissioner to promulgate an administrative regulation to establish those amounts. This administrative regulation repeals 808 KAR 12:010, which established corporate surety bonds, because that administrative regulation is in conflict with KRS 294.060. [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, Corporate surety bond amounts, 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 PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Office of State Fire Marshal
(As Amended at ARRS, May 11, 1999)

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 adminis-

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trative 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, Kentucky 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 PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction Office of the State Fire Marshal (As Amended at ARRS, May 11, 1999)

815 KAR 10:060. Kentucky Standards of Safety.

RELATES TO: KRS Chapters 198B, 227
STATUTORY AUTHORITY: KRS 227.300

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.300(1) requires the commissioner to promulgate an administrative regulation establishing the Kentucky Standards of Safety, which shall provide a reasonable degree of safety for human life against the exigencies of fire and panic and insure against fire loss. This administrative regulation establishes the Kentucky Standards of Safety and supplements the Kentucky Building Code, promulgated as 815 KAR 7:105, in matters of fire safety. [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 a [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, which includes the material incorporated by reference ~~[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 shall be ~~[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 if [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.

1. Except as provided in subparagraph 2 of this paragraph,

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.

2. [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 or [and] the Cabinet for Families and Children.

Section 3. Existing Buildings and Conditions. (1) Buildings and conditions approved under the Kentucky Building Code which is incorporated by reference in 815 KAR 7:105.

(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. An [Any] alteration, addition or change to the structure which is [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 a [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. A [Any] building, facility, or portion thereof, which was constructed and approved prior to the effective dates [date] of the Kentucky Building Code and this administrative regulation, shall be maintained as previously permitted. A change [and no changes] to the construction of the building in excess of that required by the codes at the time of construction shall not be required if [so long as] the building is used and maintained as originally approved.

(b) Previous fire code. A [Any] building, facility, or portion thereof, including an alternative [any alternatives], which was [were] inspected and approved or accepted pursuant to the 1996 Kentucky Fire Prevention Code shall:

1. Be maintained as previously approved or accepted; and

2. [shall] Not be required to make a modification or change if [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 this administrative regulation, without a violation of an [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 the [such] certificate was required at the time of construction. The [and that] use may continue without change if [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 standards specified in this paragraph to order the correction of a distinct fire hazard and shall act in accordance with the procedures established in KRS Chapter 227 and Section 5 of this administrative regulation.

1. Except as provided in subparagraphs 2 and 3 of this paragraph, the following code standards shall be applicable:

a. NFPA Fire Prevention Code (NFPA 1). The provisions of Section 7-1.3 through 7-1.3.2.2, High Rise Buildings, shall not be mandatory upon adopted by local ordinance for a particular jurisdiction;

b. NFPA 101, Life Safety Code; and

c. The Kentucky Building Code shall apply to a new building and to an alteration, addition, or change of use in accordance with Section 2(1) of this administrative regulation.

2. Other referenced standards. The fire prevention, life safety and building code standards specified in subparagraph 1 of this paragraph shall be deemed safe practices and shall be used to comply with this administrative regulation. A later edition of a code shall be deemed equivalent to the edition incorporated by reference in this administrative regulation.

3. Superceding provisions. If a provision of this administrative regulation establishes regulatory criteria different from the criteria established in a code specified in subparagraph 1 of this paragraph, the provisions of this administrative regulation shall supercede 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. [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) A [Any] condition, equipment, building, facility or portion thereof or an [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, if [so long as] it is maintained and used as accepted or approved.

(5) Abatement of fire hazards. The abatement of a [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 a [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. An [; and] inspection or permit fee, if applicable [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 each [any] other person responsible for the deficiency.

(3) Failure to correct deficiency. Except if [when] an appeal is in process pursuant to Section 6 of this administrative regulation, each

deficiency shall be considered a violation. If a correction [and if the corrections] required in the notice of deficiency is [are] not completed within the time specified, the 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 an [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 shall be to [lies with] the local authority having jurisdiction as provided by the ordinance.

Section 7. Temporary Occupancies. A change [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 a [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 a [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 a [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 a [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 a vehicle or home [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;

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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. Except as provided in paragraph (c) of this subsection, an inspection or test required by Chapter 6, 7 or 8 of the NFPA Fire Prevention Code shall be conducted and reported by a person authorized or certified by the State Fire Marshal's Office. [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. A required inspection or test [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. A portable fire extinguisher or [extinguishers and] single station smoke detector inspection or test [inspections or tests] may be inspected and tested by the property owner and their agent. These reports shall not be [are not] required to be filed with the State Fire Marshal.

(d) Frequency. Periodic test and inspection [inspections] of a fire suppression or [and] alarm system [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; and

(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.

(2) [(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) Superceding 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 supercede 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 PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(As Amended at ARRS, May 11, 1999)

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 318.040(1)(d), (2), (3), 318.050, 318.054(2) [318.130] [318.010, 318.020, 318.040, 318.050, 318.054]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.040(1)(d) requires an applicant for a master or journeyman plumber's license to possess the qualifications established in KRS 318.040 and other qualifications prescribed by the commissioner. KRS 318.040(2) and (3) require an applicant to successfully complete an examination prescribed by the department. KRS 318.050 requires the department to establish reasonable application fees for licensure as a master or journeyman plumber. KRS 318.054(2) requires the department to establish reasonable renewal fees. This administrative regulation establishes the application and examination requirements and the application and renewal fees. [KRS 318.040 requires the department to conduct examinations for master and journeyman plumber applicants. This administrative regulation establishes the (relates to those) requirements and the fees for the examination (required). It also relates to the time, place and methods of examinations.] [This amendment is necessary to increase the renewal fees of licensed master and journeyman plumbers to a level sufficient to meet the costs of carrying out the plumbing program when taken together with permit fees in 815 KAR 20:050. This increase was approved by the Plumbing Code Committee on August 8, 1994.]

Section 1. Applications for Examination for Master or Journeyman Plumber's Licenses. (1) An application [Applications] for examination for a master or journeyman plumber's license [licenses] shall be submitted to the Department of Housing, Buildings and Construction on:

(a) Form PLB-1, Application for License as a Master Plumber; or

(b) Form PLB-2, Application for License as a Journeyman Plumber [forms furnished by the department].

(2) The [Each] application shall be:

(a) Properly notarized;

(b) [and] Accompanied by a fee of:

1. \$150 for a master plumber's license; or

2. 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 a master or journeyman plumber's license [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 Construction directs.

(2) Time and place of examination. Notice of the time and place of examination shall be given by United States mail at least one (1) week prior to the date of examination to each person who has an application [all persons having applications] on file.

(3) Materials required for journeyman plumbers' examinations. An applicant [Applicants] for a journeyman plumber's license [licenses] shall furnish the materials required for the practical examination, which are specified in the List of Required Examination Materials.

(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:

(a) \$250 for a master plumber; and

(b) [plumbers and] Forty (40) dollars for a journeyman plumber [plumbers].

(2) Inactive master renewal.

(a) To apply for an inactive master plumber license, a master plumber shall pay an inactive application fee of \$125.

(b) An inactive master plumber shall not secure a plumbing permit, advertise, or represent himself as a qualified master plumber.

(c) To reactivate a master plumber license, the inactive master plumber shall pay an additional \$125. [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. A renewal fee [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. Pursuant to KRS 318.040(1)(d) [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)(a) An applicant shall have:

1. [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

2. [shall have] [has] Been actively employed in plumbing under the supervision of a licensed master plumber for a minimum of two (2) years; or

(b) [(2)] The applicant shall be a Kentucky registered engineer experienced in mechanical engineering.

(2) [(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 KRS Chapter 318 and 815 KAR Chapter 20 [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.

(3) [(4)] The examination shall include~~[-, but not be limited to:]~~

(a) Answering written questions pertaining to basic principles of plumbing and KRS Chapter 318 and 815 KAR Chapter 20 [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.]

(4) [(5)] [(4)] The passing grade for the total examination for a master plumber [plumbers] shall be eighty (80) percent, with ~~[- how-~~

~~ever.]~~ a minimum of seventy-five (75) percent ~~[shall be]~~ obtained for each portion of the examination established in subsection (3) [in paragraphs] (a) and (b) of this section [subsection].

Section 5. [6.] Requirements for Journeyman Plumber Applicants. Pursuant to KRS 318.040(1)(d) ~~[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 KRS Chapter 318 and 815 KAR Chapter 20 [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 the ability to properly install plumbing by engaging in certain activities such as properly caulking ~~[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 a journeyman plumber [plumbers] shall be seventy-five (75) percent, with ~~[- however,]~~ a minimum of seventy (70) percent ~~[shall be]~~ obtained for each portion of the examination established in subsection (2) [paragraphs] (a), (b) and (c) of this section [subsection].

Section 6. A master plumber or journeyman plumber ~~[7. All Master Plumbers and Journeyman Plumbers]~~ shall notify the department of the name of the plumber's ~~[their]~~ business and its address, ~~[their]~~ employer and his address and each ~~[any]~~ time a change of employment is made.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form PLB-1, Application for License as a Master Plumber, April 1992;

(b) Form PLB-2, Application for License as a Journeyman Plumber, April 1992; and

(c) List of Required Examination Materials, May 1999.

(2) This material may be inspected, copied, or obtained at the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

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.

CABINET FOR FAMILIES AND CHILDREN
Department for Community-Based Services
Division of Policy Development
(As Amended at ARRS, May 11, 1999)

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

RELATES TO: KRS 205.010, 205.200(2), (3), 205.2003, 205.2005, 205.703, 45 CFR 205.10, 205.52, 232.11-12, 232.40-48, 233.10, 233.40, 233.50, 233.90, 233.100, 8 USC 1611-1645, 42 USC 601 et seq., [602;] [~~"Expansion of Definition of Specified Caretaker Relative", Transmittal No. AGF-AT-91-33 (December 12, 1991), U.S. Department of Health and Human Services, Administration for Children & Families, Office of Family Assistance, "Determining AFDC Eligibility When the Only Dependent Child Receives Foster Care Benefits", Transmittal No. AGF-AT-94-5 (February 28, 1994), U.S. Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance] [-PL-104-208]~~

STATUTORY AUTHORITY: KRS 194B.050 [194.050(1)], 205.010, 205.200(2), (3), 42 USC 601 et seq., EO 98-731 [96-862]

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

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

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

(b) Sexual abuse;

(c) Sexual activity involving a dependent child;

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

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

(f) Mental abuse; or

(g) Neglect or deprivation of medical care.

(2) "Cabinet" means the Cabinet for Families and Children.

(3) "Child" means an individual:

(a) [1-] Age fifteen (15) or under;

(b) [2-] Age sixteen (16), [or] seventeen (17), or eighteen (18) in regular full-time attendance in elementary, junior high, or high school or equivalent level of vocational or technical school; or

(c) [3-] Age eighteen (18), in regular full-time attendance in high school or equivalent level of vocational or technical school and expected to complete a course of study:

a. Before reaching age nineteen (19); or

b. During the month of the 19th birthday; or

4-] Under age eighteen (18) and a high school graduate.

(4) "Domestic violence" means "battered or subjected to extreme cruelty" as defined in subsection (1) of this section.

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

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

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

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

(6) "Kentucky Works" means a program which assists recipients of K-TAP in obtaining education, training, experience and employment necessary to leave public assistance.

(7) "Minor teenage parent" means an individual who:

(a) Has not attained eighteen (18) years of age;

(b) Is not married or is married and not living with the spouse; and

(c) Has a minor child in the applicant's or recipient's care.

(8) "Parent" means the natural, adoptive, or adjudicated (including administrative establishment of paternity) parent of the child.

[(9) "Principal wage earner (PWE)" means the parent who earned the greater amount of income in the twenty-four (24) months immediately preceding the month of application for K-TAP benefits based on the deprivation of unemployment;]

(9) "Prior labor market attachment (PLMA)" means the parent has earned not less than \$1,000 [fifty (50) dollars] during the twenty-four (24) [twelve (12)] months prior to [each of six (6) or more calendar quarters ending on March 31, June 30, September 30 or December 31, with any thirteen (13) calendar quarter period ending within one (1) year of] the application, for K-TAP benefits based on the deprivation of unemployment.

(10) "Qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive K-TAP, is:

(a) Lawfully admitted for permanent residence under 8 USC 1101 et seq.;

(b) Granted asylum under 8 USC 1158;

(c) A refugee who is admitted to the United States under 8 USC 1157;

(d) Paroled into the United States under 8 USC 1182(d)(5) for a period of at least one (1) year;

(e) An alien whose deportation is being withheld under:

1. 8 USC 1253(h), as in effect prior to April 1, 1997; or

2. 8 USC 1231(b)(3);

(f) Granted conditional entry pursuant to 8 USC 1153(a)(7) as in effect prior to April 1, 1980; or

(g) An alien who is granted status as a Cuban and Haitian entrant pursuant to 8 USC 1522; [~~Lawfully residing in any state and is:~~

1. A veteran as defined in 38 USC 101 with a discharge characterized as an honorable discharge and not on account of alienage;

2. On active duty other than active duty for training in the Armed Forces of the United States; or

3. The spouse or unmarried dependent child of an individual described in paragraph (g) 1 or 2 of this subsection;]

(h) Battered or subjected to extreme cruelty in the United States by:

1. A spouse or a parent; or

2. A member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, the battery or cruelty; or

(i) An alien, a child of an alien or a child who is an alien who has been battered or subjected to extreme cruelty in the United States by:

1. A spouse or a parent of the alien without the active participation of the alien in the battery or cruelty; or

2. A member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to the battery or cruelty.

(j) Provisions in paragraph (h) and (i) of this subsection shall apply only if:

1. The alien no longer resides in the household with the individual responsible for the battery or cruelty;

2. There is a substantial connection between the battery or cruelty and the need for the benefit; and

3. The alien has been approved or has a petition pending for:

a. Status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of 8 USC 1154(a)(1)(A);

b. Classification pursuant to clause (ii) or (iii) of 8 USC 1154(a)(1)(B); or

c. Suspension of deportation and adjustment of status pursuant to 8 USC 1254(a)(3).

(k) An alien who is lawfully residing in Kentucky and is:

1. A veteran as defined in 38 USC 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on

account of alienage;

2. On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements pursuant to 38 USC 5303A(d); or

3. The spouse or unremarried surviving spouse if the marriage fulfills the requirements in 38 USC 1304, or unmarried dependent child of an individual described in clause a or b of this subparagraph.

(l) An alien who is admitted to the United States as an Amerasian immigrant pursuant to 8 USC 1101.

(11) "Qualifying parent" means the parent who meets PLMA ~~[earned the greater amount of income in the twenty-four (24) months immediately preceding the month of application for K-TAP benefits based on the deprivation of unemployment].~~

(12) "Second chance home" means an entity that provides a minor teenage parent a supportive and supervised living arrangement in which a minor teenage parent is required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote long-term economic independence and the well-being of the child of the minor teenage parent.

(13) "Striker" means an employed individual who is participating in:

- (a) A work stoppage;
- (b) A concerted slowdown of work; or
- (c) An interruption of operations at his place of employment.

(14) "Supplemental Security Income (SSI)" means monthly cash payments made under the authority of:

- (a) 42 USC 1381 to 1385 to the aged, blind and persons with a disability;
- (b) 42 USC 1382e; or
- (c) 42 USC 1382.

(15) "Unemployed parent" (UP) case means K-TAP benefits paid to a family when both parents are in the home and at least one (1) parent is unemployed.

(16) "Work" means participation in the following:

(a) ~~[Except for two (2) parent cases, for all families work means at least twenty (20) hours or more per week of:~~

- 1. ~~Unsubsidized employment;~~
- 2. ~~Subsidized employment;~~
- 3. ~~Work experience training;~~
- 4. ~~Community services; or~~
- 5. ~~Participation in Work programs established by the cabinet.~~

~~For two (2) parent cases work means at least thirty-five (35) hours or more per week of:~~

- 1. ~~Unsubsidized employment;~~
- 2. ~~Subsidized employment;~~
- 3. ~~Work experience training;~~
- 4. ~~Community services; or~~
- 5. ~~Participation in work programs established by the cabinet.]~~

Section 2. Age and School Attendance. (1) The definition of a "child", as specified in Section 1 of this administrative regulation shall be met for at least one (1) person in the home.

(2) Verification of school attendance shall be required for:

(a) A child who is sixteen (16), seventeen (17), or eighteen (18) years of age, in order to determine his continuing eligibility; or

(b) A minor teenage parent pursuant to Section 18(1) of this administrative regulation.

(3) Full- and part-time school attendance is defined in 904 KAR 2:016, Standards for need and amount for K-TAP.

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

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

(5) Verification of a high school diploma for a child under age eighteen (18) who is a high school graduate shall be required.

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

(2) Refusal to furnish the Social Security number or apply for a

number shall result in the ineligibility of the person whose Social Security number is not furnished.

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

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

(a) Is living in the state voluntarily and not for a temporary purpose; or

(b) Entered the state with a job commitment or seeking employment; and

(c) Is not receiving assistance funded by a block grant program under 42 USC 601 et seq. from another state.

(2) Citizenship.

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

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

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

1. An alien who is admitted to the United States as a refugee under 8 USC 1157.

2. An alien who is granted asylum under 8 USC 1158.

3. An alien whose deportation is being withheld pursuant to:

- a. ~~[under]~~ 8 USC 1253(h), as in effect prior to April 1, 1997; or
- b. 8 USC 1231(b);

4. An alien who is lawfully residing in Kentucky and is:

a. A veteran as defined in 38 USC 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;

b. On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements pursuant to 38 USC 5303A(d); or

c. The spouse or unremarried surviving spouse if the marriage fulfills the requirements in 38 USC 1304, or unmarried dependent child of an individual described in clause a or b of this subparagraph;

5. An alien who is a Cuban and Haitian entrant pursuant to 8 USC 1522; or

6. An alien who is admitted to the United States as an Amerasian immigrant pursuant to 8 USC 1101.

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

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

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

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

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

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

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

(2) Absence may be voluntary or involuntary.

(a) Voluntary absence includes:

- 1. Divorce;
- 2. Legal separation;
- 3. Marriage annulment;
- 4. Desertion;
- a. Of thirty (30) days or more if:

- (i) The parent voluntarily leaves; or
- (ii) The parent refuses to accept the child into his home; or
- b. Of less than thirty (30) days if:
 - (i) The child leaves the parent because the parent was requiring the child to live under circumstances hazardous to the health or morals of the child; or
 - (ii) One (1) of the parents in the home is required by the court to leave the home because that parent was requiring the child to live under circumstances hazardous to the health or morals of the child; or
 - (iii) The child is voluntarily placed with relatives following a finding by the cabinet [Department for Social Services] that the home is unsuitable; or
 - (iv) The child is placed by the court with a specified relative other than the parent; or
 - (v) The child is eligible and receiving benefits based on the unemployment or the incapacity of a parent and one (1) of the parents subsequently leaves the home; or
 - (vi) Both parents are absent from the home;
- 5. Forced separation [of seven (7) days or more]; or
- 6. Birth out-of-wedlock.
- (b) Involuntary absence includes:
 - 1. Commitment to a penal institution for thirty (30) days or more;
 - 2. Long-term hospitalization;
 - 3. Deportation; or
 - 4. Single parent adoption.
- (3) A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday shall be considered absent from the home.

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

- (a) Medical;
- (b) Social; and
- (c) Economic.
- (2) If a verified medical condition exists, then all relevant social and economic factors shall be considered to determine whether the parent's condition is the cause of and results in the parent's inability to support or care for the child.
- (3) Incapacity exists in a case when the following criteria are met:
 - (a) It is medically determined that one (1) parent has a physical or mental disability, illness or impairment which was:
 - 1. Present at the time of application; and
 - 2. Which has continued or is expected to last for a period of at least thirty (30) calendar days.
 - (b) The thirty (30) day period may include a period in which the claimant is undergoing:
 - 1. Planned diagnostic studies; or
 - 2. Evaluation of rehabilitation potential; and
 - (c) It is determined by nonmedical evaluation that the disability, illness or impairment is debilitating to the extent of reducing substantially or eliminating the parent's ability to support or care for an otherwise eligible child.
- (4) A determination regarding incapacity shall be made by:
 - (a) [a:] Field staff if the following criteria are met:
 - 1. The parent declares physical inability to work;
 - 2. The worker observes some physical or mental limitation; and
 - 3. The parent:
 - a. Is receiving SSI; or
 - b. Is age sixty-five (65) or over; or
 - c. Has been determined to meet the definition of blindness as contained in 42 USC 1382c or 42 USC 416 by the Social Security Administration; or
 - d. Has been determined to meet the definition of permanent and total disability as contained in 42 USC 1382c or 42 USC 416 by either:
 - (i) The Social Security Administration; or
 - (ii) The medical review team of the Department for Community-Based Services [Social Insurance]; or
 - e. Has previously been determined to be incapacitated or permanently and totally disabled by the medical review team, hearing officer, appeal board, or court of proper jurisdiction with no reexamination requested and there is no visible improvement in condition; or

- f. Is receiving Retirement, Survivors and Disability Insurance, federal black lung benefits, or railroad retirement benefits based on disability as evidenced by an award letter; or
- g. Is receiving Veterans Administration benefits based on 100 percent disability, as verified by an award letter; or
- h. Is currently hospitalized and a statement from the attending physician indicates that incapacity will continue for at least thirty (30) days. If application was made prior to the admission, the physician is also requested to indicate if incapacity existed as of application date; or
- i. Is recovering from surgery, illness or injury which requires a period of time for recovery, up to six (6) weeks, as specified by a physician statement. Periods longer than six (6) weeks shall be determined through the medical review team; or
- j. Is on approved sick leave recovering from surgery, illness or injury for the duration of the approved sick leave if the employer is holding the job for the individual's return, as verified by the employer; or
- k. Is a woman in a high risk pregnancy, during the duration of the pregnancy, as verified by physician statement.
- (b) The medical review team, consisting of a licensed physician and a social worker employed by the agency, if a determination by field staff is precluded.
- (5) Factors to be considered by the medical review team in making the medical determination shall include:
 - (a) The claimant's medical history and subjective complaints regarding an alleged physical or mental disability, illness or impairment; and
 - (b) Competent medical testimony relevant to:
 - 1. Whether a physical or mental disability, illness or impairment exists;
 - 2. Whether the disability, illness or impairment is sufficient to reduce the parent's ability to support or care for a child; and
 - 3. Whether the disability, illness or impairment is likely to last thirty (30) days.
 - (6) Factors to be considered in making the nonmedical evaluation shall include:
 - (a) The claimant's:
 - 1. Age;
 - 2. Employment history;
 - 3. Vocational training;
 - 4. Educational background; and
 - 5. Subjective complaints regarding the alleged effect of the physical or mental condition on the claimant's ability to support or care for the child; and
 - (b) The extent and accessibility of employment opportunities available in the claimant's area of residence.
 - (7) In determining the extent and accessibility of available employment opportunities, the limited employment opportunities of individuals with a disability shall be taken into account; and
 - (a) Available printed materials that provide information regarding available employment opportunities shall be researched;
 - (b) The local Department for Employment Service office shall be contacted regarding accessible employment opportunities within the claimant's area of residence; and
 - (c) The claimant shall be referred, if necessary, for further appraisal of his abilities.
 - (8) A written report shall be made of the determination under this subsection.
 - (9) Each claimant shall be provided timely and adequate notice of and an opportunity for a fair hearing as provided in 921 [904] KAR 2:055.

Section 9. Deprivation Due to Unemployment. (1) The determination that a child is deprived of parental support due to the unemployment of a parent when both parents are in the home shall be based on the determination that the qualifying parent [principal wage earner] meets the criteria of unemployment and has a PLMA, as defined in Section 1 of this administrative regulation.

 - (2) The determination of the qualifying parent [PWE] shall include the following:
 - (a) If the agency is unable to secure primary evidence of earnings to determine which parent is the qualifying parent [PWE], the agency

shall designate the qualifying parent [PWE] using the best evidence available.

(b) If both parents earned identical amounts of income, or no income, the agency shall designate the parent meeting the criteria of unemployment, as specified in subsection (3) of this section.

(c) Earnings of each parent shall be considered in determining the qualifying parent [PWE] regardless of when their relationship began.

(d) The qualifying parent [PWE] designation shall remain with the same parent as long as assistance is received on the basis of the same application.

(3) Unemployment. A parent shall be considered to be unemployed if:

(a) Employed less than 100 hours in a calendar month; or

(b) Employment exceeds 100 hours in a particular month, but the work is intermittent and the excess is of a temporary nature. This would be evidenced by the fact that the parent:

1. Was under the 100 hour standard in the prior two (2) months, from the month of application for K-TAP; and

2. Is expected to be under the 100 hour standard in the following month of application for K-TAP.

(c) The 100 hour requirement for unemployment in paragraphs (a) and (b) of this subsection shall apply to K-TAP applicants.

(4) PLMA shall be established if the parent:

(a) Attests to the amount of earnings ~~[an employment history]~~ meeting the definition in Section 1(9) of this administrative regulation;

1. Gross income from self-employment and farming qualify as earned income in determining PLMA; and

2. The self-employed individual does not have to realize a profit to meet this requirement.

(b) Within twelve (12) months prior to application, received unemployment compensation; or

(c) Is currently receiving unemployment compensation or if potentially eligible, has made application for and complies with the requirements to receive unemployment insurance benefits.

(5) In determining whether or not criteria in subsection (4) of this section is met, two (2) semesters of ~~[the following shall be taken into consideration:~~

~~(a) Participation in the Kentucky Works Program shall be considered as earning an income in determining PLMA.~~

~~(b) full-time school attendance, as defined by the school or institution, may be substituted for \$500 of the \$1000 earnings. [two (2) of the six (6) calendar quarters. Qualifying activities shall be:~~

~~1. An elementary;~~

~~2. Secondary; or~~

~~3. Vocational or technical training course designed to prepare the individual for gainful employment.~~

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

(6) Restrictions. Unemployment shall not exist if the qualifying parent [PWE]:

(a) Is on strike;

(b) Is temporarily unemployed:

1. Due to weather conditions or lack of work;

2. If there is a job to return to; and

3. Return can be anticipated within thirty (30) days or at the end of a normal vacation period;

(c) Is unavailable for full-time employment;

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

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

(f) Is not:

1. Registered for work pursuant to 904 KAR 2:370, Section 4(3);

or

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

(g) Has refused a bona fide offer of employment or training for employment without good cause in the thirty (30) days prior to UP eligibility or during the course of receipt of UP benefits. Good cause exists if criteria specified in 904 KAR 2:370, Section 6(1) ~~[2:016; Section 4(4)(a)1, 2, 3, or 4]~~ are met.

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

(1) A blood relative, including[:

(a) Father;

(b) Mother;

(c) Grandfather;

(d) Grandmother;

(e) Brother;

(f) Sister;

(g) Uncle;

(h) Aunt;

(i) Nephew;

(j) Niece;

(k) First cousin; and

(l) First cousin once removed;

(2) a relative of the half-blood;

(3) Preceding generations denoted by prefixes of:

(a) Grand;

(b) Great;

(c) Great-great; or

(d) Great-great-great;

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

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

(3) [(6)] An adoptive parent, the natural and other legally adopted child and other relative of the adoptive parent;

(4) [Legal guardian;

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

(a) For K-TAP eligibility purposes, a couple that has been considered married by a state with common-law marriage provisions shall be considered married.

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

(5) [(6)] [(9)] Cash assistance shall not be provided for a child who is absent, or expected to be absent, from the home for a period of thirty (30) consecutive days or more unless good cause exists. Good cause for absence, or expected absence, of the child from the home for a period of thirty (30) consecutive days or more, shall exist if the parent continues to exercise care and control of the child and the child is absent due to:

(a) Medical care;

(b) Attendance at school including boarding school;

(c) College or vocational school;

(d) Emergency foster care, as verified by the cabinet [Department for Social Services]; or

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

(6) [(7)] [(9)] A child shall be removed from the benefit group the first administratively feasible month following thirty (30) consecutive days from the date the child is placed in emergency foster care. If the only eligible child in the benefit group is absent due to emergency foster care, the otherwise eligible parent or parents in the benefit group shall:

(a) Remain eligible for sixty (60) days from the date the child is placed in emergency foster care; and

(b) If no other eligible child is in the benefit group, be discontinued the first administratively feasible month following sixty (60) days from the date the child is placed in emergency foster care.

(7) [(8)] [(10)] If a specified relative fails to notify the agency of a thirty (30) consecutive day or more absence of the child for a reason other than one (1) of the good cause reasons listed in subsection (8) of this section, the specified relative shall not be eligible for his share of K-TAP benefits during the period of the child's unreported absence of thirty (30) consecutive days or more. Ineligible benefits received by the specified relative and child during the period of the child's unre-

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ported absence of thirty (30) consecutive days or more shall be recouped pursuant to Section 10 of 904 KAR 2:016.

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

- (a) A birth certificate listing the alleged parent; or
- (b) Legal documents such as:
 1. Hospital records;
 2. Juvenile court records;
 3. Wills; and
 4. Other court records which clearly indicate the relationship of the alleged parent or relative; or
- (c) Receipt of statutory benefits as a result of the alleged parent's circumstances; or
- (d) A sworn statement or affidavit of either parent acknowledging paternity plus one (1) of the following:
 1. School records;
 2. Bible records;
 3. Immigration records;
 4. Naturalization records;
 5. Church documents, such as baptismal certificates;
 6. Passport;
 7. Military records;
 8. U.S. Census records; or
 9. Notarized statement or affidavit from an individual having specific knowledge about the relationship between the alleged parent and child.

(2) Rebuttal of administrative paternity may occur if:

- (a) The parent or, in the absence of the parent, the caretaker relative alleges the evidence present in subsection (1)(a) or (b) of this section is erroneous and provides substantiation of the erroneous information; and
 - (b) The parent or caretaker relative provides a notarized statement or affidavit acknowledging the erroneous information and containing the correct information on the actual alleged parent.
- (3) Presence of the notarized statement or affidavit specified in subsection (2)(b) of this section shall serve as rebuttal to the evidence present in subsection (1)(a) or (b) of this section and a determination of paternity shall not be acknowledged.

Section 12. One (1) Category of Assistance. (1) A child or adult relative shall not be eligible for K-TAP if receiving SSI.

(2) If a child who receives SSI meets the K-TAP requirements of age, deprivation and living in the home of a specified relative, the specified relative may be approved for K-TAP if all other eligibility factors are met.

(3) If a child who receives foster care benefits meets the K-TAP requirements of age, deprivation and living in the home of a specified relative, the specified relative may be approved for K-TAP if all other eligibility factors are met.

Section 13. Strikers. (1) A family shall be ineligible for benefits for any month in which the parent, with whom the child is living is, on the last day of the month, participating in a strike; and

(2) A specified relative other than the parent shall be ineligible for benefits for any month if, on the last day of the month, the relative is participating in a strike.

Section 14. Work Registration. An adult applicant or recipient of the K-TAP benefit group shall register for work pursuant to 904 KAR 2:370, Section 4(3).

Section 15. Kentucky Works. The technical requirements for participation in the Kentucky Works Program are specified in 904 KAR 2:370.

Section 16. Cooperation in Child Support Enforcement Activities. (1) The Department for Community-Based Services [Social Insurance] shall attempt to secure parental support, and if necessary establish paternity, for children receiving K-TAP based on the following volun-

tary absence deprivation factors:

- (a) Divorce;
- (b) Desertion;
- (c) Birth out-of-wedlock;
- (d) Legal separation;
- (e) Forced separation; or
- (f) Marriage annulment.

(2) With the exception of good cause reasons, specified in subsection (4) of this section, avoidance of the twenty-five (25) percent reduction of the amount of the payment maximum in K-TAP benefits pursuant to subsection (7) of this section shall be dependent upon the applicant's or recipient's cooperation in child support activities. This includes:

- (a) Identifying the noncustodial parent or obligor;
 - (b) Providing information to assist in the location of the noncustodial parent or obligor;
 - (c) Establishing paternity; and
 - (d) Forwarding child support payments received to the agency.
- (3) The Cabinet for Families and Children shall provide written notice to the applicant or recipient that he may claim good cause for refusing to cooperate.

(4) The applicant or recipient shall be determined to have "good cause" for failing to cooperate only when one (1) or more of the following criteria is met:

- (a) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to the child; or
- (b) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to himself to such an extent that it would reduce his capacity to care for the child adequately; or
- (c) The child was conceived as a result of incest or forcible rape and the department believes it would be detrimental to the child to require the applicant's or recipient's cooperation; or
- (d) Legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction and the department believes it would be detrimental to the child to require the applicant's or recipient's cooperation; or
- (e) The applicant or recipient is being assisted by a public or licensed private social service agency:
 1. To resolve whether to keep the child or release him for adoption; and
 2. Discussion has not gone on for more than three (3) months; and

3. The cabinet believes it would be detrimental to the child to require the applicant's or recipient's cooperation.

(5) Unless an extension is granted, the applicant or recipient shall have twenty (20) days from the date the good cause claim is filed to provide evidence to substantiate the claim.

(a) Evidence upon which a determination of good cause shall be made includes the following:

1. Birth certificates, medical, or law enforcement records indicating that the child was conceived as a result of incest or forcible rape;
2. Court documents or other records indicating legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction;
3. Records (court, medical, criminal, child protective services, social services, psychological or law enforcement) indicating the non-custodial parent or obligor, or the alleged parent might inflict physical or emotional harm on the child or caretaker relative;
4. A written statement from a public or licensed private social service agency that assistance is being given to the applicant or recipient to resolve the issue of whether to keep the child or relinquish the child for adoption and the issue has not been pending more than three (3) months; or
5. Notarized statements from individuals, other than the applicant or recipient, with knowledge of the circumstances which provide the basis for the "good cause" claim.

(b) In each good cause determination based upon anticipation of serious emotional harm to the child or caretaker relative, the following shall be considered:

1. The present emotional state of the individual subject to emotional harm;

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

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

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

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

(4) If an applicant or recipient voluntarily reduces the amount of benefits received from another source, other than for the purpose of reimbursing the source for a previous overpayment, this action shall result in ineligibility.

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

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

and

- (b) Has not completed a high school education (or its equivalent).
- (2) Except as provided in subsection (4) of this section, a minor teenage parent and his minor child shall reside in:
 - (a) A place of residence maintained by:
 1. A parent;
 2. A legal guardian;
 3. An adult relative as described in Section 10 of this administrative regulation; or
 - (b) An appropriate adult supervised supportive living arrangement, that includes a second chance home or maternity home, taking into consideration the needs and concerns of the minor teenage parent.
 - (3) The cabinet shall provide or assist the minor teenage parent in locating a second chance home, maternity home, or other appropriate adult supervised supportive living arrangement if:
 - (a) The minor teenage parent does not have:
 1. A parent, legal guardian or appropriate adult relative as described in Section 10 of this administrative regulation who is living or whose whereabouts are known; or
 2. A living parent, legal guardian, or other appropriate adult relative as described in Section 10 of this administrative regulation who otherwise meets applicable state criteria to act as the legal guardian of the minor teenage parent, who would allow the minor teenage parent to live in the home of the parent, guardian, or relative as described in Section 10 of this administrative regulation; or
 - (b) The cabinet determines:
 1. The minor teenage parent or the minor child of the teenage parent is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the minor teenage parent's own parent or legal guardian; or
 2. Substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the minor teenage parent and the minor child lived in the same residence with the minor teenage parent's own parent or legal guardian.
 - (4) The requirement in subsection (2) of this section shall be waived if:
 - (a) The cabinet determines living in the place of residence maintained by the parent, legal guardian, or adult relative as described in Section 10 of this administrative regulation is not in the best interest of the minor child taking into consideration the needs and concerns of the minor child; or
 - (b) The cabinet determines the minor teenage parent's current living arrangement is appropriate.
 - (5) If circumstances change and the current arrangement ceases to be appropriate based on the needs and concerns of the minor teenage parent, the cabinet shall assist the minor teenage parent in finding an alternate appropriate arrangement.
 - (6) The minor teenage parent shall complete a "Teen Parent Personal Responsibility Plan", form PA-202TP.
 - (7) If the minor teenage parent is determined to be ineligible for K-TAP as a result of not complying with provisions found in Section 18 of this administrative regulation, payments to a protective payee shall continue for the eligible child of the minor teenage parent.
 - (8) Even if exemption criteria is met and the cabinet determines the minor teenage parent's current living arrangement is appropriate, a minor teenage parent and his child, who do not reside in a place of residence maintained by a parent, legal guardian, other adult relative as described in Section 10 of this administrative regulation, second chance home or maternity home, shall be considered an adult regarding benefit time limitations pursuant to Section 19 of this administrative regulation.

Section 19. Benefit Time Limits. (1) K-TAP shall not be provided to a benefit group, as defined by Section 1 of 904 KAR 2:016, that includes an adult, or minor teenage parent pursuant to Section 18(8) of this administrative regulation, who has received assistance for sixty (60) months from a federally-funded program funded under 42 USC 601 et seq., whether or not consecutive.

(2) A month or months of assistance received by an otherwise eligible benefit group shall not be counted toward the sixty (60) months lifetime limit:

- (a) If the benefit group contains an adult who is battered or subjected to extreme cruelty pursuant to Section 23 of this administrative

regulation; or

(b) During a month or months the benefit group is not issued a K-TAP check in accordance with 921 [904] KAR 2:050.

(3) After assistance has been received for sixty (60) months, an otherwise eligible benefit group containing one (1) of the following individuals shall be allowed an extension of the sixty (60) months time limit, during the period the individual:

(a) Is battered or subjected to extreme cruelty;

(b) Has a physical or mental disability prohibiting work as determined by the cabinet;

(c) Is required to provide constant care of a household member who is a parent, spouse or child with a disability and no alternative care arrangement is available; or

(d) Is a grandparent caring for an eligible child who would otherwise be placed in foster care.

(4) If otherwise eligible, a benefit group containing a member who has lost a job within thirty (30) days of reaching the sixty (60) month time limit shall receive a three (3) month extension of the time limitation.

(5) Each month of participation in the wage supplementation component of Kentucky Works, pursuant to 904 KAR 2:370, Section 2 shall count toward the sixty (60) month lifetime limit.

(6)(a) Within twenty-four (24) months of receiving K-TAP assistance, whether or not consecutive, a parent or caretaker relative receiving assistance, shall work or participate in approved work activities, if available, as defined in Section 1(16) [(45)] of this administrative regulation.

(b) The twenty-four (24) month limitation shall not be applied until the individual has been penalized for failure to participate in Kentucky Works, pursuant to 904 KAR 2:370, Section 7, for a period of six (6) cumulative months.

(7) Time limitations shall apply to a sanctioned or penalized individual as defined in 904 KAR 2:016, Section 1(22).

Section 20. Receiving Assistance in Two (2) or More States. K-TAP assistance shall be denied for ten (10) years to a person who has:

(1) Been convicted in federal or state court of having made a fraudulent statement or representation committed after August 22, 1996, with respect to the place of residence of the individual in order to receive assistance simultaneously from two (2) or more states:

(a) Under a program funded under:

1. 42 USC 601 et seq.;

2. 42 USC 1396; or

3. 7 USC 2011 et seq.; or

(b) For benefits received under supplemental security income.

(2) The requirement in subsection (1) of this section shall not apply to a conviction for any months beginning after the granting of a pardon by the President of the United States with respect to the conduct which was the subject of the conviction.

Section 21. Fugitive Felons. (1) K-TAP assistance shall not be provided to:

(a) An individual fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or an attempt to commit a crime, committed or attempted to be committed after August 22, 1996, which is a felony; or

(b) Violating a condition of probation or parole imposed under federal or state law.

(2) Subsection (1) of this section shall not apply with respect to conduct of an individual for any month beginning after the President of the United States grants a pardon with respect to the conduct.

(3) The sixty (60) month lifetime benefit limitation in Section 19 of this administrative regulation shall apply to a benefit group containing an adult who is ineligible for K-TAP as a result of subsection (1) of this section.

Section 22. Denial of Assistance for Drug Felons. (1) An individual convicted under federal or state law of an offense committed after August 22, 1996, classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use or distribution of a controlled substance as defined in 21 USC 802(6), shall not be eligible for K-TAP benefits, except as provided by KRS 205.2005.

(2) Each individual applying for K-TAP benefits shall be required to state in writing whether the individual or any member of the household has been convicted of a crime described in subsection (1) of this section.

Section 23. Domestic Violence. (1)(a) A K-TAP applicant or recipient shall be screened for a history of domestic violence.

(b) If the applicant or recipient is identified as a victim of domestic violence or with a history of domestic violence and at risk of further domestic violence as determined by the cabinet, the individual shall be referred to counseling and supportive services.

(2) If compliance with the following K-TAP requirements would make it more difficult for an individual receiving K-TAP to escape domestic violence or unfairly penalize the individual who is or has been victimized by domestic violence, or an individual who is at risk of further domestic violence, as determined by the cabinet, the individual shall not be required to meet:

(a) Residency requirements pursuant to Section 4 of this administrative regulation;

(b) Child support cooperation requirements pursuant to Section 16 of this administrative regulation;

(c) Time limitations, for so long as necessary and otherwise eligible, pursuant to Section 19 of this administrative regulation; or

(d) Participation in Kentucky Works requirements pursuant to 904 KAR 2:370.

Section 24. Immunizations. (1) Except as provided under KRS 214.036, a recipient of K-TAP shall maintain current immunizations for an under school age child, pursuant to the Cabinet for Health Services, Department for Public Health Immunization Schedule in 902 KAR 2:060.

(2) The parent or caretaker relative shall be sanctioned, as defined in 904 KAR 2:016, Section 1, for failure to maintain current immunizations.

Section 25. Incorporation [Material Incorporated] by Reference. (1) The following material is incorporated by reference: ~~[Forms necessary to establish technical eligibility requirements for the K-TAP program, with the exception of Kentucky Works participation, are being incorporated. These forms include:]~~

(a) PA-1C Supplement D, "Qualifying Parent Eligibility [Fact Sheet], edition 5/99 [5/97]";

(b) PA-14, "Declaration of citizenship or Alien Status, edition 8/97";

(c) PA-33D, "Child's Certification of School Enrollment/Attendance, edition 8/97";

(d) PA-121, "Good Cause Claim/Determination, edition 5/99 [8/97]";

(e) PA-202TP, "Teen Parent Personal Responsibility Plan, edition 8/97 [2/97]";

(f) PA-219, "Kentucky Works Program Fact Sheet, edition 11/98 [4/97]";

(g) CS-333, "Facts About the Child Support [Enforcement] Program, edition 4/99 [5/97]"; and

(h) CS-333.1, "Facts About the Right to Claim Good Cause, edition 4/99 [5/97]".

(2) This material [incorporated by reference] may be inspected, [and] copied, or obtained at the Department for Community-Based Services [Social Insurance], 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: April 6, 1999

FILED WITH LRC: April 7, 1999 at 11 a.m.

**CABINET FOR FAMILIES AND CHILDREN
Department for Community-Based Services
Division of Policy Development
(As Amended at ARRS, May 11, 1999)**

904 KAR 2:017. Kentucky Works [child-care-and] supportive services.

RELATES TO: KRS 205.200(2), 205.211, 205.2003, 42 USC 601 et seq.

STATUTORY AUTHORITY: KRS 194B.050 [194.050(1)], 205.200(2), 205.2003, 42 USC 601 et seq., EO 98-731 [96-862]

NECESSITY, FUNCTION, AND CONFORMITY: [Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Families and Children.] The Cabinet for Families and Children is required to administer the public assistance programs. KRS 205.200(2) requires that the conditions of eligibility to receive K-TAP money grants be prescribed by administrative regulations in conformity with 42 USC 601 et seq. and federal regulations. KRS 205.2003 requires administrative regulations for the development of a work program for recipients of public assistance to provide for immediate employment or preparation for employment and to provide supportive services to assist in the pursuit of work and self-sufficiency. This administrative regulation sets forth the requirements for receiving Kentucky Works [child-care-and] supportive services.

Section 1. Definitions. (1) "Approved Kentucky Works activities" means participation in an allowable activity pursuant to 904 KAR 2:370, Section 2(2)(c).

(2) "Cabinet" means the Cabinet for Families and Children.

(3) "Component" means services and activities pursuant to 904 KAR 2:370, Section 2(2)(c).

(4) "Component preparation" means the period in which assessment, testing, completion of the transitional assistance agreement Form KW-202 "K-TAP Transitional Assistance Agreement", incorporated by reference in 904 KAR 2:370, and referrals for removal of concerns takes place.

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

(6) "Kentucky Transitional Assistance Program (K-TAP)", Kentucky's Temporary Assistance for Needy Families (TANF) program, means a money payment program for children pursuant to 904 KAR 2:006, Section 1.

(7) "Kentucky Works" means a program which assists recipients of K-TAP in obtaining education, training, experience and employment necessary to leave public assistance [gainful employment and self-support].

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

(9) "Precomponent" means a waiting period between the dates of component assignment and component commencement.

(10) "Preemployment" means a waiting period between the dates of hiring and employment commencement.

(11) "Transitional extension" means a period of up to ninety (90) days subsequent to the discontinuance of the K-TAP case in which supportive service payments may continue if:

(a) The case is not discontinued due to fraudulent activity; and

(b) The case is not discontinued due to failure to comply with procedural requirements; and

(c) The Kentucky Works participant elects to continue the approved component activity in which he is engaged at the time of discontinuance.

Section 2. Payment Entitlement. (1) Except for the exclusions listed in this administrative regulation, those individuals participating in the Kentucky Works Program shall be entitled to payment of:

(a) Child care;

(b) Transportation; and

(c) Other supportive services costs necessary for participation in an approved Kentucky Works activity [as described in Section 10 of this administrative regulation].

(2) Kentucky Works activities are described in 904 KAR 2:370, Section 2(2)(c).

Section 3. [Child-Care Eligibility in Kentucky Works Components: (1) Child care shall be paid for a child meeting the following criteria:

(a) The child is under thirteen (13); or

(b) A dependent child who is physically or mentally incapable of caring for himself, as verified by the written determination of:

1. A physician; or

2. A licensed or certified psychologist; or

(c) A needy dependent child under court supervision; or

(d) Would be a dependent child except for the receipt of benefits under supplemental security income (SSI) under 42 USC 1382 or foster care under 42 USC 672.

(2) Child care shall be provided in the following situations:

(a) Precomponent;

(b) Component preparation;

(c) Component participation;

(d) Preemployment; or

(e) On-the-job training (OJT) participants discontinued from K-TAP, until the end of the component placement.

Section 4. Child-Care Payments. Child-care payments shall be paid pursuant to 905 KAR 2:150.

Section 5. Authorization of Child-Care Payment. (1) Child-care payments shall be authorized upon the receipt of appropriate verification of the cost of care:

(2) Departmental forms required for verification are incorporated by reference in this administrative regulation.

(3) Payments shall be authorized in accordance with 904 KAR 2:050.

Section 6. Restrictions on Authorization of Child-Care Payments. Payment shall not be made if:

(1) Verification is not returned by the end of the month following the month in which the cost was incurred; or

(2) The participant is penalized for noncompliance with Kentucky Works activities, as specified in 904 KAR 2:370.

Section 7. Transportation Payments in Kentucky Works components. Transportation reimbursement shall be paid in the following situations:

(1) Precomponent;

(2) Component preparation;

(3) Component participation, with the exception of OJT and unsubsidized employment, while the K-TAP case remains active. Transportation expenses for individuals in unsubsidized employment are covered by the work expense standard deduction as defined in 904 KAR 2:016, Section 1;

(4) Transitional extension; or

(5) On-the-job training (OJT) participants discontinued from K-TAP, until the end of the component placement.

Section 4. [8:] Transportation Payment Amount and Authorization. (1) If free transportation is unavailable which meets the needs of the recipient, transportation shall be provided for individuals participating in approved Kentucky Works activities through:

(a) Arrangement by the state K-TAP agency or contractor; and

(b) After receipt of verification a direct payment to the individual shall be made through the System Tracking for Employability Program (STEP), as follows:

1. If low-cost transportation is available and meets the needs of the individual, actual transportation costs shall be paid up to the maximum payment rates listed in subparagraph 2 of this paragraph; or

2. If free or low-cost transportation that meets the needs of the individual is unavailable, a direct payment shall be made to the individual per month as follows:

a. Nine (9) dollars for less than four (4) days per month;

b. Thirty-five (35) dollars for four (4) to sixteen (16) days per month; or

c. Sixty (60) dollars for seventeen (17) or more days per month.

(c) For a special circumstance, as determined by the cabinet,

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when actual transportation costs exceed the maximum payment rates in paragraph (b) of this subsection, if approved by the cabinet, the actual negotiated rate not to exceed \$100 per month may be paid.

(d) Payments shall be made as specified in 921.004 KAR 2:050.

(2) ~~Transportation payments shall be limited in the same manner as child care payments.~~

(3) In precomponent, if necessary to guarantee that the transportation arrangement shall not be lost, transportation payments shall be provided for the period of:

(a) Up to two (2) weeks prior to the scheduled start of component activity; and

(b) Up to one (1) month during a break in component activity if subsequent component activity is scheduled to begin within that period.

Section 5. [9:] Restrictions on Authorization of Transportation Payments. Payments shall not be made if:

(1) Appropriate verification is not returned by the end of the month prior to the month in which the cost will be incurred;

(2) The participant is penalized for noncompliance with Kentucky Works activities, as specified in 904 KAR 2:370.

Section 6. Transportation Services in a Regional Capitated Transportation Network. Initially in limited areas until statewide implementation is completed, the transportation service shall be provided pursuant to 904 KAR 2:018, Section 2 and 603 KAR 7:080.

Section 7. [10:] Other Supportive Services in Kentucky Works Components. (1) Other supportive services shall be provided if necessary for participation in the approved Kentucky Works activities:

(a) Component preparation;

(b) Component participation while the K-TAP case remains

(c) Transitional extension;

(d) OJT participants discontinued from K-TAP, until the end of component placement; or

(e) Acceptance of a new job or retention of an existing one by parent or other adult:

1. Has accepted employment and a start date of employment is provided, except when an item is required as a condition of being hired by the employer; or

2. Is employed;

(2) Other supportive services shall be approved by the cabinet. Items and services that shall be approved are the purchase of an item or service needed by the K-TAP recipient for participation in the Kentucky Works activity, as determined by the cabinet. [:

(a) Drug screening test if:

1. Required by a potential employer; and

2. Paid directly to the potential employer with no reimbursements allowed to an individual who has paid his own test fee;

(b) Uniforms required by education or training provider;

(c) Suitable clothing for a job interview;

(d) Uniforms or specialized clothing particular to a service, profession or company excluding clothing used for every day wear at work or elsewhere;

(e) School supplies other than books;

(f) Licensing fees which include:

1. Exam costs required to obtain a professional license or certificate; or

2. Driver's license fee;

(g) Timepieces that are necessary for training or employment including watches and alarm clocks;

(h) GED test fee if the following criteria are met:

1. The individual does not have a high school diploma or GED and the individual is expected to pass the test;

2. The test is required as a condition of employment;

3. The fee is paid directly to the test agency with no reimbursement allowed to the individual; or

4. A fee is required at the completion of the GED preparation;

(i) The cost to have a photo identification made in order to take a GED test;

(j) The cost of a criminal records check fee if the provider or employer requires verification;

(k) Driver's education; or

(l) Tools required for employment;

(3) Other supportive services shall be a cumulative limit of \$600 [400] in a twelve (12) month period, beginning with the first day of the month in which the appropriate verification [form] is issued.

(4) A payment may be authorized for an eligible parent or other adult included as a specified relative pursuant to Section 10 of 904 KAR 2:006;

(5) Penalized and sanctioned K-TAP ineligible adults are not eligible for other supportive services;

(6) A retroactive payment for other supportive services shall not be made for an item purchased by a penalized or sanctioned individual who later cures the penalty. After the parent or other adult cures the penalty or sanction, eligible expenses may be authorized.

(7) Except as allowed by Section 8 of this administrative regulation, a medical service or item shall not be an allowable supportive service.

Section 8. Allowable Medical Service or Item. If non-TANF funding is used and as long as funding is available, the purchase of the following item or service shall be allowed for a K-TAP recipient, if needed for participation in the Kentucky Works activity and not reimbursable through Medicaid, as determined by the cabinet and limited to:

(1) Eyeglasses or corrective lens;

(2) Dentures; [and]

(3) Hearing aids; and

(4) Medical service or item required as a condition of employment.

Section 9. [11:] Car Repairs. (1) Car repairs shall be provided if necessary for participation in the approved Kentucky Works activities of:

(a) Component preparation;

(b) Component participation, including unsubsidized employment while the K-TAP case remains active;

(c) Transitional extension; or

(d) OJT participants discontinued from K-TAP, until the end of the component placement.

(2) Car repair expenses shall meet the following criteria to be considered for payment:

(a) Car repair which makes the car functional;

(b) Property taxes on vehicle;

(c) Vehicle registration;

(d) License fees; [and]

(e) [Three (3) months of] Liability insurance to drive a vehicle; and

(f) Other car expense needed by the K-TAP recipient which would allow participation in the Kentucky Works activity, as determined by the cabinet.

(3) All car repair expenditures listed in subsection (2) of this section shall require:

(a) An estimate of the cost; and

(b) Approval by the cabinet.

(4) All auto repair work shall be completed by garages;

(5) Prior to approval of car repair expenditures, the cabinet shall verify the participant owns the vehicle;

(6) The payment maximum for car repair expenditures shall be up to a maximum of \$500 [300] per year per eligible family.

Section 10. [12:] Short-term Training. A fee for a short-term training program shall be eligible for payment for a K-TAP recipient if the training program:

(1) Is not eligible for federal financial aid; and

(2) Is likely to lead to paid employment and is in accordance with the participant's Transitional Assistance Agreement, form KW-202, "K-TAP Transitional Assistance Agreement", as determined by the cabinet.

Section 11. [13:] Other Fees. (1) The following fee payments may be made for an eligible recipient:

(a) Registration fees;

(b) Financial aid application fees;

(c) Testing fees;

(d) Application fees required by vocational schools for specified programs;

(e) Liability insurance fees;

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- (f) Copy of records;
 - (g) Activity fees if mandated by the institution; and
 - (h) Other required fees.
- (2) Other fees shall not exceed \$200 per each payment.

Section 12. Work Incentive Bonus. (1) A job retention bonus of \$250 shall be paid to a K-TAP adult who:

(a) Obtains full-time unsubsidized employment which shall be at least thirty (30) hours per week at no less than the federal minimum wage;

(b) Reports and provides timely verification of the wages;

(c) Remains K-TAP eligible ~~[or becomes ineligible for K-TAP due to the reported earnings];~~

(d) Maintains employment for at least ninety (90) days~~[-whether or not the K-TAP case is active during the entire ninety (90) days];~~ and

(e) At the end of the ninety (90) day period, [-

~~1-] requests the bonus within thirty (30) days[-and~~

~~2. Provides the cabinet with a current mailing address].~~

(f) ~~[(2)]~~ The work incentive bonus shall be limited to one (1) time only during the lifetime of the K-TAP adult.

(2) A job retention bonus of \$500 shall be paid to an adult who:

(a) Becomes ineligible for K-TAP due to reported earnings;

(b) Obtains and maintains full-time unsubsidized employment which shall be at least thirty-five (35) hours per week at no less than the federal minimum wage;

(c) Reports and provides timely verification of the wages;

(d) Maintains continuous employment for at least ninety (90) days; and

(e) At the end of the ninety (90) day period;

1. Requests a bonus within thirty (30) days of the end of the ninety (90) day period; and

2. Provides the cabinet with a current mailing address.

(f) If the adult described in paragraph (a) of this subsection maintains continuous employment for 180 days an additional \$500 shall be paid, if requested;

(g) If the adult described in paragraph (a) of this subsection maintains continuous employment for 270 days an additional \$500 shall be paid, if requested.

(h) The work incentive bonus for an adult discontinued from K-TAP as a result of earnings shall be limited to three (3) payments of \$500 during the lifetime of the adult.

(3) A K-TAP applicant or recipient shall be advised of the work incentive bonuses at the time of application, at each recertification and through periodic mailings that remind them of incentives that are available.

Section 13. Educational Bonus. (1) An educational bonus of \$250 per individual shall be paid to a K-TAP adult or child who reports and verifies receiving a:

(a) High school diploma;

(b) GED certificate; or

(c) Postsecondary school certificate or degree;

(2) Short-term training programs shall not qualify for postsecondary education.

(3) A K-TAP applicant or recipient shall be advised of the educational bonus at the time of application, at each recertification and through periodic mailings that remind them of incentives that are available.

Section 14. Restrictions on Authorization of Supportive Service Payments. Payments shall not be made for the period during which:

(1) Verification is not returned ~~[by the service provider];~~ or

(2) The participant is penalized for noncompliance with Kentucky Works activities, as specified in 904 KAR 2:370, or is ineligible.

Section 15. Hearings and Appeals. Applicants or recipients of benefits under programs described herein who are dissatisfied with any action or inaction on the part of the cabinet shall have the right to a hearing under 921 ~~[904]~~ KAR 2:055.

Section 16. Incorporation ~~[Material Incorporated]~~ by Reference. (1) The following material is incorporated by reference: ~~[Forms necessary~~

~~for verification of child care and supportive services payments in the Kentucky Works program are incorporated. These forms include:]~~

(a) PA-32, "Authorization for Supportive Services Payments, edition 8/97";

(b) PA-33, "Verification of Education/Training, ~~[Child Care]~~ and Transportation, edition 1/98 ~~[4/97]~~"; and

(c) PA-33N, "Verification of Education/Training, ~~[Child Care]~~, and Transportation, edition 1/98 ~~[4/97]~~."

(2) This material ~~[These forms]~~ may be inspected, ~~[and]~~ copied, or obtained at the Department for Community-Based Services ~~[Social Insurance]~~, 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: April 7, 1999

FILED WITH LRC: April 8, 1999 at 11 a.m.

**CABINET FOR FAMILIES AND CHILDREN
Department for Community-Based Services
Division of Policy Development
(As Amended at ARRS, May 11, 1999)**

904 KAR 2:500. Family Alternatives Diversion (FAD).

RELATES TO: KRS 205.200(2), 205.2003

STATUTORY AUTHORITY: KRS 194B.050, 205.200(2), 42 USC 601 et seq., 1397 et seq., EO 98-731

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children has the responsibility under the provisions of KRS Chapter 205 to administer the block grant program funded under 42 USC 601 et seq. and 42 USC 1397 et seq. KRS 194B.050 authorizes the Cabinet for Families and Children to adopt administrative regulations necessary to implement programs mandated by federal law or to qualify for receipt of federal funds. This administrative regulation sets forth the requirements for the Family Alternatives Diversion Program and Employment Retention Assistance.

Section 1. Definitions. (1) "Benefit group" means a K-TAP eligible benefit group defined in 904 KAR 2:006, Section 1.

(2) "ERA" means Employment Retention Assistance.

(3) "FAD" means the Family Alternatives Diversion Program.

(4) "Kentucky Transitional Assistance Program (K-TAP)", Kentucky's Temporary Assistance for Needy Families (TANF) Program, means a money payment program for children who are deprived of parental support or care pursuant to 904 KAR 2:006.

(5) "Overpayment" means a FAD or ERA benefit received by an individual who:

(a) After an initial determination of eligibility is determined to be ineligible for the program and erroneous benefits were received by the individual; or

(b) Is determined eligible for the program and refuses to apply the benefit to the provider of the service needed to resolve the short-term emergency as indicated by the individual at the time of the application.

Section 2. Eligibility for Family Alternatives Diversion (FAD). (1) To qualify for FAD benefits, the benefit group as defined in Section 1(1) of this administrative regulation shall:

(a) Meet monthly income and resource requirements in the month of application pursuant to 904 KAR 2:016, Sections 2, 3(1), 4(1), and 6;

(b) Except for the thirty (30) day unemployment requirement for unemployed parent cases **pursuant to 904 KAR 2:006, Section 9(6)(e)** which shall not be required, meet technical requirements of K-TAP pursuant to 904 KAR 2:006;

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

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

1. Transportation;

2. Child care;

3. Child support;

4. Housing; or
5. Employment related problem.
- (e) Be determined by the cabinet to be self-supporting if the short-term need is met; and

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

(2) The Transitional Assistance Self-assessment Survey Form, FA-1, shall be used to screen applicants for K-TAP and to determine eligibility for FAD along with the FA-2, Family Alternatives Assessment Form.

(3) The cabinet shall determine through the screening process in subsection (2) of this section, if a potential K-TAP eligible benefit group may be an eligible family to receive FAD benefits. The K-TAP eligible benefit group shall be notified of the option to decline FAD benefits in lieu of applying for ongoing K-TAP benefits. FAD shall be utilized instead of K-TAP if requested by the benefit group and if the benefit group is deemed eligible for FAD.

(4)(a) The benefit group's countable gross income shall include the earned and unearned income pursuant to 904 KAR 2:016, Sections 3 and 4.

(b) The benefit group's gross income shall be computed using the best estimate of income for the month of application pursuant to 904 KAR 2:016, Section 9.

(c) The benefit group's total gross earned and unearned income as determined in paragraph (b) of this subsection shall be compared to the maximum gross income scale for K-TAP pursuant to 904 KAR 2:016, Section 8(2)(b).

(d) If the benefit group's total gross earned and unearned income exceed the maximum gross income limit for the appropriate benefit group size, pursuant to 904 KAR 2:016, Section 8(2), the family shall not be eligible for a FAD payment.

(5)(a) The FAD eligibility period for an approved FAD application shall be a three (3) consecutive month period beginning with the month of issuance of the first FAD check or voucher.

(b) One (1) or more checks up to \$1,500 may be issued to resolve an emergency during the three (3) month eligibility period.

(c) One (1) approval during the three (3) month eligibility period shall be necessary to issue one (1) or more checks.

(d) An individual shall not be approved for FAD more than once during a twelve (12) month period.

(e) The total FAD payment for an eligible family shall be the amount necessary to resolve the emergency, not to exceed a total of \$1,500 during the three (3) consecutive calendar month eligibility period for FAD pursuant to Section 3(3) of this administrative regulation.]

Section 3. Authorization of a FAD Payment. (1) The amount of the eligible FAD payment shall be issued in one (1) or more checks or vouchers to:

- (a) A vendor;
- (b) A two (2) party check to the eligible FAD benefit group and vendor; or
- (c) The eligible FAD benefit group if the vendor refuses to:
 1. Accept a payment or voucher; or
 2. Provide the cabinet with a tax identification number.

(2) Total payments during the three (3) month FAD eligibility period shall not exceed \$1,500. [For an eligible family, only one (1) approval shall be necessary to issue one (1) or more checks, as needed, to resolve one (1) or more emergencies during the three (3) month FAD eligibility period, not to exceed a total of \$1,500.

(3) The three (3) month eligibility period shall begin with the month the first payment is made.]

Section 4. Coordination with K-TAP and Other Benefit Programs. (1) Receipt of a FAD payment shall exclude the benefit group from receiving ongoing K-TAP benefits for twelve (12) months unless nonreceipt would result in:

- (a) Abuse or neglect of a child, as determined by the cabinet; or
- (b) The parent's inability to provide adequate care or supervision due to the loss of employment through no fault of the parent as determined by the cabinet.

(2) An application shall be taken or a referral made for the fol-

lowing benefits as needed for a FAD eligible family:

- (a) Food stamps;
- (b) Medicaid; and
- (c) Child care.

(3) For a FAD eligible benefit group, referrals for other services shall be made as needed to:

- (a) Other agencies including:
 1. The Division of Child Support;
 2. The Cabinet for Health Services; and
 3. The Department for Employment Services; or
- (b) Charitable organizations.

(4) A referral shall be made for other services, as needed, offered through the Department for Employment Services or other contractors to the FAD eligible benefit group to include the following services:

- (a) Job search;
- (b) Job readiness assessment; and
- (c) Life skills.

Section 5. Eligibility for Employment Retention Assistance (ERA). (1) To assist in maintaining self-sufficiency, ERA shall be available to a family if the family:

(a) Contains a parent who has been discontinued from K-TAP due to:

- ~~1.] earnings; [or]~~
- ~~[2. At the request of the parent because of earnings;]~~

(b) Contains a parent who is currently employed when services are requested;

(c) Has total gross income under 200 percent of federal poverty level;

(d) Requires a service or item which would stabilize the family and allow continued employment due to a short term need; and

(e) Has not received an ERA payment anytime during the previous twelve (12) months.

(2) The ERA eligibility period for a discontinued K-TAP recipient shall be a three (3) consecutive calendar month period beginning with the effective date of discontinuance from K-TAP. [The total ERA payment for an eligible family shall be the amount necessary to resolve the emergency, not to exceed a total of \$1,500 during the three (3) calendar month period from the effective date of discontinuance from K-TAP.]

(3) The eligible ERA payment shall be issued to the eligible family.

(4) One (1) or more checks up to a total of \$1,500 may be issued to resolve an emergency or emergencies during the three (3) month eligibility period. [Eligibility for ERA shall be limited to a three (3) consecutive calendar month period during a twelve (12) month period.]

(5) A benefit group shall not be prohibited from receiving K-TAP following the three (3) calendar month eligibility period for ERA if all K-TAP eligibility requirements are met.

(6) A benefit group shall not be eligible for ERA and K-TAP or FAD concurrently.

Section 6. Overpayments. (1) A FAD or ERA overpayment, as defined in Section 1 of this administrative regulation including assistance paid pending hearing decisions, shall be recovered from:

- (a) The claimant;
- (b) The overpaid benefit group; or
- (c) A benefit group of which a member of the overpaid benefit group has subsequently become a member.

(2) An overpayment shall be recovered through:

- (a) Repayment by the individual to the cabinet; or
- (b) Civil action in the court of appropriate jurisdiction after:

1. Notice and an opportunity for a fair hearing as specified in 921 KAR 2:055 is given; and

2. The administrative and judicial remedies have been exhausted or abandoned.

Section 7. Hearing Rights. Hearing rights for FAD and ERA shall be the same as hearing rights for a K-TAP recipient pursuant to 921 KAR 2:055.

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Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) FA-1, "Transitional Assistance Self-assessment, edition 5/99";

(b) FA-2, "Family Alternatives Assessment, edition 5/99".

(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, Secretary

CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: January 14, 1999

FILED WITH LRC: January 15, 1999 at 9 a.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

CABINET FOR HEALTH SERVICES
Office of Inspector General
Division of Licensing and Regulation
(Amended After Hearing)

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. Except for medication to be self-administered in a crisis stabilization unit, [A nursing medication cabinet shall be kept locked and] access to the locked cabinet shall be restricted to a designated medication nurse. Medication to be self-administered in a crisis stabilization unit shall be made available to the patient at the time of administration.

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, mov-

ies, 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. VENO, Inspector General

JOHN MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: May 11, 1999

FILED WITH LRC: May 12, 1999 at 11 a.m.

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.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, MAY 14, 1999

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(Amendment)

11 KAR 5:001. Definitions pertaining to 11 KAR Chapter 5.

RELATES TO: KRS 164.740 to 164.785

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 264.748(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) requires the authority to promulgate administrative regulations pertaining to grants. ~~[The Kentucky Higher Education Assistance Authority administers grant programs to provide student financial assistance to students for attendance at Kentucky postsecondary educational institutions.] This administrative regulation establishes the definitions for 11 KAR Chapter 5, [sets forth definitions of terms common to multiple administrative regulations in this chapter.]~~

Section 1. Definitions. (1) "Academic term" means the fall or spring semester or their equivalence under a trimester or quarter system at a postsecondary education institution and shall not include summer sessions.

(2) "Academic year" means a period of time, usually eight (8) or nine (9) months, during which a full-time student would normally be expected to complete the equivalent of two (2) semesters, two (2) trimesters, three (3) quarters, 900 clock hours, twenty-four (24) semester hours, or thirty-six (36) quarter hours of instruction.

(3) "Authority" is defined by KRS 164.740(1).

(4) "Business school" is defined by KRS 164.740(3).

(5) "College access program" or "CAP" means the program of student financial assistance grants authorized under KRS 164.7535 to assist financially needy part-time and full-time undergraduate students attending an educational institution.

(6) "College" is defined by KRS 164.740(4).

(7) "Educational expenses" means tuition and fees, books and supplies, room and board or reasonable living expenses, reasonable miscellaneous personal expenses, and reasonable transportation costs for the academic period of the grant application.

(8) "Educational institution" means a participating institution located in Kentucky which:

(a) Offers an eligible program of study;

(b) As a condition of enrollment as a regular student, requires that the person:

1. Have a certificate of graduation from a school providing secondary education, or the equivalent of a certificate; or

2.a. Be beyond the age of compulsory attendance in Kentucky; and

b. Have the ability to benefit from the training offered by the institution; and

(c) 1. For purposes of the college access program is [;], a business school, college, school of nursing or vocational school, and meets the requirements of 20 USC 1070 to 1070c-4 and 1088 to 1099; or

2. For purposes of the Kentucky tuition grant program, is a private college whose institutional programs are not comprised solely of secular instruction.

(9) "Eligible noncitizen" means an individual who is:

(a) Either:

1. A U.S. national;

2. A U.S. permanent resident with an Alien Registration Receipt Card (I-151 or I-551); or

3. A person with a Departure Record (I-94) from the U.S. Immigration and Naturalization Service showing any one (1) of the following designations:

a. "Refugee";

b. "Asylum granted";

c. "Indefinite parole" or "humanitarian parole"; or

d. "Cuban-Haitian entrant"; and

(b) Not in the United States on a:

1. F1 or F2 student visa;

2. J1 or J2 exchange visa; or

3. G series visa.

(10) "Eligible program of study" means an undergraduate program offered by an educational institution which:

(a) Is of at least two (2) academic years duration;

(b) For purposes of the Kentucky Tuition Grant Program, leads to a degree in a field other than theology, divinity or religious education at the institution at which the student is enrolled; and

(c) For purposes of the CAP Grant Program, leads to a certificate, diploma, or degree in a field other than theology, divinity or religious education.

(11) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying the federal methodology established in 20 USC 1087kk through 1087vv to the information that the student and his family provided on the application.

(12) "Federal act" is defined by KRS 164.740(9) and means 20 USC 1001 through 1146a.

(13) "Full-time student" means an enrolled [a] student who is carrying a full-time academic workload, other than by correspondence, determined by the institution under a standard applicable to all students enrolled in a particular educational program. The student's workload may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as a full-time student. However, for an undergraduate student, an institution's minimum standard must equal or exceed one (1) of the following minimum requirements:

(a) Twelve (12) semester hours or twelve (12) quarter hours in each of two (2) quarters per academic term in an educational program using a semester, trimester, or quarter system;

(b) Twenty-four (24) semester hours or thirty-six (36) quarter hours per academic year for an educational program using credit hours but not using a semester, trimester, or quarter system, or the prorated equivalent for a program of less than one (1) academic year;

(c) Twenty-four (24) clock hours per week for an educational program using clock hours;

(d) In an educational program using both credit and clock hours, any combination of credit and clock hours where the sum of the following fractions is equal to or greater than one (1):

1. For a program using a semester, trimester, or quarter system, the number of credit hours per term divided by twelve (12) and the number of clock hours per week divided by twenty-four (24); or

2. For a program not using a semester, trimester, or quarter system, the number of semester or trimester hours per academic year divided by twenty-four (24) and the number of quarter hours per academic year divided by thirty-six (36) and the number of clock hours per week divided by twenty-four (24);

(e) A series of courses or seminars that equals twelve (12) semester hours or twenty-four (24) quarter hours in a maximum of eighteen (18) weeks; or

(f) The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic workload of a full-time student, [measured in terms of:

(a) Course work or other required activities as determined by the institution in which the student is enrolled, including a combination of courses, work experience, research or special studies which:

1. The institution requires of the student to consider him as being engaged in full-time study; and

2.a. Amounts to the equivalent of a minimum of twelve (12) semester hours or twelve (12) quarter hours per academic term for an institution utilizing a trimester, semester, or quarter hour system; or

b. Consists of a program requiring the minimum of twenty-five (25) clock hours per week for an institution that does not utilize a trimester, semester, or quarter-hour system; and

(b) The tuition and fees customary for full-time study at that institution.]

(14) "Grant" is defined by KRS 164.740(10).

(15) "Kentucky tuition grant" or "KTG" means the program of student financial assistance grants authorized by KRS 164.780 and 164.785 for residents of Kentucky who bear the major costs of attending an educational institution and who demonstrate financial need.

(16) "KHEAA grant" means an award of a student financial assistance grant under the college access program or the Kentucky tuition grant program or a combination of the two (2).

(17) "KHEAA grant limit" means an aggregate limitation on KHEAA grant awards to an individual which is:

(a) Measured in terms of the number of semesters during which a KHEAA grant is disbursed to a full-time student and not fully refunded; and

(b) Depleted by one (1) semester:

1. For a KHEAA grant disbursed to a full-time student in a semester; or

2. By a CAP grant recipient enrolled less than full time, who receives the cumulative equivalent amount of CAP grant that would have been received by a full-time CAP grant recipient using the then current maximum CAP grant.

(18) "KHEAA grant program officer" or "KGPO" means the official designated on the administrative agreement, pursuant to KRS 164.748(5), to serve as the educational institution's on-campus agent to certify all institutional transactions and activities with respect to the authority's grant programs.

(19) "Overaward" means receipt of financial assistance from all sources in excess of a student's need determined in accordance with 11 KAR 5:120 through 5:145.

(20) "Resident of Kentucky" or "resident" means a person who is classified as an in-state student in accordance with the criteria established in 13 KAR 2:045.

(21) "Total cost of education" means an amount determined for an academic year for each applicant by the following formula: normal tuition and fees charged by the institution chosen by the applicant, plus maximum board contract amount, plus minimum room contract amount.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: April 26, 1999

FILED WITH LRC: May 12, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Monday, June 21, 1999 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Monday, June 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 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: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293, Email address: Rcasey@KHEAA.com.

REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: This regulation defines or references certain statutory definitions of terms commonly used in the administration of the KHEAA Grant Program. Under the Kentucky Tuition Grant Program, 9,270 students attending 20 post-secondary institutions received grants for the 1997-98 academic year. Under the College Access Program, 32,920 students attending 81 postsecondary institutions received grants in 1998-99.

(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 administrative regulation itself merely defines terms commonly used in administration of the KHEAA grant programs. Therefore it has no direct or indirect cost or savings respecting the cost of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent from the public comments received: The amendment is anticipated to have no impact on the cost of doing business of any entity.

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

1. First year following implementation: The amendment affects no change in the compliance, reporting or paperwork requirements of any participating institution or student and is anticipated to have no effect upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effect on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: The administrative regulation itself merely defines terms commonly used in administration of the KHEAA grant programs. Therefore it has no direct or indirect cost or savings respecting the promulgating body. The change in the administrative regulation merely conforms a defined term to a statutory change.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The administrative regulation itself merely defines terms commonly used in administration of the KHEAA grant programs. There is no change in the paperwork or reporting requirements for the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: None. The administrative regulation itself merely defines terms commonly used in administration of the KHEAA grant programs.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The administrative regulation itself merely defines terms commonly used in administration of the KHEAA grant programs. Therefore, no revenue is necessary to implement this particular administrative regulation. However, grants for students under the College Access Program and Kentucky Tuition Grant Program are funded by appropriations from the General Fund and administrative costs are borne by the authority through receipts of the authority.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments were received. The amendment simply revises the definitions used in 11 KAR Chapter 5 KHEAA grant programs. Students that receive grants under the programs will experience an economic impact to the extent that funds may be used by the student for postsecondary education related expenses, thus enabling the student to pursue higher education and potentially increase their lifelong earning capacity.

(b) Kentucky: Same as (a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered. The proposed amendment merely modifies defined terms to make administration of the state funded grant programs more consistent with administration of federal student financial assistance programs.

(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 is no effect upon public health or the environment resulting from the amendment of this administrative regulation.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: 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: There is no known conflict.

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

administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information of comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently, does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U. S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(Amendment)**

11 KAR 5:130. Student application.

RELATES TO: KRS 164.744(2) to 164.753(4), 164.7535, 164.780, 164.785

STATUTORY AUTHORITY: KRS 164.746(6), 164.748(4), 164.7535

NECESSITY, FUNCTION, AND CONFORMITY: 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.

Section 1. (1) In order to receive a KHEAA grant, the 1999-2000 Free Application for Federal Student Aid (FAFSA) shall be completed and submitted in accordance with the instructions provided on the FAFSA.

(2) An applicant shall indicate the choice of an educational institution on the application to be considered for the KHEAA grant. The educational institution listed first shall be used in the determination of a KHEAA grant program award.

(3) A person who submits a completed FAFSA shall not be eligible for a KHEAA grant for an academic year in which the person:

(a) Did not select on the application an educational institution that participates in a KHEAA grant program;

(b) Is not a:

1. United States citizen or eligible noncitizen; and

2. A resident of Kentucky;

(c) Is a graduate student; or

(d) Will obtain a first baccalaureate degree before July 1 of the academic year for which he is seeking financial assistance.

Section 2. Change of Educational Institution Choice. (1) KHEAA grant eligibility shall be redetermined and award determination shall be recomputed by the authority based upon the new choice of educational institution, if the student provides written notification of a change of the first choice educational institution, on or before:

(a) The latter of August 1 or ten (10) workdays following the date on which the authority notifies the student of the award for the [December 1, prior to the commencement of the respective] fall academic term [or spring semester] for which a KHEAA grant is sought; or

(b) The latter of December 1 or ten (10) workdays following the date on which the authority notifies the student of the award for the spring academic term for which a KHEAA grant is sought. [grant program eligibility shall be redetermined and award determination shall be recomputed by the authority based upon the new choice of educational institution.]

(2) If the student changes his choice of educational institution after August 1 and more than ten (10) workdays following the date the authority notifies the student of the award:

(a) A KHEAA grant awarded [award] for the fall academic term shall be revoked; and

(b) Except as provided in subsection (3) of this section, the KHEAA grant [program award] amount awarded for the spring academic term shall be recomputed, based upon the new choice of educational institution.

(3) If the student changes his choice of educational institution after December 1 and more than ten (10) workdays following the date the authority notifies the student of the award, the KHEAA grant awarded [Grant Program Award] for the spring academic term shall be revoked.

Section 3. Incorporation by Reference. (1) The 1999-2000 Free Application for Federal Student Aid (FAFSA) and its instructions are incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Suite 102, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: February 24, 1999

FILED WITH LRC: May 12, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Monday, June 21, 1999 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Monday, June 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 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: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293, Email address: Rcasey@KHEAA.com.

REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: Under the Kentucky Tuition Grant Program, 9,270 students attending 20 postsecondary institutions received grants for the 1997-98 academic year. Under the College Access Program, 32,920 students attending 81 post-secondary institutions received grants in 1998-99. In the academic year ending June 30, 1998, there were 179,165 applicants and 25,703 students received KHEAA grants.

(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: Neither cost of living nor employment will be affected. The Free Application for Federal Student Aid (FAFSA) is processed free of charge. The proposed amendment to the administrative regulation would allow the applicant to notify KHEAA of a change of educational institution within 10 days after notification of the award if the award is made after August 1 or December 1, respectively. Neither cost of living nor employment will be affected by this amendment.

(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: Cost of doing business will not be affected.

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

1. First year following implementation: There will be no increase in reporting or paperwork, nor any increase or decrease in cost. There is no effect upon competition. The application process for

KHEAA grants is not changed. The proposed amendment to the administrative regulation would allow the applicant to notify KHEAA of a change of educational institution within 10 days after notification of the award if the award is made after August 1 or December 1, respectively.

2. Second and subsequent years: Same as (2)(c)(1) above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will be no significant direct or indirect costs or savings. The application process for KHEAA grants is not changed. The proposed amendment to the administrative regulation would allow the applicant to notify KHEAA of a change of educational institution within 10 days after notification of the award if the award is made after August 1 or December 1, respectively.

2. Continuing costs or savings: Same as (3)(a)(1) above.

3. Additional factors increasing or decreasing costs: None. The application is processed free of charge for the student, and the information is provided to the promulgating administrative body free of charge, electronically from the central processor.

(b) Reporting and paperwork requirements: There will be no change in reporting and paperwork requirements.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A

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

(a) Geographical area in which administrative regulation will be implemented. No economic impact is anticipated. No comments were received.

(b) Kentucky. Same as (6)(a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered. The proposed amendment to the administrative regulation would allow the applicant to notify KHEAA of a change of educational institution within 10 days after notification of the award if the award is made after August 1 or December 1, respectively.

(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 the environment or public health would result if not implemented: N/A

(c) If detrimental effect would result, explain detrimental effect: N/A

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

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

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

(10) Any additional information or comments: KHEAA uses the Free Application for Federal Student Assistance (FAFSA) as the application for KHEAA grants. Use of that form provides a uniform application process for students at no cost and makes administration of student aid more efficient for KHEAA and participating schools. The form is therefore incorporated by reference into this administrative regulation. Each year the form is revised to reflect the new academic year. The proposed amendment to the administrative regulation would allow the applicant to notify KHEAA of a change of educational institution within ten (10) days after notification of the award if the award is made after August 1 or December 1, respectively.

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U. S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal

treatment and opportunity for all applicants and recipients.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY (Amendment)

11 KAR 15:040. Kentucky Educational Excellence Scholarship [Commonwealth Merit Scholarship] award determination procedure.

RELATES TO: KRS 164.7881(4) [1998 Ky. Acts ch. 575, sec. 5(4)]

STATUTORY AUTHORITY: KRS 164.748(4), 164.7881(4)(b), 164.7885(7) [1998 Ky. Acts ch. 575, secs. 5(4)(b), 6(7)]

NECESSITY, FUNCTION, AND CONFORMITY: 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 164.7885(7) [1998 Ky. Acts ch. 575, sec. 6(7)] authorizes the authority to promulgate administrative regulations for the administration of the Commonwealth Merit Scholarship Program, renamed Kentucky Educational Excellence Scholarship (KEES) Program by EO 98-1592. KRS 164.7881(4)(b) [1998 Ky. Acts ch. 575, sec. 5(4)(b)] requires the authority to promulgate an administrative regulation to proportionately reduce the maximum award amount for an eligible student enrolled part time. This administrative regulation establishes the conditions for KEES [Commonwealth merit scholarship] eligibility for eligible students enrolled on a part-time basis.

Section 1. Reduction for Part-time Study. (1) If an eligible student is enrolled as a part-time student for an academic term, the maximum award amount to which the student is entitled shall be as follows:

(a) Fifty (50) percent if enrolled for six (6) hours;

(b) Fifty-eight (58) percent if enrolled for seven (7) hours;

(c) Sixty-seven (67) percent if enrolled for eight (8) credit hours;

(d) Seventy-five (75) percent if enrolled for nine (9) hours;

(e) Eighty-three (83) percent if enrolled for ten (10) hours;

(f) Ninety-two (92) percent if enrolled for eleven (11) hours; and

(g) 100 percent if enrolled for twelve (12) hours or more.

(2) The equivalent academic unit of measurement shall be used to correspond to a credit hour, if the participating institution does not use credit hours.

(3) A participating institution shall determine full-time and less than full-time enrollment status for purposes of subsection (1) of this section in the same manner as the participating institution uses to determine enrollment status for Pell Grant eligibility.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: February 24, 1999

FILED WITH LRC: May 12, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Monday, June 21, 1999 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Monday, June 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 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: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293, Email address: Rcasey@KHEAA.com.

REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: As many as 109 postsecondary institutions could be eligible to participate in the scholarship program administered under this chapter of the Kentucky Administrative Regulations. Approximately 191,000 high school students are potentially eligible for scholarships. An undetermined number of those students will attend postsecondary institutions in the Commonwealth and receive the scholarships. For those eligible students who attend the Kentucky postsecondary institutions, an undetermined number of students might attend on less than a full time basis.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The administrative regulation itself sets forth a proration of scholarship award amounts to determine the reduced award for eligible students attending a participating institution on less than a full-time basis. Therefore it has no direct or indirect cost or savings respecting the cost of living or employment. The scholarship program, however, will reduce the direct out-of-pocket expenditure by residents of the Commonwealth who wish to attend Kentucky postsecondary institutions thus enabling the student to pursue higher education and potentially increase their lifelong earning capacity.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent from the public comments received: No public comments have been received. The administrative regulation itself sets forth proration of scholarship award amounts to determine the reduced award for eligible students attending a participating institution on less than a full-time basis. Cost of doing business for the participating institutions would be not be effected.

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

1. First year following implementation: The administrative regulation itself sets forth proration of scholarship award amounts to determine the reduced award for eligible students attending a participating institution on less than a full-time basis. There is no known impact upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effect on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: The administrative regulation itself sets forth proration of scholarship award amounts to determine the reduced award for eligible students attending a participating institution on less than a full-time basis. The transaction is intended to be transparent to the promulgating body in that awards will still be made and disbursed to eligible students, but the amount will be reduced based upon enrollment status as certified by the participating institution. Any discrepancies would be discovered during a program compliance review or audit of the participating institution's activities respecting eligible students and administration of the program. It is expected to affect no costs or savings respecting the promulgating body.

2. Continuing costs or savings: Same as #1 above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The administrative regulation itself sets forth proration of scholarship award amounts to determine the reduced award for eligible students attending a participating institution on less than a full-time basis. The transaction is intended to be transparent to the promulgating body except during a program compliance review or audit of the participating institution's activities respecting eligible students and administration of the program. It is expected to affect no reporting and paperwork respecting the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: The administrative regulation itself sets forth proration of scholarship award amounts to determine the reduced award for eligible students attending a participating institution on less than a full-time basis. The funds for this program are provided by net lottery revenues; gifts; bequests; endowments; grants from the United

States government, its agencies, and instrumentalities; and funds received from any other sources, public or private. See (5) below for further detail. Because these funds are held in trust, reduction in a scholarship award for any individual student will simply leave an unexpended amount of funds in the trust for subsequent expenditure on another eligible student in a subsequent year. Therefore it has no effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The funds for this program are provided by net lottery revenues; gifts; bequests; endowments; grants from the United States government, its agencies, and instrumentalities; and funds received from any other sources, public or private credited to a permanent and perpetual trust fund established in the State Treasury. The funds are continuously appropriated only for the purposes set forth in the enabling statutes. Upon the approval of the Council on Postsecondary Education, the authority may expend funds from the Commonwealth merit scholarship trust fund that are necessary and reasonable to meet the expenses of administering the Commonwealth merit scholarship trust fund.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments were received. The administrative regulation itself sets forth proration of scholarship award amounts to determine the reduced award for eligible students attending a participating institution on less than a full-time basis. Students that receive scholarships under the program will experience an economic impact to the extent that funds may be used by the student for postsecondary education related expenses, thus enabling the student to pursue higher education and potentially increase their lifelong earning capacity.

(b) Kentucky: Same as (a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: NO alternatives were considered. No alternatives were considered. The enabling statute provides that the authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible student for any academic term in which the student is enrolled on a part-time basis. The administrative regulation itself sets forth proration of scholarship award amounts to determine the reduced award for eligible students attending a participating institution on less than a full-time basis. The amount of scholarship is proportionately tied to the number of credit hours for which the student is enrolled from a half-time status up to full-time status.

(8) Assessment of expected benefits: The administrative regulation is intended to provide for proportionate reduction of the maximum Commonwealth Merit Scholarship Program award amount in compliance with the enabling statute.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no effect upon public health or the environment resulting from this administrative regulation.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: There is no effect upon public health or the environment resulting from this administrative regulation.

(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: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information of comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently, does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem

to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U. S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy
(Amendment)**

201 KAR 2:010. Schools approved by the board.

RELATES TO: KRS 315.050

STATUTORY AUTHORITY: KRS 315.050, 315.191(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Kentucky Board of Pharmacy is directed by KRS 315.050(1) to approve the schools or colleges of pharmacy whose curricula or course of studies are acceptable. This administrative regulation is to assure that applicants for licensure are graduates of acceptable and approved colleges or schools.

Section 1. An [Every] applicant for licensure as a pharmacist, [other than graduates of foreign colleges or schools of pharmacy,] shall have graduated and received a degree in an accredited pharmacy degree program which has been approved by the Board of Pharmacy. Approved programs shall be those programs whose standards are equivalent to the minimum standards required by the American Council on Pharmaceutical Education for the accreditation of such programs or the Canadian Council on Pharmaceutical Education. [The American Council on Pharmaceutical Education, "Accreditation Standards and Guidelines," 8th Edition, July, 1984, effective January 1, 1985; and the American Council on Pharmaceutical Education, "Accredited Professional Programs of Colleges and Schools of Pharmacy", July 1, 1991, are incorporated by reference. A copy of the referenced material may be reviewed at or obtained from the Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.]

Section 2. An [Each] applicant for licensure as a pharmacist who shall have graduated and received a degree in a foreign pharmacy degree program, other than from a college or school accredited by the Canadian Council on Pharmaceutical Education shall be deemed to be a graduate of a pharmacy degree program which has been approved by the Board of Pharmacy if they have obtained a Foreign Pharmacy Graduate Examination Committee Certificate through the Foreign Pharmacy Graduate Examination Committee Certification Program which is administered by the National Association of Boards of Pharmacy Foundation.

Section 3. Incorporation by Reference. The American Council on Pharmaceutical Education, "Accreditation Standards and Guidelines," 8th Edition, 3rd Printing January 1995, and the American Council on Pharmaceutical Education, "Accredited Standards and Guidelines for the Professional Program in Pharmacy Leading to the Doctor of Pharmacy Degree", adopted June 14, 1997, are incorporated by reference. A copy of the referenced material may be reviewed at or obtained from the Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601-8204, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

RODNEY C. STACEY, President

CHERYL LALONDE-MOONEY, J.D., Assistant Attorney General

APPROVED BY AGENCY: April 19, 1999

FILED WITH LRC: May 13, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held at 9:15 a.m. on June 28, 1998, at 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency

in writing by June 21, 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 wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Mr. Michael A. Moné, Executive Director, Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601-8204, Phone: (502) 573-1580; Fax: (502) 573-1582.

REGULATORY IMPACT ANALYSIS

Contact person: Mr. Michael A. Moné

(1) Type and number of entities affected: All applicants for licensure in the Commonwealth.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: 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 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: Processing of the applications.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Application for registration as a pharmacist.

(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: Appropriated budget from the Kentucky Board of Pharmacy Trust 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: None appropriate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The public should accrue a benefit as a result of the adoption of this administrative regulation since it will permit students who graduate from Canadian colleges and schools of pharmacy to obtain licensure without the requirement of duplicating internship and the taking of the equivalency certification examination. This assessment is based upon the determination that the Canadian standards are equivalent to those adopted in the United States by the American Council on Pharmaceutical Education.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The failure to adopt this proposed amended administrative regulation could result in increased costs to the citizens as a result of a shortage of qualified pharmacists to serve the public's pharmacist care needs.

(c) If detrimental effect would result, explain detrimental effect: None

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

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

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

administrative regulation with conflicting provisions:

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. All persons in each class are treated identically by this amended administrative regulation.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy
(Amendment)**

201 KAR 2:095. Dispensing responsibilities.

RELATES TO: KRS Chapter 315

STATUTORY AUTHORITY: KRS 315.191(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Kentucky Board of Pharmacy is authorized by KRS 315.191(1) to adopt rules and administrative regulations necessary to regulate the practice of pharmacists. Pharmacists are responsible for the compounding and dispensing of drugs and prescriptions pursuant to a legal prescription. There is a need for this administrative regulation stating the pharmacists' and the pharmacist interns' responsibilities. This administrative regulation is to further assure protection to the public by defining professional responsibilities.

Section 1. Dispensing responsibilities is defined as the practice of selecting, compounding, mixing, measuring, or otherwise preparing the drug or drugs needed to fill or refill the prescription order, and counseling.

Section 2. The practice of pharmacy shall ~~[a pharmacist must]~~ be performed only by a registered pharmacist or pharmacist intern acting under the immediate, physical and visual, supervision and direction of a registered pharmacist. A pharmacist providing immediate, physical and visual supervision for a pharmacist intern must be directly connected, not separated by time or distance, and continuous to all aspects of the interaction between the pharmacist intern and the other person or persons. When the interaction is through a telephonic medium, the pharmacist must be physically present on telephonic medium and able to hear all parties to the transaction. When the interaction is through an electronic medium, the pharmacist must be able to view or review the transaction as transmitted. A properly supervised pharmacist intern may ~~(These practices are, but not limited to):~~

- ~~(1) Receive [Receipt of] an original oral prescription order.~~
- ~~(2) Verify [Verification of] prescribed dosage; and~~
- ~~(3) Counsel patients.~~

Section 3. A pharmacist intern who has successfully completed his first professional year coursework of a Bachelor's of Science in Pharmacy or Doctor of Pharmacy degree program at an accredited school or college of pharmacy may, at the discretion of his preceptor, engage in delegated acts of professional practice pursuant to supervision as defined by KRS 315.010(25). [Kentucky's present Pharmacy Law mentions "immediate supervision" without definition. Therefore, in the practice of pharmacy "immediate supervision" is defined as under the physical and visual supervision of a registered pharmacist.]

Section 4. A pharmacist who directs a pharmacist intern to perform a delegated act of professional practice shall be responsible for the pharmacist intern and the performance of the act.

Section 5. Violation of any provision of this administrative regulation constitutes unethical or unprofessional conduct in accordance with KRS 315.121(1)(f).

RODNEY C. STACEY, President

CHERYL LALONDE-MOONEY, J.D., Assistant Attorney General

APPROVED BY AGENCY: April 19, 1999

FILED WITH LRC: May 13, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held at 9:20 a.m. on June 28, 1998, at 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky. Individu-

als interested in being heard at this hearing shall notify this agency in writing by June 21, 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 wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Mr. Michael A. Moné, Executive Director, Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601-8204, Phone: (502) 573-1580; Fax: (502) 573-1582.

REGULATORY IMPACT ANALYSIS

Contact person: Mr. Michael A. Moné

(1) Type and number of entities affected: All pharmacists and pharmacist interns in the Commonwealth.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: 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 for the:

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Appropriated budget from the Kentucky Board of Pharmacy Trust 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: None appropriate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The public should accrue a benefit as a result of the adoption of this administrative regulation since it will permit properly supervised pharmacist interns to engage in professional activities that heretofore have been precluded. The structure of the delegation places the responsibility upon the pharmacist preceptor for the determination of whether the pharmacist intern has sufficient skills to perform the tasks assigned.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The failure to adopt this proposed amended administrative regulation could result in increased costs to the citizens as a result of a less efficient utilization of pharmacist interns.

(c) If detrimental effect would result, explain detrimental effect: None

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

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

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

- (10) Any additional information or comments: None
 (11) TIERING: Is tiering applied? No. All persons in each class are treated identically by this amended administrative regulation.

**GENERAL GOVERNMENT CABINET
 Kentucky Board of Medical Licensure
 (Amendment)**

201 KAR 9:041. Fee schedule.

RELATES TO: KRS 311.565(20)

STATUTORY AUTHORITY: KRS 311.565(20)

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 a schedule of fees for services rendered by the board.

Section 1. Fee Schedule. (1) Fee for sitting the state medical examination administered by the board:

- (a) Examination fee - \$365.
- (b) Examination application fee - fifty (50) dollars.
- (2) Fee for initial issuance of regular license - ~~\$250~~ [225].
- (3) Fee for initial issuance of limited license - seventy-five (75) dollars.
- (4) Fee for annual registration or renewal of regular license - ~~\$125~~ [100].
- (5) Fee for annual registration or renewal of limited license - sixty-five (65) dollars.
- (6) Penalty for late annual registration or renewal:
 - (a) March 1 - April 1 - fifty (50) dollars.
 - (b) After April 1 - \$100.
- (7) Fee for reregistration of inactive license - ~~\$225~~ [150].
- (8) Endorsement of licensee to licensing agency of another jurisdiction - fifty (50) dollars.
- (9) Certification of licensee's examination grades to licensing agency of another jurisdiction - ten (10) dollars.
- (10) Fee for temporary permit (credited to fee for regular license if subsequently issued) - fifty (50) dollars.
- (11) Fee for emergency permit - twenty-five (25) dollars.
- (12) Fee for duplicate license certificate - ten (10) dollars.
- (13) Fee for copy of "Kentucky Medical Directory" - fifteen (15) dollars.
- (14) Fee for one (1) year subscription to Newsletter (fee waived for licensees) - ten (10) dollars.
- (15) ~~Fee for license application - twenty-five (25) dollars.~~
- (16) ~~Fee for sitting for competency examination administered by board - \$275.~~
- (16) [(17)] Fee for initial issuance of regular license for graduates of Kentucky medical schools who remain in this state for postgraduate training - \$150.

DANNY M. CLARK, President

C. LLOYD VEST, II, General Counsel

APPROVED BY AGENCY: April 15, 1999

FILED WITH LRC: April 16, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on the proposed amendment, 201 KAR 9:041, to current administrative statutes and regulations will be held on the 28th day of June, 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 June 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 licensed 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: None

2. Second and subsequent years: None

(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: No increase in reporting and paperwork requirements.

(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 public lack of 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: None

(c) If detrimental effect would result, explain detrimental effect.

(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 necessary.

(10) Any additional information or comments: The board feels this regulation needs to be changed for housekeeping purposes only.

(11) TIERING: Is tiering applied? No. This regulation shall pertain to all physicians licensed in the Commonwealth of Kentucky.

There is no valid 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 State Board of Licensure for Professional Engineers and Land Surveyors (Amendment)

201 KAR 18:010. Classes of applicants and licensure requirements.

RELATES TO: KRS 322.040, 322.120

STATUTORY AUTHORITY: KRS 322.040, 322.120, 322.290

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.040 sets forth licensure requirements for applicants. KRS 322.120 authorizes the board to license applicants from other jurisdictions through reciprocity. This administrative regulation establishes classes of applicants and licensure requirements for professional engineers and land surveyors for convenience in discussing and processing applications for licenses, certification and examination.

Section 1. Classes of Applicants. (1) For convenience in discussing and processing applications for licenses, certification and examinations, there are hereby established the following four (4) classes of applicants.

(2) Professional engineer. This class includes those applying for engineering licenses on the basis of:

(a) KRS 322.040(1)(a). Licensure under this provision may be obtained by:

1. proof of graduation followed by four (4) additional years of [and] satisfactory work experience [~~(four (4) years)~~] plus sixteen (16) hours of examination, which shall include the eight (8) hour fundamentals of engineering examination and the eight (8) hour principles and practice of engineering examination. Licensure under this provision is recommended inasmuch as this standard [standards] meets the requirements of most jurisdictions [state boards] outside Kentucky for licensing by reciprocity [or comity; or

2. Proof of graduation and satisfactory work experience (four (4) years) plus eight (8) hour examination. Applicants for licensing under this subparagraph will not be processed subsequent to June 30, 1976].

(b) Reciprocity with another jurisdiction. [KRS 322.040(1)(b). Licensure under this provision may be obtained by proof of a satisfactory work record of no less than eight (8) years and a sixteen (16) hour examination. Licensure under this provision shall cease effective July 1, 1980.

(c) Reciprocity (comity) with another state board.]

(3) Engineer-in-training. This class includes those applying for certification as engineers-in-training on the basis of an eight (8) hour examination in the fundamentals in engineering; and

(a) Graduation from or senior status in an approved engineering curriculum; or

(b) Engineering experience of at least four (4) years; or

(c) Combined education and engineering experience.

(4) Land surveyor. This class includes those applying for a land surveying license on the basis of:

(a) KRS 322.040(3)(a), (b), and (c)1 [(2)(b)]. Proof of graduation in a board-approved curriculum in [engineering or] land surveying plus

work experience of four (4) years and sixteen (16) hours of [hour] examination; or

(b) KRS 322.040(3)(a), (b), and (c)4 [(2)(c)]. Eight (8) years of work experience and sixteen (16) hours of [hour] examination, but licensing under this subsection shall cease July 1, 2001, and any applicant for licensure under this subsection shall submit an application to the board prior to that date; or

(c) KRS 322.040(3)(a), (b), and (c)2 [(2)(c)]. Proof of graduation from a four (4) year program other than a land surveying program accredited by one (1) of the Commissions of Accreditation Board for Engineering and Technology plus an additional six (6) years of work experience and sixteen (16) hours of examination; or

(d) KRS 322.040(3)(a), (b), and (c)3. Proof of graduation from a two (2) year program in land surveying approved by the board plus work experience of six (6) years and sixteen (16) hours of examination; or

(e) KRS 322.040(3)(a), (b), and (c)5. Effective July 1, 2001 proof of graduation from high school, or its equivalent, plus ten (10) years of experience and sixteen (16) hours of examination; or

(f) Proof that the applicant holds a land surveyor's license, in good standing, issued by another jurisdiction plus a two (2) hour examination. [Proof that the applicant holds a valid license issued by another board plus four (4) hour examination;]

(5) Land surveyor-in-training. This class includes those applying for certification as land surveyors-in-training on the basis of an eight (8) hour examination in the fundamentals of land surveying and:

(a) Graduation from or senior status in an approved [engineering or] land surveying curriculum; or

(b) Land surveying experience of at least four (4) years, but application under this subsection shall cease July 1, 2001 and any applicant shall submit an application to the board prior to that date; or

(c) Graduation from a two (2) year board-approved program in land surveying and two (2) years of experience; or [Combined education and land surveying experience.]

(d) Effective July 1, 2001, graduation from high school, or its equivalent, and four (4) years experience.

~~[(6) The board will decline to receive applications for original licensing in Kentucky from all applicants except those who meet at least one (1) of the following three (3) conditions:~~

~~(a) Applicant is a resident of Kentucky, or is regularly employed in Kentucky; or~~

~~(b) Is a graduate of an engineering school in Kentucky; or~~

~~(c) Is one who seeks licensing on the basis of subsection (2)(a)1 of this section.]~~

JOSEPH F. SISLER, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: May 6, 1999

FILED WITH LRC: May 13, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1999, at 10 a.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 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 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: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone: (502) 573-2680, Fax: (502) 573-6687.

REGULATORY IMPACT ANALYSIS

Agency Contact: Larry Perkins

(1) Type and number of entities affected: Approximately 9000 licensed professional engineers, 1200 licensed land surveyors, 1200

engineers-in-training, and 200 land surveyors-in training.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all classes of applicants are treated uniformly under the law.

**GENERAL GOVERNMENT CABINET
Kentucky State Board of Licensure for
Professional Engineers and Land Surveyors
(Amendment)**

201 KAR 18:050. Branches of professional engineering for testing.

RELATES TO: KRS 322.020, 322.040, 322.080 [322.110]

STATUTORY AUTHORITY: KRS 322.010(4), 322.040, 322.080,

322.290(2)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.040 sets forth examination requirements for professional engineers while KRS 322.080 requires the board to prescribe the scope of examination. [Under KRS Chapter 322, the board considers the field of sanitary engineering has developed to the extent that it warrants specific recognition as a registerable branch of engineering in the Commonwealth.] This administrative regulation sets forth branches of engineering for testing and for which licenses will be issued.

Section 1. Branches of Professional Engineering. The board at the present time recognizes for the purpose of testing the following branches of engineering: agricultural, chemical, civil, control systems, electrical, environmental, fire protection, industrial, mechanical, metallurgical, mining, petroleum, ship design, structural I, and structural II [—and sanitary]. An applicant for license as "Licensed Professional Engineer," in order to be accepted and licensed, should qualify in one (1) or more of the above classifications.

JOSEPH F. SISLER, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: May 6, 1999

FILED WITH LRC: May 13, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1999, at 10:30 a.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 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 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: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone: (502) 573-2680, Fax: (502) 573-6687.

REGULATORY IMPACT ANALYSIS

Agency Contact: Larry Perkins

(1) Type and number of entities affected: Approximately 9000 licensed professional engineers.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local reve-

nues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all classes of applicants for licensure as licensed professional engineers are treated uniformly under the law.

**GENERAL GOVERNMENT CABINET
Kentucky State Board of Licensure for
Professional Engineers and Land Surveyors
(Amendment)**

201 KAR 18:080. Licensing certificates and cards.

RELATES TO: KRS 322.110, 322.120, 322.130, ~~[322.140]~~
322.160, 322.170, 322.220, 322.300, 322.420

STATUTORY AUTHORITY: KRS 322.110, 322.120, ~~[322.150]~~
322.290, 322.420

NECESSITY, FUNCTION, AND CONFORMITY: Outlines the board's responsibility under KRS Chapter 322 to issue certificates to successful applicants seeking licensure ~~(registration/certification)~~ and ~~(annual)~~ renewal ~~(registration)~~ cards to licensees ~~(registrants)~~ complying with license renewal procedures.

Section 1. Licensing Certificates and Cards. (1) Upon initial licensure, the board shall ~~(will)~~ issue to each successful applicant a certificate, serially numbered, of such size and form as it may approve indicating ~~(certifying)~~ that the applicant is either "in training," or is licensed to practice. Each licensee is also issued, ~~(simultaneously)~~ a card, ~~(which is)~~ renewable biennially, ~~(each year)~~ upon payment of the required renewal fee. This card indicates ~~(to indicate)~~ that the ~~(his)~~ license certificate is currently valid. Cards are not issued to those holding in-training status ~~(certificates)~~.

(2) Licensed professional engineers or land surveyors licensed under this Act and doing business with the public on their own account or as chief executives or consultants, or those teaching design courses in an engineering or land surveying program accredited by the Accreditation Board for Engineering and Technology, shall keep their licenses issued by the board posted conspicuously in their places of business where they can be readily examined by the public.

JOSEPH F. SISLER, Chair
CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: May 6, 1999

FILED WITH LRC: May 13, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1999, at 11 a.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 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 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: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone: (502) 573-2680, Fax: (502) 573-6687.

REGULATORY IMPACT ANALYSIS

Agency Contact: Larry Perkins

(1) Type and number of entities affected: Approximately 9000 professional engineers, 1200 land surveyors, 1200 engineers-in-training, and 200 land surveyors-in-training.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

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

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

regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensees and individuals holding "in-training" status are treated uniformly under the law.

**GENERAL GOVERNMENT CABINET
Kentucky State Board of Licensure for
Professional Engineers and Land Surveyors
(Amendment)**

201 KAR 18:100. Seals.

RELATES TO: KRS 322.340, 322.400[~~322.440~~]

STATUTORY AUTHORITY: KRS 322.290, 322.340[~~322.440~~]

NECESSITY, FUNCTION, AND CONFORMITY: Sets forth the requirements and uses for personal seals for licensees.

Section 1. Seals. The board requires that the seal specified for professional licensees be embossed metallic. In addition each licensee may obtain a facsimile of the seal in the form of a rubber stamp if required for convenience in his professional practice. Electronic reproductions of the stamp, seal, or signature are prohibited.

Section 2. At least one (1) set of all final reports, specifications, drawings, and plans, whether produced manually or electronically, shall have an original stamp or seal, and signature. Other copies may have a nonelectronic reproduction of the seal and signatures.

Section 3. The statement required by KRS 322.340(3)(b) shall be placed in the electronic record after the original approval tracings are plotted. It shall not appear on originals submitted for approval.

JOSEPH F. SISLER, Chair
CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: May 6, 1999

FILED WITH LRC: May 13, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1999, at 11:30 a.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 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 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: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone: (502) 573-2680, Fax: (502) 573-6687.

REGULATORY IMPACT ANALYSIS

Agency Contact: Larry Perkins

(1) Type and number of entities affected: Approximately 9000 licensed professional engineers and 1200 land surveyors.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensees are treated uniformly under the law.

**GENERAL GOVERNMENT CABINET
Kentucky State Board of Licensure for
Professional Engineers and Land Surveyors
(Amendment)**

201 KAR 18:110. License renewals.

RELATES TO: KRS [322.150;] 322.160, 322.330, 322.420

STATUTORY AUTHORITY: KRS 322.160, 322.290

NECESSITY, FUNCTION, AND CONFORMITY: Clarifies procedures in complying with KRS Chapter 322 requirements for notification of renewal fees due from licensees [registrants], reinstatements, and

military credit.

Section 1. Renewals of Licenses. (1) Each licensee must keep the board informed of any change in his address. The board's notice of license expiration and the amount of the fee for the ensuing renewal cycle [fiscal year] is sent to the last known address of the licensee. It is the duty of the licensee to renew his license regardless of whether or not the board's notice reaches him.

(2) The procedure to be followed by those who wish to renew a license after a lapse of more than one (1) year constitutes reinstatement. If the evidence submitted in support of a request for reinstatement is unsatisfactory to six (6) [five (5)] or more members of the board, reinstatement will not be approved.

(3) Any licensee who is serving or has served in the armed forces of the United States, must present proper evidence of his service entry, service continuation or discharge in order for the board to give proper credit therefor in the administration of his professional records.

JOSEPH F. SISLER, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: May 6, 1999

FILED WITH LRC: May 13, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1999, at 12 p.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 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 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: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone: (502) 573-2680, Fax: (502) 573-6687.

REGULATORY IMPACT ANALYSIS

Agency Contact: Larry Perkins

(1) Type and number of entities affected: Approximately 9000 licensed professional engineers and 1200 land surveyors.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensees are treated uniformly under the law.

GENERAL GOVERNMENT CABINET Kentucky State Board of Licensure for Professional Engineers and Land Surveyors (Amendment)

201 KAR 18:120. Reissuance of license certificate.

RELATES TO: KRS 322.170

STATUTORY AUTHORITY: KRS 322.170, 322.290

NECESSITY, FUNCTION, AND CONFORMITY: KRS permits the board to reissue licenses and permits. This administrative regulation outlines [the board's authority under KRS Chapter 322 and] the procedure for reissuance of licenses and permits [license certificates].

Section 1. Reissuance of License Certificate. A [new] certificate issued to replace a [any certificate] lost, destroyed, or mutilated certificate shall [-may] be issued for [and] a charge not to exceed ten (10) dollars. A replacement certificate shall bear the signatures of the current chairman and secretary-treasurer of the board and shall be identified as a replacement certificate. [five (5) dollars shall be made for such reissuance.]

JOSEPH F. SISLER, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: May 6, 1999

FILED WITH LRC: May 13, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1999, at 12:30 p.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 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 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: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone: (502) 573-2680, Fax: (502) 573-6687.

REGULATORY IMPACT ANALYSIS

Agency Contact: Larry Perkins

(1) Type and number of entities affected: Approximately 10 licensed professional engineers and land surveyors need licenses reissued 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: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensees are treated uniformly under the law.

KENTUCKY LOTTERY CORPORATION (Amendment)

202 KAR 3:020. Procurement procedures.

RELATES TO: KRS 154A.060(2)(a), 154A.120

STATUTORY AUTHORITY: KRS 154A.050(1)(d)9, 154A.120

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 154A.120(1), the Kentucky Lottery Corporation is authorized to promulgate administrative regulations establishing its procurement procedures. KRS 154A.120(1) provides that the administrative regulations shall be designed to provide for the purchase of supplies, equipment, services and construction items in such a manner as to provide the greatest long-term benefit to the Commonwealth, the greatest integrity for the corporation, and the best services and products for the public. This administrative regulation establishes the procurement procedures of the Kentucky Lottery Corporation in a manner consistent with KRS 154A.120(1) and will apply in lieu of the Kentucky Model Procurement Code, unless otherwise specifically indicated.

Section 1. Procurement Procedures. The procurement procedures of the Kentucky Lottery Corporation are established in the "Kentucky Lottery Corporation Procurement Procedures".

Section 2. Incorporation by Reference. (1) "Kentucky Lottery corporation Procurement Procedures, April 23, 1999 edition [January 26, 1996]" is incorporated by reference.

(2) This material may be inspected, copied, or obtained from the General Counsel [Director of Purchasing] at the offices of the Kentucky Lottery Corporation, 1011 West Main Street, Louisville, Kentucky 40202-2623 [Two Paragon Centre, Suite 400, 6040 Dutchmans Lane, Louisville, Kentucky 40205-3271], Monday through Friday, 8 a.m. to 5 p.m.

ARTHUR L. GLEASON, JR., President & CEO
CAMILLE BATHURST, General Counsel, Corporate Secretary

APPROVED BY AGENCY: May 13, 1999

FILED WITH LRC: May 14, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on June 28, 1999, at 10 a.m., at the Corporate Headquarters of the Kentucky Lottery Corporation, 1011 West Main Street, Louisville, Kentucky 40202-2623. Persons interested in attending the hearing shall notify the agency representative designated below, in writing, by June 21, 1999, five working days prior to the hearing, of their intent to attend the public hearing. If no notification of intent to attend is received by that date, the hearing may be canceled. The hearing will be open to the public, and 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 it is requested in writing, with the cost of the transcript to be borne by the requesting party. If you do not wish to attend the public hearing, you may still 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: Michael J. Denney, Attorney, Kentucky Lottery Corporation, 1011 West Main Street, Louisville, Kentucky 40202-2623, Phone 502-560-1577, Fax 502-560-1532.

REGULATORY IMPACT ANALYSIS

Contract Person: Michael J. Denney, Attorney

(1) Type and Number of Entities Affected: This regulation will affect the Kentucky Lottery Corporation and vendors doing business with the corporation.

(2) Direct or indirect cost 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 in the geographical area in which the administrative regulation will be implemented are anticipated. No public comments have yet been received, and no public hearing has yet taken place regarding the proposed administrative regulation.

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(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 in the geographical area in which the administrative regulation will be implemented are anticipated. No public comments have yet been received, and no public hearing has yet taken place regarding this proposed administrative regulation.

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

1. First year following implementation: None expected.
2. Second and subsequent years: None expected.
- (3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The "Kentucky Lottery Corporation Procurement Procedures, January 26, 1996 edition" were incorporated by reference in 202 KAR 3:020, effective May 16, 1996. The "Kentucky Lottery Corporation Procurement Procedures, April 23, 1999 edition" which is being incorporated by reference will allow the corporation to award contracts based upon best value, rather than low bid; increase the single quote authority from \$1,000 to \$5,000; allow bids to be posted over the Internet; conform the Procurement Procedures to the Kentucky Lottery Corporation's Code of Ethics; define disadvantaged businesses which are eligible for assistance under the procedures; and clarify various other provisions. Raising the single quote authority and allowing bids to be posted over the Internet should increase administrative efficiency for the first year and each year thereafter.

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: See (3)(a)(1) above.

(4) Assessment and anticipated effect on state and local revenues: According to KRS 154A.130(1), surplus net revenues of the Kentucky Lottery Corporation are required to be transferred to the General Fund. Therefore, increasing administrative efficiency may have a positive impact on state revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The administrative regulation will be implemented and enforced with agency funds.

(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 public comments have yet been received, and no public hearing has yet taken place regarding this proposed administrative regulation. However, no economic impact is expected.

(b) Kentucky: No public comments have yet been received, and no public hearing has yet taken place regarding this proposed administrative regulation. However, no economic impact is expected.

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

(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 on public health and environmental welfare are expected in the geographical area in which the proposed environmental regulation will be implemented or in Kentucky.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on the environment and public health would result if the proposed administrative regulation is not implemented.

(c) If detrimental effect would result, explain the detrimental effect: Does not apply.

(9) Identify any statute, rule, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: No statute, rule, administrative regulation or governmental policy appear to conflict, overlap or duplicate the proposed administrative regulation.

(a) Necessity of proposed regulation if in conflict: Does not apply.

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not applied. The proposed administrative regulation only applies to the Kentucky Lottery Corporation and vendors doing business with the corporation.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources (Amendment)

301 KAR 2:111. Deer and turkey hunting on federal areas.

RELATES TO: KRS 150.025(1), 150.170, 150.370, 150.390

STATUTORY AUTHORITY: KRS 150.025(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations relating to game and fish, including seasons and limits, and to make these administrative regulations apply statewide or to limited areas of the state. This administrative regulation establishes consistent deer and turkey hunting season frameworks on federal areas.

Section 1. General Requirements. (1) Unless otherwise stipulated in this administrative regulation, the provisions of 301 KAR 2:172 and 301 KAR 2:140 shall apply.

(2) On the areas listed in this administrative regulation, a hunter shall:

(a) Obtain a permit from the area before hunting.

(b) Not hunt deer or turkey except on assigned hunting dates.

(c) Remain in assigned areas.

(d) Have the signature portion of a valid deer or turkey permit in his possession.

(e) Unless otherwise specified in this administrative regulation, tag deer with area tags issued on the area in lieu of the state deer tag.

(f) Keep the area tag attached to the deer until the carcass is processed.

(g) Check deer at a designated check station before leaving the area.

(3) If hunting is not precluded by other priorities, Land Between the Lakes, Fort Campbell, Fort Knox, Bluegrass Ordnance Depot Activity, Reelfoot National Wildlife Refuge, Clark's River National Wildlife Refuge, Ohio River Islands National Wildlife Refuge and the West Kentucky National Guard Training Site may allow firearm or archery hunting for antlered or antlerless deer from September 1 through January 31.

Section 2. Land Between the Lakes. (1) A person shall not take more than:

(a) Two (2) deer during archery hunts; and

(b) One (1) deer during quota hunts.

(2) Turkey archery hunts: one (1) turkey of either sex during deer archery hunt.

(3) Quota hunters shall:

(a) Apply in advance at Land Between the Lakes.

(b) Check in prior to hunting.

(4) A person shall tag a:

(a) Harvested turkey with the appropriate state turkey tag.

(b) Harvested deer with either:

1. The appropriate state antlered or antlerless state deer tag; or

2. A wildlife management area tag issued by Land Between the Lakes.

(5) A person:

(a) Harvesting deer or turkey shall take the entire or field-dressed carcass to a Land Between the Lakes check station before leaving Land Between the Lakes.

(b) Shall not hunt deer or turkey with crossbows.

Section 3. Fort Campbell. (1) Turkey, either sex:

(a) Deer archery hunters may take turkey.

(b) Firearm season: Fort Campbell may permit turkey firearm hunting on assigned areas and dates between October 15 and December 31.

(c) Turkeys taken at Fort Campbell shall be bonus birds.

- (2) White turkey.
- (a) A person may take one (1) white turkey of either sex during open Fort Campbell hunting seasons.
- (b) Statewide and post limits and tagging requirements shall [do] not apply to white turkey.

Section 4. Reelfoot National Wildlife Refuge. (1) Bag limits. A person shall not take more than:

- (a) Four (4) deer.
- (b) Two (2) deer by firearms.
- (2) Tagging deer.
- (a) A quota hunter shall tag deer with a tag issued by Reelfoot National Wildlife Refuge.
- (b) An archery hunter shall tag deer with the appropriate state tag.
- (c) An archery hunter shall check harvested deer through the state telephone check system [~~at the nearest open state check station~~]

DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
MIKE BOATWRIGHT, Chairman

APPROVED BY AGENCY: February 26, 1999

FILED WITH LRC: May 14, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 28, 1999 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 21, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: John Wilson, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601 (502) 564-4338 FAX (502) 564-6508.

REGULATORY IMPACT ANALYSIS

Contact Person: John Wilson

(1) Type and number of entities affected: There are an estimated 211,000 deer hunters and 20,000 turkey hunters in Kentucky. An unknown portion of these hunters will hunt on the federal areas covered in this regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This amendment continues long-standing hunting seasons on federal areas and will have no impact on costs or savings.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This amendment continues long-standing hunting seasons on federal areas and will have no impact on costs of doing business.

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

1. First year following implementation: No additional compliance, reporting or paperwork requirements; hunters, as in years past, will be required to check deer taken.

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: The amendments to this administrative regulation will create no costs or savings to the department.

- 2. Continuing costs or savings: Same as first year.
- 3. Additional factors increasing or decreasing costs: None
- (b) Reporting and paperwork requirements: Check station results will be tabulated and analyzed.
- (4) Assessment of anticipated effect on state and local revenues: The continuation of established hunting seasons on federal areas will have no effect on state or local revenues.
- (5) Source of revenue to be used for implementation and enforcement of administrative regulation: This administrative regulation establishes permissible hunting dates on federal areas. Implementation and enforcement is the responsibility of each installation using their federal sources of revenue.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments received. The continuation of established hunting seasons should have no impact on economic activities.

(b) Kentucky: No public comments received. The continuation of established hunting seasons should have no impact on economic activities.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternatives are (1) to permit hunting on federal areas only within statewide season dates and limits, or (2) not to permit hunting on these areas at all. Alternative (1) was rejected because other priorities on the areas, particularly on military installations, often preclude hunting during statewide seasons. Alternative (2) was rejected because to close these areas would deprive Kentuckians of recreational opportunities and could lead to deer overpopulation and habitat destruction.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Health benefits will result from outdoor recreational exercise by those who participate in hunting on these areas. Wildlife management afforded by regulated hunting will help maintain deer populations at levels that will prevent the environmental damage associated with overpopulation.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: Slight

(c) If detrimental effect would result, explain detrimental effect: Lack of outdoor recreational opportunity; potential for habitat destruction caused by deer overpopulation.

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

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

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering was used to the extent that each area is afforded differing season dates and other hunting requirements tailored to the specific needs of the area.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Surface Mining Reclamation and Enforcement
(Amendment)

405 KAR 10:010. General requirements for performance bond and liability insurance.

RELATES TO: KRS 350.020, 350.060, 350.062, 350.064, 350.151, 350.465, 30 CFR Parts 730-733, 735, 800.11, 800.60, 917, 30 USC 1253, 1255

STATUTORY AUTHORITY: KRS [Chapter—13A:] 350.020, 350.028, 350.060, 350.064, 350.151, 350.465, 30 CFR Parts 730-733, 735, 800.11, 800.60, 917, 30 USC 1253, 1255

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.028(1), (5), 350.151(1), and 350.465(2) authorize the cabinet to promulgate administrative regulations relating to surface and underground coal mining operations. This administrative regulation establishes the re-

~~quirements for filing and maintaining performance bonds and liability insurance, and bonding methods. [Chapter 350 in pertinent part requires the cabinet to regulate surface coal mining and reclamation operations, including requiring bond sufficient to insure satisfactory reclamation. This administrative regulation sets forth the general requirements for performance bonds and liability insurance. This administrative regulation further sets out general minimum requirements for filing and maintaining bonds and insurance for surface coal mining and reclamation operations, and general requirements for various bonding methods.]~~

Section 1. Applicability. This chapter sets forth the minimum requirements for filing and maintaining performance bonds and insurance for surface coal mining and reclamation operations under KRS Chapter 350.

Section 2. Requirement to File a Bond. (1) An applicant shall not disturb surface acreage or extend any underground shafts, tunnels, or operations prior to receipt of approval from the cabinet of a performance bond covering areas to be affected by surface operations and facilities.

(2) After an application for a new, amended, revised or renewed permit to conduct surface coal mining and reclamation operations has been approved under 405 KAR Chapter 8, but before the permit is issued, the applicant shall file with the cabinet, on a form prescribed and furnished by the cabinet, a performance bond payable to the cabinet. The performance bond shall be conditioned upon the faithful performance of all the requirements of KRS Chapter 350, 405 KAR Chapters 7 through 24, and the provisions of the reclamation plan and permit, and shall cover all surface coal mining and reclamation operations to be conducted within the permit area or increment thereof until all reclamation requirements of 405 KAR Chapters 7 through 24 have been met. The amount, duration, type, conditions and terms of the performance bond shall conform to 405 KAR 10:020 and 405 KAR 10:030.

(3) No permit shall be revised or amended to include additional area unless the liability of the current bond(s) is extended to cover the entire permit area or increment as revised or amended, and the liability of the supplemental bond(s) covers the entire permit area as revised or amended. Unless these conditions are met with respect to the bond(s), the additional area shall be permitted as a separate increment of the current permit area or under a new permit.

(4) A rider to the applicable performance bond, confirming coverage of the revision, shall be submitted by the applicant if a revision to a permit does not change the acreage of the permit area or increment but:

- (a) Adds a coal washer, a crush and load facility, a refuse pile, or a coal mine waste impoundment to the existing permit; or
- (b) Alters the boundary of a permit area or increment.

Section 3. Bonding Methods. The method of performance bonding for a permit area shall be selected by the applicant and approved by the cabinet prior to the issuance of a permit, and shall consist of one (1) of the following methods:

(1) Method "S" - single area bonding. A single area bond is a bond which covers the entire permit area as a single undivided area, for which the applicant shall file the entire bond amount required by the cabinet prior to issuance of the permit. Liability under the bond shall extend to every part of the permit area at all times. Except as provided in 405 KAR 10:020, Section 3(2) regarding extended bond liability, there shall be no release of all or part of the bond amount for completion of a particular phase of reclamation on any part of the permit area under 405 KAR 10:040 until that phase of reclamation has been successfully completed on the entire permit area.

(2) Method "I" - incremental bonding. Incremental bonding is a method of bonding in which the permit area is divided into individual increments, each of which is bonded separately and independently, and for which bond is filed as operations proceed through the permit area.

(a) The permit area shall be divided into distinct increments which shall be subject to approval by the cabinet. Each increment shall be of sufficient size and configuration to provide for efficient reclamation operations should reclamation operations by the cabinet become nec-

essary. If the approved postmining land use is of such nature that successful implementation of the postmining land use capability depends upon an area being integrally reclaimed, then that area shall be contained within a single increment. These increments shall be clearly identified on maps submitted in the permit application under 405 KAR Chapter 8, and the applicant shall describe the approximate time schedule for beginning operations in each increment.

(b) Prior to issuance of a permit, the applicant shall file with the cabinet the full bond amount required by the cabinet for the first increment or increments of the permit area to be disturbed, which shall be not less than the minimum bond required for the permit area required under 405 KAR 10:020, Section 2.

(c) The permittee shall not engage in any surface coal mining and reclamation operations on any increment of the permit area unless ~~and until~~ the full bond amount required by the cabinet has been filed with the appropriate regional office of the department for that increment, the cabinet has verified the validity of the bond, and written authorization to conduct surface coal mining and reclamation operations on that increment is issued by the administrator of the regional office. No credit shall be given for reclamation on other increments.

(d) The boundaries of each increment shall be physically marked at the site in a manner approved by the cabinet.

(e) The bond amount for an increment shall be released or forfeited independently of any other increment of the permit area, and liability under the performance bond shall extend only to the increment expressly covered by the bond. A single bond amount may be filed to cover more than one (1) increment, in which case the increments so covered shall be treated as a single increment.

(f) Except as provided in 405 KAR 10:020, Section 3(2) regarding extended bond liability, there shall be no release of bond for completion of a phase of reclamation on any part of an increment until that phase of reclamation has been successfully completed on the entire increment.

(g) When the bond for an increment is completely released under 405 KAR 10:040, the increment shall be deleted from the permit area.

Section 4. Requirement to File a Certificate of Liability Insurance. Each applicant for a permit shall submit to the cabinet, as part of the permit application, a certificate issued by an insurance company authorized to do business in Kentucky. The amount, duration, form, conditions and terms of this insurance shall conform to 405 KAR 10:030.

Section 5. Incorporation ~~(Documents Incorporated)~~ by Reference. (1) The following material is ~~(forms are hereby)~~ incorporated by reference:

(a) "Performance Bond, Form SME-42, (June, 1999)", Department for Surface Mining Reclamation and Enforcement.

(b) "Irrevocable Standby Letter of Credit, Form SME-72, (July, 1994)", Department for Surface Mining Reclamation and Enforcement.

(c) "Confirmation of Irrevocable Standby Letter of Credit, Form SME-72-A, (July, 1994)", Department for Surface Mining Reclamation and Enforcement.

(d) "Certificate of Liability Insurance, Form SME-29", Department for Surface Mining Reclamation and Enforcement.

(e) "Notice of Cancellation, Nonrenewal or Change of Liability Insurance, Form SME-30", Department for Surface Mining Reclamation and Enforcement.

(f) "Escrow Agreement, Form SME-64, (May, 1991)", Department for Surface Mining Reclamation and Enforcement.

(g) "Performance Bond for Surface Coal Mining and Reclamation on Federal Lands, Form SME-42-F, (June, 1999)", Department for Surface Mining Reclamation and Enforcement.

~~(1) Performance Bond, SME-42, February, 1991.~~

~~(2) Irrevocable Standby Letter of Credit, SME-72, July, 1994.~~

~~(3) Confirmation of Irrevocable Standby Letter of Credit, SME-72-A, April, 1991.~~

~~(4) Certificate of Liability Insurance, SME-29.~~

~~(5) Notice of Cancellation, Nonrenewal or Change of Liability Insurance, SME-30.~~

~~(6) Escrow Agreement, SME-64, May, 1991.]~~

~~(2) This material [(7) These forms] may be inspected, copied,~~

[reviewed] or obtained at the Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow, 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: April 30, 1999

FILED WITH LRC: May 3, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for June 25, 1999, at 10 a.m. (eastern time) in Room D-16 (Training Room) of the Department for Surface Mining Reclamation and Enforcement, at 2 Hudson Hollow, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by June 18, 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 June 25, 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) work-days prior to the hearing.

CONTACT PERSON: Jim Villines, Manager, Program Development and Coordination Branch, Department for Surface Mining Reclamation and Enforcement, 2 Hudson Hollow, Frankfort, Kentucky 40601-4321, Telephone: (502) 564-6940, fax: (502) 564-5698.

REGULATORY IMPACT ANALYSIS

Contact Person: Jim Villines

This administrative regulation incorporates by reference a new performance bond form SME-42-F, (June, 1999), for coal mining operations on federal lands. The new form is necessary to implement the November 2, 1998, federal-state cooperative agreement for federal lands. (The original November, 1998 edition of this form was incorporated by emergency regulation on November 24, 1998.) This administrative regulation also incorporates changes to the existing bond form SME-42 for operations on nonfederal lands. The June, 1999 edition replaces the February, 1991 edition. It revises and clarifies 2 items of information, and deletes 2 unnecessary items of information. It deletes the requirement to enter the name of the community located near the lands covered by the bond, and deletes the requirement that a bond executed by an out-of-state surety be countersigned by a resident Kentucky agent. The countersignature is no longer needed because KRS 304.3-250, which required it, was repealed July 15, 1998.

(1) Type and number of entities affected: This administrative regulation will affect future bonding actions by current and future permittees. Bonds submitted for existing and future coal mining operations in Kentucky will use the new forms. Approximately 2500 operations were under permit at the end of 1998. There are 49 operations on federal lands. In 1998 there were approximately 1100 permitting actions, and approximately 2200 completed bond forms were submitted to the department.

(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 effect is anticipated.

(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 effect is anticipated.

(c) Effect on the compliance, reporting, and paperwork require-

ments, including factors increasing or decreasing costs (note any effects upon competition), to the extent available from the public comments received, for the:

1. First year following implementation: Current permittees on federal lands must replace existing bonds with bonds that use the new form SME-42-F (June, 1999), unless they have already replaced existing bonds with bonds that use the November, 1998 emergency edition of SME-42-F. Future bonds on federal lands must use the new form. Future bonds on nonfederal lands must use the revised form SME-42 (June, 1999).

2. Second and subsequent years: Future bonds must use the new or revised bond forms, as appropriate.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Insignificant cost of developing and printing new bond forms.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors.

(b) Reporting and paperwork requirements: No requirements.

(4) Assessment of anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No additional revenue needed. See additional explanation in item no. 11.

(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: The administrative regulation will be implemented on coal mining operations in the western and eastern Kentucky coal fields. No economic impacts are anticipated.

(b) Kentucky: No economic impacts are anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered. KRS Chapter 13A requires that forms required of regulated entities be adopted by administrative regulation.

(8) Assessment of expected benefits of the administrative regulation: The expected benefit of the federal lands bond form is compliance with the terms of the November 2, 1998, State-federal Cooperative Agreement between the Commonwealth of Kentucky and the United States Department of the Interior for regulation of coal mining operations on federal lands. If this administrative regulation is not adopted it will be necessary to amend or terminate the Cooperative Agreement. If the Cooperative Agreement is terminated, Kentucky will lose the authority to regulate coal mining operations on federal lands. The expected benefits of the changes to the nonfederal lands bond form are simplification and that bonds executed by out-of-state sureties will no longer have to be countersigned by a resident Kentucky agent.

(9)(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and Kentucky: No effects are anticipated.

(b) State whether a detrimental effect on the environment and public health would result if not implemented: None would result.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect.

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

(a) Necessity of proposed regulation if in conflict: No conflict, overlap, or duplication.

(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: This administrative regulation, which incorporates by reference a new bond form for operations on federal lands, will not itself require additional revenues for its implementation or enforcement. However, assumption of authority to regulate operations on federal lands will necessarily involve additional program costs for permitting, enforcement, and related activities. Under the terms of the Cooperative Agreement, the federal government will pay these costs.

(12) TIERING: Is tiering applied? No. Tiering is not used in this amendment because, under the federal and Kentucky surface min-

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ing laws and regulations, these requirements must apply equally to all permittees under 405 KAR Chapters 7-24.

FEDERAL MANDATE ANALYSIS COMPARISON

1. federal statute or regulation constituting the federal mandate. The State-federal Cooperative Agreement for Surface Coal Mining and Reclamation Operations on federal Lands in Kentucky, 63 FR 53252, published October 2, 1998, effective November 2, 1998, 30 CFR 917.30, 30 CFR 800.11. Kentucky had no obligation to regulate coal mining operations on federal lands under the permanent regulatory program until it voluntarily entered into a State-federal Cooperative Agreement to do so. The Cooperative Agreement was entered into by the Governor of the Commonwealth of Kentucky and the Secretary of the United States Department of the Interior, under 30 USC 1273(c) and 30 CFR Part 745.

2. State compliance standards. A performance bond is required by KRS 350.060(11) and Section 2 of this administrative regulation. This administrative regulation incorporates by reference a new form for performance bonds for operations on federal lands, and incorporates changes to the existing bond form for nonfederal lands. Required information includes the numbers that identify the application or permit, the increment if any, and the subsequent permit action (amendment, revision, or renewal) if any; the type and number identifier of bonding instruments; the bond amount; the acreage and location of lands covered; and the identity and notarized signature of the principal providing the bond, and the surety if applicable. The terms and conditions of the bond are set forth, including the obligations of the principal and surety and the conditions under which the bond will be released or forfeited.

The new form for federal lands is generally the same as the revised form for nonfederal lands, except that it includes provisions that take into account the possibility that the Cooperative Agreement may be terminated and authority to regulate the federal lands would then revert to the Department of the Interior. The form expressly states that if the Cooperative Agreement is terminated, the portion of the performance bond covering the federal lands shall be assigned to the United States; and if the Cooperative Agreement is terminated after the bond is forfeited, any unspent or uncommitted proceeds of the bond covering the federal lands shall be assigned to and forwarded to the United States.

3. Minimum or uniform standards contained in the federal mandate. 30 CFR 800.11 requires the applicant to file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a performance bond payable to the regulatory authority and conditioned upon the faithful performance of all the requirements of the federal Act, the regulatory program, the permit, and the reclamation plan. The Cooperative Agreement for federal lands requires as follows:

Article IX: Bonds

NREPC and the Secretary will require each permittee who conducts operations on federal lands to submit a performance bond payable to the State of Kentucky for an amount adequate to cover the operator's responsibilities under the Act and Program. Such performance bond will be conditioned upon compliance with all requirements of the Act, the Program, State rules and regulations, and any other requirements imposed by the Department of the Interior. Such bond will state on its face that in the event the Federal Lands Cooperative Agreement between Kentucky and the U.S. Department of the Interior is terminated, the portion of the bond covering the federal lands increment(s) shall be assigned to the United States. The bond shall also state that if subsequent to the forfeiture of the bond, the Cooperative Agreement is terminated, any unspent or uncommitted proceeds of the portion of the bond covering the federal lands increment(s) shall be assigned to and forwarded to the United States.

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 the requirements necessitated by the federal mandate.

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

additional or different requirement.

KENTUCKY HERITAGE LAND CONSERVATION FUND BOARD (Amendment)

418 KAR 1:020. Administrative procedures of the board.

RELATES TO: KRS 61.805 through 61.850, 61.870 through 61.884, 146.550 through 146.570,

STATUTORY AUTHORITY: KRS 146.560, 146.565, 146.570

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.560(2) directs the board to promulgate, in accordance with the provisions of KRS Chapter 13A, administrative regulations deemed necessary for the application for funds from the agencies identified in KRS 146.570, review and approval of proposed projects, and review and approval of grants. It also directs the board to promulgate administrative regulations on acquisition. KRS 146.565 requires prior board approval of acquisition of land and expenditure of funds. This administrative regulation establishes the administrative procedures the board will employ to implement these duties.

Section 1. Meetings. (1) Meetings of the board shall be conducted in accordance with the Kentucky Open Meetings Laws, KRS 61.805 through 61.850.

(2) Regular meetings. The board shall meet quarterly at times and places designated by the chair. The board shall provide for a yearly schedule of regular meetings pursuant to KRS 61.820. This schedule shall be made available to the public. Should any regular meeting be rescheduled, the board shall provide written notice of the rescheduled meeting pursuant to KRS 61.823(3) through (4).

(3) Special meetings. The chair or a majority of the members of the board may call a special meeting. The board shall provide written notice of a special meeting pursuant to KRS 61.823(3) through (4), unless the meeting is an emergency meeting, in which case the board shall comply with the notice requirements of KRS 61.823(5).

(4) Closed sessions. Deliberations on the future acquisition of land may be closed to the public when publicity would be likely to affect the value of the land. Sessions may also be closed to the public for any other reason permitted by KRS 61.810. The board shall meet the requirements for closed sessions set forth in KRS 61.815.

Section 2. Quorum. Seven (7) members of the board, including at least three (3) who are members pursuant to KRS 146.560(1)(a) through (e) and four (4) who have been appointed pursuant to KRS 146.560(1)(f) through (k), shall constitute a quorum. The board shall act by a majority of those present at a meeting at which a quorum is present.

Section 3. Meeting Participation. (1) Board members may participate in meetings in person or by video teleconference pursuant to KRS 61.826.

(2) The designation of a board member pursuant to KRS 146.560(1)(a) through (e) shall be in writing and shall be submitted to the chair [board] prior to the first [any] meeting the designee attends [as a member]. If the requirements of this subsection are not met, the designee shall not be permitted to vote.

Section 4. Meeting Minutes, Annual Report. (1) Meeting minutes. Minutes of each meeting of the board shall be prepared, mailed to the members of the board, and made available to interested parties upon request to the chair.

(2) Annual report. An annual report of the activities of the board for the previous year shall be prepared. This report shall include a cumulative list of all approved projects and a brief status report of all areas acquired through the fund. The board shall submit the annual report to the Legislative Research Commission by October 1 of each year. Upon receipt of the annual report, the Legislative Research Commission may publish it in the Legislative Record or other appropriate publication.

Section 5. Inspection of Public Records. Public records of the board shall be made available for public inspection in accordance with

the Kentucky Open Records Act, KRS 61.870 through 61.884. The title and address of the official custodian of the board's records shall be Commissioner, Department for Natural Resources, Natural Resources and Environmental Protection Cabinet, 663 Teton Trail, Frankfort, Kentucky 40601.

Section 6. Principal Office. The principal office of the board shall be located at the Office of the Commissioner, Department for Natural Resources, Natural Resources and Environmental Protection Cabinet, 663 Teton Trail, Frankfort, Kentucky 40601. Its regular office hours are 8 a.m. to 4:30 p.m., Monday through Friday, except for state holidays.

Section 7. Officers. The board shall nominate and elect a vice-chair and a treasurer. The vice-chair's duty is to preside over meetings in the absence of the chair. The treasurer, which shall be a member appointed pursuant to KRS 146.560(1)(f) through (k), shall monitor and report disbursements and receipts.

Section 8. Committees. (1) There shall be two (2) standing committees, a projects review committee and a stewardship committee. The chair, with board approval, may also create other committees for specific purposes and a definite term.

(2)(a) The purpose of the projects review committee shall be to review state agency project applications submitted pursuant to 418 KAR 1:030 and competitive grant applications submitted pursuant to 418 KAR 1:040 and determine their compliance with the four (4) priorities for acquisition set forth in KRS Chapter 146.560(2)(a) through (d) and their completeness and accuracy. The findings as to each application shall be set forth in a report which shall be submitted to individual board members at least fifteen (15) days prior to any meeting of the board at which the application is to be considered. A copy of this report shall also be delivered to the applicant. The projects review committee may also assist applicants in the preparation of applications. The projects review committee may contact an applicant at any time before its report is due to correct minor deficiencies in an application.

(b) The purpose of the stewardship committee shall be to review, and make recommendations to the board concerning, RMPs (preliminary and final) and to ensure that the management of land purchased, in whole or in part, with fund money meets the requirements of KRS 146.550 through 146.570, this chapter, memorandums of agreement between the board and a recipient of fund money, conservation easements which pertain to the project site, and the latest RMP approved by the board.

(3) Each committee shall consist of one (1) or more [at least five (5)] board members. The member(s) [members], including a chair for each committee, shall be appointed by the chair of the board, with approval of the board.

(4) A majority of the members of a committee shall constitute a quorum. A committee shall act by a majority of those present at a meeting at which a quorum is present.

(5) Committee members shall serve for a term of one (1) year, but shall remain in office until removed or a successor is appointed. Committees shall be reestablished at the last meeting of each calendar year. Committee members shall be eligible for reappointment.

WILLIAM H. MARTIN, Chairman
BARBARA FOSTER, General Counsel

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 12, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for June 23, 1999, at 10 a.m. EST at the Department for Natural Resources, Natural Resources and Environmental Protection Cabinet, 663 Teton Trail, Frankfort, Kentucky 40601. Individuals who intend to be heard at this hearing shall notify this agency, in writing, by June 16, 1999, five (5) work days 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 hear-

ing, 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 June 23, 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) work days prior to the hearing.

CONTACT PERSON: Joseph R. Dietz, Staff Assistant, Kentucky Heritage Land Conservation Fund Board, c/o Department for Natural Resources, 663 Teton Trail, Frankfort, Kentucky 40601, Telephone: (502) 564-2184, FAX: (502) 564-6193.

REGULATORY IMPACT ANALYSIS

Contact person: Joseph R. Dietz

(1) Type and number of entities affected: The administrative regulation governs the administrative procedures of the Kentucky Heritage Land Conservation Fund Board. As such, the regulation will pertain to any state agency, local government, state college or university applying for Kentucky Heritage Land Conservation Fund money. Given the large number of local government entities eligible for fund money, it is impossible to determine the number of affected entities.

(2) Direct and indirect costs or savings to 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: None. This regulation governs the administrative procedures only of the board.

(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: None. See above.

(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, for the:

1. First year following implementation: None. See above.

2. Second and subsequent years: None. See above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The seven (7) non-state agency members of the board are eligible for mileage (at twenty-seven cents per mile) for each meeting attended. In addition to mileage, the board incurs approximately \$60 of additional expenses per meeting. There are 4 regular meetings of the board per year. It is impossible to predict how many special meetings and committee meetings will be held per year. The board may incur small additional costs if board members choose to participate in meetings via video teleconference pursuant to KRS 61.826.

2. Continuing costs or savings: The continuing costs will be approximately the same as those of the first year.

3. Additional factors increasing or decreasing costs: None.

(b) Reporting and paperwork requirements: Pursuant to Section 4, minutes will be prepared for each meeting. Section 3 requires state agency member designations of alternates to be in writing. Section 8 contains the committee's findings as to the completeness and accuracy of each application and its compliance with the priorities for acquisition set forth in KRS 146.560(2)(a) through (d). Finally, Section 4 requires the board to prepare an annual report of its activities.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Kentucky Heritage Land Conservation Fund. Also, pursuant to KRS 146.560(1), the board will receive staff support from the Natural Resources and Environmental Protection Cabinet and the Department of Fish and Wildlife Resources.

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

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the economic impact, including effects of economic activities arising from the administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None. This administrative regulation governs the administrative procedures of the board.

(b) Kentucky: None. See above.

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

(8) Assessment of expected benefits of the administrative regulation: The entities eligible for fund money will benefit from their awareness of the board's procedures. Also, Section 8 permits the projects review committee to assist applicants in the preparation of applications.

(9)(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation sets forth the procedures of the board which will administer funds for the acquisition and management of lands which meet the priorities for acquisition set forth in KRS 146.560.

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

(c) If detrimental effect would result, explain detrimental effect: Without administrative procedures, the board could not administer the fund or review and approve grant applications payable from the fund.

(10) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplicate: There are no conflicts. This regulation does, however, make clear that the board must meet the requirements of the Kentucky Open Records Act and the Kentucky Open Meetings Laws. This reiteration is necessary to ensure that future members of the board will be made aware of these requirements.

(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

(11) Any additional information or comments: None

(12) TIERING: is tiering applied: No. Tiering is not applicable to the administrative procedures of the board.

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 local government entities, including counties, municipalities, school districts, special districts or a combination thereof, that apply for Kentucky Heritage Land Conservation Fund money.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation relates to the Kentucky Heritage Land Conservation Fund, for which local governments are eligible pursuant to KRS 146.570(4)(f).

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: None

Expenditures: None

Other explanation: This administrative regulation governs the administrative procedures only of the Kentucky Heritage Land Conservation Fund Board.

KENTUCKY HERITAGE LAND CONSERVATION FUND BOARD (Amendment)

418 KAR 1:030. State agency projects.

RELATES TO: KRS 146.200 to 146.360, 146.550 through 146.570

STATUTORY AUTHORITY: KRS 146.560, 146.565, 146.570

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.560(2) directs the board to promulgate, in accordance with the provisions of KRS Chapter 13A, administrative regulations deemed necessary for the application for funds from the agencies identified in KRS 146.570, review and approval of proposed projects, and review and approval of grants. It also directs the board to promulgate administrative regulations on acquisition. KRS 146.565 requires prior board approval of acquisition of land and expenditure of funds. KRS 146.570(4)(a) through (e) authorizes the allocation of fund money to certain state agencies. This administrative regulation establishes standards for the review and approval of proposed state agency projects funded pursuant to KRS 146.570(4)(a) through (e).

Section 1. Approval of Certain Expenditures. Upon written request of a state agency, the board may give advance approval to certain categories of expenditures of money received pursuant to KRS 146.570(4)(a) through (e), including appraisals, title opinions, and environmental audits.

Section 2. Application. (1) A state agency seeking approval for projects funded pursuant to KRS 146.570(4)(a) through (e) shall submit to the board a completed project application. Application shall be made on the form incorporated by reference in Section 6 of this administrative regulation. This subsection shall not apply to expenditures that have received approval pursuant to Section 1 of this administrative regulation.

(2) [The state agency project application shall contain at least the following:

~~(a) General information about the applicant, including, but not limited to, its name and address and the name, address, and phone number of its contact person;~~

~~(b) An identification of the priorities for acquisition, as set forth in KRS 146.560(2)(a) through (d), for which the site qualifies;~~

~~(c) A description of the project and project site and a delineation of project significance, including a description of how the project site qualifies for each applicable priority for acquisition;~~

~~(d) A 1:24,000 USGS topographic map with project site clearly outlined, and other maps, as appropriate;~~

~~(e) A preliminary RMP which meets the requirements of KRS 146.550 through 146.570, this chapter, and the preliminary RMP instructions incorporated by reference in 418 KAR 1:060, Section 16;~~

~~(f) An estimation of acquisition and management costs, the total amount of money requested from the fund, a specification of the forms and sources of matching funds, if any, and assurances as to the certainty of those funds; and~~

~~(g) A certification clause signed by an authorized agency official. In the case of joint applications, the certification clause shall be signed by an authorized official from each joint applicant.~~

~~(3) State agencies may submit joint project applications. The preliminary RMP for a joint project shall specify which state agency will perform each aspect of management. Each joint applicant shall remain responsible for all aspects of management.~~

~~[(4) Beginning January 1, 1996, an application shall be received by the board at least sixty (60) days prior to the meeting at which it is to be considered. Applications and information received after this deadline shall be considered at the next available meeting. Applications shall be promptly forwarded to members of the projects review committee for review. Individual board members shall receive the project review committee's report on an application at least fifteen (15) days prior to a meeting at which that application is to be considered. If the project review committee report lists deficiencies in the application, the state agency shall have an opportunity to correct these deficiencies. However, no additional information will be accepted after the sixty (60) day deadline, except that the projects review committee may, at its discretion, accept information to correct minor deficiencies after the sixty (60) day deadline but at least fifteen (15) days before the meeting at which the information is to be considered.]~~

Section 3. Review of Application. After reviewing the report received from the projects review committee pursuant to 418 KAR 1:020, Sections 8(2)(a), and 2(4) of this administrative regulation, the board shall review each application and evaluate it based on the following criteria:

(1) Whether the proposed project meets one (1) or more of the following priorities for acquisition:

- (a) Natural areas that possess unique features such as habitat for rare and endangered species;
 - (b) Areas important to migratory birds;
 - (c) Areas that perform important natural functions that are subject to alteration or loss; and
 - (d) Areas to be preserved in their natural state for public use, outdoor recreation and education;
- (2) Whether the proposed project site is a natural area or wetland, and whether access or buffer land is necessary;
- (3) Property costs, seeking to maximize public benefit by taking advantage of priority areas below fair market value and where public or private funds are available on a matching basis;
- (4) The completeness and accuracy of the application;
- (5) The information in the application and its attachments;
- (6) Whether the preliminary RMP furthers the purposes of KRS 146.550 through 146.570;
- (7) The applicant's ability to complete the acquisition and manage the land consistent with the preliminary RMP;
- (8) The significance of the natural and educational resources on the project site;
- (9) The prevalence of this type of project and project site in public systems;
- (10) The threat of loss or degradation of the project site if not protected;
- (11) The overall cost compared to the benefit to the Commonwealth of Kentucky; and
- (12) In the case of a project application submitted pursuant to KRS 146.570(4)(d), whether the proposed acquisition is within a wild river corridor established by the Kentucky Wild Rivers Act, KRS 146.200 to 146.360, and the administrative regulations promulgated pursuant thereto.

Section 4. Project Approval or Denial. (1) The board shall approve or deny a project application, with or without conditions or amendments, by the vote of a majority of those present at a meeting at which a quorum is present.

(2) The board shall mail to the applicant, within fifteen (15) days of board action, written notice of the approval or denial of a project application and, if denied, the reasons for denial.

Section 5. Agreements. Funds shall not be disbursed until the applicant enters into a written memorandum of agreement with the board which requires the applicant, at a minimum, to meet the requirements of KRS Chapter 146.550 through 146.570, this chapter, any other applicable laws of the Commonwealth of Kentucky, the application, [any conservation easement which pertains to the project site;] and the latest RMP approved by the board.

Section 6. Incorporation by Reference. (1) "Kentucky Heritage Land Conservation Fund Board Grant Application Form, Form Number HL-1 (January 1999)" [The following document] is incorporated by reference.

(2) This material may be inspected, copied, or obtained [and is available for public inspection and copying between the hours of 8 a.m. and 4:30 p.m., Monday through Friday,] at the Office of the Commissioner, Department for Natural Resources, [Natural Resources and Environmental Protection Cabinet,] 663 Teton Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [State Agency Project Application, Form Number HL-1, Kentucky Heritage Land Conservation Fund Board, Frankfort, Kentucky, April 1995.]

WILLIAM H. MARTIN, Chairman

BARBARA FOSTER, General Counsel

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 12, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for June 23, 1999, at 10 a.m. EST at the Department for Natural Resources, Natural Resources and Environmental Protection Cabinet, 663 Teton Trail, Frankfort, Kentucky 40601. Individuals who intend to be heard at this hearing shall notify

this agency, in writing, by June 16, 1999, five (5) work days 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 June 23, 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) work days prior to the hearing.

CONTACT PERSON: Joseph R. Dietz, Staff Assistant, Kentucky Heritage Land Conservation Fund Board, c/o Department for Natural Resources, 663 Teton Trail, Frankfort, Kentucky 40601, Telephone: (502) 564-2184, FAX: (502) 564-6193.

REGULATORY IMPACT ANALYSIS

Contact person: Joseph R. Dietz

(1) Type and number of entities affected: The following 5 state agencies will be affected: the Department of Parks, the Department of Fish and Wildlife Resources, the Division of Forestry, the Division of Water, and the Kentucky State Nature Preserves Commission.

(2) Direct and indirect costs or savings to 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: This administrative regulation will be implemented throughout the Commonwealth. Kentucky residents may be employed to conduct management activities on lands acquired with Kentucky Heritage Land Conservation Fund money.

(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: None

(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, for the:

1. First year following implementation: With the exception of certain categories of expenditures which receive the prior approval of the board, this administrative regulation requires the above 5 agencies to submit project applications as a prerequisite to expenditure of fund money. Also, those agencies whose applications are approved must enter into written memoranda of agreement with the Kentucky Heritage Land Conservation Fund Board prior to receiving fund money.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The board may incur minor costs associated with the review of project applications.

2. Continuing costs or savings: Continuing costs or savings will depend upon the number of applications submitted per year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: This regulation requires the board's Projects Review Committee to submit reports on each application 15 days prior to the meeting at which the application is to be considered. It also requires the board to provide written notice of the approval or denial of a project application. Finally, the board must enter into memoranda of agreement with successful applicants prior to disbursing fund money.

(4) Assessment of anticipated effect on state and local revenues: This regulation will provide a mechanism whereby the 5 agencies listed in (1) above can apply for Kentucky Heritage Land Conservation Fund money pursuant to KRS 146.570(4)(a) through (e).

(5) Source of revenue to be used for implementation and en-

forcement of administrative regulation: Kentucky Heritage Land Conservation Fund. KRS 146.560(1) also directs the Natural Resources and Environmental Protection Cabinet and the Department of Fish and Wildlife Resources to provide staff support to the board.

(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: This regulation will be implemented throughout the Commonwealth. It may have a positive economic impact on the geographical areas in which heritage lands are located. Many sites will be available for public use, outdoor recreation and education, and people visiting and working at the sites will have a positive effect on the revenues of local merchants.

(b) Kentucky: Same as above.

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

(8) Assessment of expected benefits of the administrative regulation: This regulation will enable the 5 agencies identified above to acquire and manage areas which meet the priorities for acquisition set forth in KRS 146.560(2)(a) through (e). Expected benefits include heritage land conservation and environmental education throughout the Commonwealth. Important natural areas will be protected and preserved for future generations.

(9)(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: See (8) above.

(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: KRS 146.560(2) requires the board to promulgate administrative regulations for application for fund money, review and approval of proposed projects, and acquisition. Without this regulation, the 5 state agencies identified above could not purchase and manage heritage lands pursuant to the mandate of KRS 146.550 through 146.570.

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

(11) Any additional information or comments: None

(12) TIERING: is tiering applied: No. This administrative regulation applies to state agencies only.

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 will affect. None. This administrative regulation relates to state agencies only.

3. State the aspect or service of local government to which this administrative regulation relates. None. This administrative regulation relates to state agencies only.

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: None

Expenditures: None

Other explanation: None

KENTUCKY HERITAGE LAND CONSERVATION BOARD (Amendment)

418 KAR 1:040. Competitive grants.

RELATES TO: KRS 146.550 through 146.570, 382.800 through 382.860

STATUTORY AUTHORITY: KRS 146.560, 146.565, 146.570

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.560(2) directs the board to promulgate, in accordance with the provisions of KRS Chapter 13A, administrative regulations deemed necessary for the application for funds from the agencies identified in KRS 146.570, review and approval of proposed projects, and review and approval of grants. It also directs the board to promulgate administrative regulations on acquisition. KRS 146.565 requires prior board approval of acquisition of land and expenditure of funds. KRS 146.570(f) authorizes the allocation of fund money to state agencies, local governments, and state colleges and universities. This administrative regulation establishes standards for the review and approval of grants funded pursuant to KRS 146.570(4)(f).

Section 1. Application. (1) State agencies, local governments, and state colleges and universities seeking grants pursuant to KRS 146.570(4)(f) shall submit to the board a completed competitive grant application package. Application shall be made on the form incorporated by reference in Section 5 of this administrative regulation.

(2) ~~The competitive grant application shall contain at least the following:~~

~~(a) A cover letter which contains the original signature of the authorized official who signs the certification clause and which authorizes the contact person, if any, to represent the applicant;~~

~~(b) General information about the applicant, including, but not limited to, its name and address and the name, address, and phone number of its contact person;~~

~~(c) An identification of the priorities for acquisition, as set forth in KRS 146.560(2)(a) through (d), for which the site qualifies;~~

~~(d) The status of land acquisition;~~

~~(e) An estimation of acquisition and management costs, the amount of money requested from the fund, a specification of the forms and sources of matching funds, if any, and assurances as to the certainty of those funds;~~

~~(f) A description of the project and project site which augments the preliminary RMP and includes the following information:~~

~~1. A description of the project and the project site;~~

~~2. A comparison of the project site to the surrounding landscape;~~

~~3. The importance of the project to the applicant and the Commonwealth of Kentucky;~~

~~4. An explanation of why the project qualifies for fund money;~~

~~5. A description of partnerships with other agencies;~~

~~6. A detailed budget describing proposed fund expenditures and total project expenditures; and~~

~~7. An identification of nonfund money and its sources.~~

~~(g) A 1:24,000 topographic map with the project site clearly outlined and any nearby public lands identified;~~

~~(h) A site map of appropriate scale which clearly identifies existing and planned facilities, access points and other appropriate information;~~

~~(i) A preliminary RMP which meets the requirements of KRS 146.550 through 146.570, this chapter, and the preliminary RMP instructions incorporated by reference in 418 KAR 1:060, Section 16;~~

~~(j) Other pertinent information, including at least two (2) project endorsements; and~~

~~(k) A certification clause signed by an authorized agency official. In the case of joint applications, the certification clause shall be signed by an authorized official from each joint applicant.~~

(3) Money expended by an applicant in connection with a denied application for funds, grants or projects under this section shall not be reimbursed to the applicant.

(3) (4) An applicant shall not supply false or misleading information to the board and shall provide to the board verification that all information in the grant application is true and accurate.

(4) (5) Grant applicants may submit joint applications. The preliminary RMP for a joint application shall specify which entity will perform each aspect of management. Each joint applicant shall remain responsible for all aspects of management.

(6) Beginning January 1, 1996, an application shall be received by the board at least sixty (60) days prior to the meeting at which it is to be considered. Applications and information received after this deadline shall be considered at the next available meeting. Applications shall be promptly forwarded to members of the Projects Review

Committee for review. Individual board members shall receive the Projects Review Committee's report on an application at least fifteen (15) days prior to a meeting at which that application is to be considered. If the project review committee report lists deficiencies in the application, the applicant shall have an opportunity to correct these deficiencies. However, no additional information will be accepted after the sixty (60) day deadline, except that the Projects Review Committee may, at its discretion, accept information to correct minor deficiencies after the sixty (60) day deadline but at least fifteen (15) days before the meeting at which the information is to be considered.]

Section 2. Review of Application. (1) After reviewing the report received from the Projects Review Committee pursuant to 418 KAR 1:020, Sections 8(2)(a), and 1(6) of this administrative regulation, each board member shall review each application package and evaluate it based on the following criteria:

- (a) Whether the fund contains adequate money to fund the proposed project;
 - (b) Whether the proposed project meets one (1) or more of the following priorities for acquisition:
 1. Natural areas that possess unique features such as habitat for rare and endangered species;
 2. Areas important to migratory birds;
 3. Areas that perform important natural functions that are subject to alteration or loss; and
 4. Areas to be preserved in their natural state for public use, outdoor recreation and education;
 - (c) Whether the proposed acquisition is a natural area or wetland and whether access or buffer land is necessary;
 - (d) Property costs, seeking to maximize public benefit by taking advantage of priority areas below fair market value and where public or private funds are available on a matching basis;
 - (e) The completeness and accuracy of the application package;
 - (f) The information in the application package;
 - (g) Whether the preliminary RMP furthers the purposes of KRS 146.550 through 146.570;
 - (h) The applicant's ability to complete the acquisition and manage the land consistent with the preliminary RMP;
 - (i) The significance of the natural and educational resources on the project site;
 - (j) The prevalence of this type of project and project site in public systems;
 - (k) The threat of loss or degradation of the project site if not protected;
 - (l) The overall cost compared to the benefit to the Commonwealth of Kentucky; and
 - (m) Any other factors deemed relevant by the board.
- (2) The board shall approve or deny a competitive grant application, with or without conditions or amendments, by the vote of a majority of those present at a meeting at which a quorum is present. The board may only approve expenditures that do not exceed funds currently available, and, in the case of numerous applications, the total cost of which exceeds funds available, the board may conduct a series of votes to narrow the list of applications.
- (3) Funds and grant applications may be carried over from meeting to meeting and the board may decline to approve any or all grant applications at a given meeting.
- (4) The board may, itself or through an agent, verify the accuracy of the information in a grant application and make such further investigation of the merits of a proposed acquisition as the board deems appropriate.
- (5) The board shall mail to the applicant, within fifteen (15) days of board action, written notice of the approval or denial of a grant application and, if denied, the reasons for denial.

Section 3. Agreements. Funds shall not be disbursed until the applicant has entered into a written memorandum of agreement with the board which requires the applicant, at a minimum, to meet the requirements of KRS Chapter 146.550 through 146.570, this chapter, any other applicable laws of the Commonwealth of Kentucky, the application, conservation easements which pertain to the project site, and the latest RMP approved by the board.

Section 4. Conservation Easements. Local governments shall convey to the Commonwealth of Kentucky a conservation easement in perpetuity over all land acquired, in whole or in part, with fund proceeds. This conveyance shall occur simultaneously with the conveyance of the property to the applicant [disbursement of fund money]. The conservation easement shall, at a minimum, meet the requirements of KRS 382.800 through 382.860 and ensure that lands acquired are maintained in perpetuity for the purposes set out in KRS 146.560.

Section 5. Incorporation by Reference. (1) "Kentucky Heritage Land Conservation Fund Board Grant Application Form, Form Number HL-1 (January 1999)" [The following document] is incorporated by reference.

(2) This material may be inspected, copied or obtained [and is available for public inspection and copying between the hours of 8 a.m. and 4:30 p.m., Monday through Friday,] at the Office of the Commissioner, Department for Natural Resources, [Natural Resources and Environmental Protection Cabinet,] 663 Teton Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [- Competitive Grant Application, Form Number HL-2, Kentucky Heritage Land Conservation Fund Board, Frankfort, Kentucky, April 1995.]

WILLIAM H. MARTIN, Chairman
BARBARA FOSTER, General Counsel

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 12, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for June 23, 1999, at 10 a.m. EST at the Department for Natural Resources, Natural Resources and Environmental Protection Cabinet, 663 Teton Trail, Frankfort, Kentucky 40601. Individuals who intend to be heard at this hearing shall notify this agency, in writing, by June 16, 1999, five (5) work days 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 June 23, 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) work days prior to the hearing.

CONTACT PERSON: Joseph R. Dietz, Staff Assistant, Kentucky Heritage Land Conservation Fund Board, c/o Department for Natural Resources, 663 Teton Trail, Frankfort, Kentucky 40601, Telephone: (502) 564-2184, FAX: (502) 564-6193.

REGULATORY IMPACT ANALYSIS

Contact person: Joseph R. Dietz

(1) Type and number of entities affected: State agencies, local governments, and state colleges and universities that apply for Kentucky Heritage Land Conservation Fund money pursuant to KRS 146.570(4)(f). Due to the large number of local governments potentially eligible for fund money, the number of entities affected is impossible to determine.

(2) Direct and indirect costs or savings to 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: This administrative regulation will be implemented throughout the Commonwealth. Kentucky residents may be employed to conduct management activities on lands acquired with fund money.

(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: None

(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, for the:

1. First year following implementation: This regulation requires state agencies, local governments, and state colleges and universities to submit competitive grant applications as a prerequisite to receiving grants from the fund. Those entities whose applications are approved must enter into written memoranda of agreement with the Kentucky Heritage Land Conservation Fund Board prior to receiving fund money. Local governments must also convey conservation easements to the Commonwealth.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The board may incur relatively minor costs associated with the review of competitive grant applications, including those associated with verifying information in the application and investigating the merits of proposed acquisitions.

2. Continuing costs or savings: Continuing costs or savings will depend upon the number of applications submitted per year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: This regulation requires the board's Projects Review Committee to submit reports on each application 15 days prior to the meeting at which the application is to be considered. It also requires the board to provide written notice of the approval or denial of a competitive grant application. Finally, the board must enter into memoranda of agreement with applicants and prepare conservation easements for local government projects.

(4) Assessment of anticipated effect on state and local revenues: This regulation will provide a mechanism whereby state agencies, local governments and state colleges and universities can apply for Kentucky Heritage Land Conservation Fund money pursuant to KRS 146.560(4)(f). Local governments will conserve local funds if successful in their applications.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Kentucky Heritage Land Conservation Fund. KRS 146.560(1) also directs the Natural Resources and Environmental Protection Cabinet and the Department of Fish and Wildlife Resources to provide staff support to the board.

(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: This regulation will be implemented throughout the Commonwealth. It may have a positive economic impact on the geographical areas in which heritage lands are acquired. Many sites will be available for public use, outdoor recreation and education, and people visiting and working at those sites will have a positive effect on the revenues of local merchants.

(b) Kentucky: Same as above.

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

(8) Assessment of expected benefits of the administrative regulation: This regulation will enable state agencies, local governments, and state colleges and universities to acquire and manage areas which meet the priorities for acquisition set forth in KRS 146.560(2)(a) through (e). Expected benefits include heritage land conservation and environmental education through the Commonwealth, important natural areas will be protected and preserved for future generations. State parks, state forests, wild river corridors, wildlife management areas, and urban greenspace will provide important wildlife habitat and recreational areas.

(9)(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: See (8) above.

(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: KRS 146.560(2) requires the board to promulgate administrative

regulations for applying for fund money, review and approval of grants, and acquisition. Without this regulation, state agencies, local governments, and state colleges and universities will be unable to purchase and manage heritage lands pursuant to the mandate of KRS 146.550 through 146.570. Urban areas would be unable to attain greenspace that can provide a cleaner, healthier urban environment.

(10) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplicate: 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.

(11) Any additional information or comments: None

(12) TIERING: is tiering applied: Yes. While Section 4 of this administrative regulation requires successful local government applicants to convey conservation easements to the Commonwealth simultaneously with the disbursement of fund money, state agencies and state colleges and universities are not subject to this requirement. Title to property held by state entities is already in the name of the Commonwealth. There is no need for the Commonwealth to convey a conservation easement to itself.

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 local government entities, including counties, municipalities, school districts, special districts or a combination thereof, that apply for Kentucky Heritage Land Conservation Fund money pursuant to KRS 146.570(4)(f).

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation relates to the Kentucky Heritage Land Conservation Fund, for which local governments are eligible pursuant to KRS 146.570(4)(f).

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: Possible increase.

Expenditures: None

Other explanation: This administrative regulation provides procedures that local governments will utilize to apply for Kentucky Heritage Land Conservation Fund money pursuant to KRS 146.570(4)(f). It encourages the acquisition of priority areas for less than fair market value and where public or private funds are available on a matching basis.

KENTUCKY HERITAGE LAND CONSERVATION FUND BOARD (Amendment)

418 KAR 1:050. Procedures for acquisition of land.

RELATES TO: KRS 146.550 through 146.570

STATUTORY AUTHORITY: KRS 146.560, 146.565, 146.570

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.560(2)

directs the board to promulgate administrative regulations, in accordance with the provisions of KRS Chapter 13A, on acquisition. This administrative regulation governs the acquisition of land purchased, in whole or in part, with fund money.

Section 1. Applicants shall attempt to acquire land below fair market value and attempt to acquire matching public or private funds.

Section 2. Transfer of Funds. Expenditures approved by the board shall be disbursed promptly by the Natural Resources and Environmental Protection Cabinet, provided the recipient of fund money has entered into the written memorandum of agreement required by 401 KAR 1:030, Section 5, or 418 KAR 1:040, Section 3; has complied

strictly with the requirements of the application, the most recent RMP approved by the board, KRS 146.550 through 146.570, this chapter, and any other applicable laws of the Commonwealth of Kentucky; and, in the case of local governments, has conveyed to the board a conservation easement pursuant to 418 KAR 1:040, Section 4].

Section 3. Deadline for Acquisition. The project site shall be acquired within two (2) years of board approval of the acquisition. Extensions may be granted by the board upon receipt of a written request for extension.

Section 4. Verification. Recipients of fund money shall provide to the board, within ninety (90) days of land acquisition, verification of land acquisition and money expended for acquisition.

WILLIAM H. MARTIN, Chairman

BARBARA FOSTER, General Counsel

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 12, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for June 23, 1999, at 10 a.m. EST at the Department for Natural Resources, Natural Resources and Environmental Protection Cabinet, 663 Teton Trail, Frankfort, Kentucky 40601. Individuals who intend to be heard at this hearing shall notify this agency, in writing, by June 16, 1999, five (5) work days 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 June 23, 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) work days prior to the hearing.

CONTACT PERSON: Joseph R. Dietz, Staff Assistant, Kentucky Heritage Land Conservation Fund Board, c/o Department for Natural Resources, 663 Teton Trail, Frankfort, Kentucky 40601, Telephone: (502) 564-2184, FAX: (502) 564-6193.

REGULATORY IMPACT ANALYSIS

Contact person: Joseph R. Dietz

(1) Type and number of entities affected: State agencies, local governments, and state colleges and universities that acquire land which has been funded, at least in part, by the Kentucky Heritage Land Conservation Fund. Due to the large number of local governments potentially eligible for fund money, the number of entities affected is impossible to determine.

(2) Direct and indirect costs or savings to 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: None. This regulation governs the acquisition of land only.

(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: None. See above.

(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, for the:

1. First year following implementation: This administrative regulation requires recipients of fund money to provide the board, within 90 days of land acquisition, verification of land acquisition and money expended for acquisition.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation requires all applicants for fund money to attempt to acquire land below fair market value and to attempt to acquire matching public or private funds.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Not applicable.

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

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

(b) Kentucky: None

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

(8) Assessment of expected benefits of the administrative regulation: This administrative regulation requires all applicants for fund money to attempt to acquire land below fair market value and acquire matching public or private funds. It also requires project sites to be purchased within 2 years of board approval of the acquisition. This deadline will guarantee that fund money will not be tied up indefinitely and will help keep property costs down. Finally, it provides for verification of land acquisition and costs.

(9)(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: See (8) above.

(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: Less heritage land would be acquired without the efficiency requirements and safeguards set forth in (8) above.

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

(11) Any additional information or comments: None

(12) TIERING: is tiering applied: No. The efficiency requirements and safeguards set forth in (8) above apply equally to all state and local entities eligible for fund money.

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 local government entities, including counties, municipalities, school districts, special districts or a combination thereof, whose applications for Kentucky Heritage Land Conservation Fund money are approved.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation relates to acquisitions of land which are funded by the Kentucky Heritage Land Conservation Fund.

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: Possible increase.

Expenditures: None

Other explanation: This administrative regulation governs the acquisition process for land funded by the Kentucky Heritage Land Conservation Fund, including the transfer of funds for acquisition and management. It encourages the acquisition of priority areas for

less than fair market value and where public or private funds are available on a matching basis.

**KENTUCKY HERITAGE LAND CONSERVATION FUND BOARD
(Amendment)**

418 KAR 1:060. Management.

RELATES TO: KRS 146.550 through 146.570

STATUTORY AUTHORITY: KRS 146.560, 146.565, 146.570

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.560(2) directs the board to promulgate, in accordance with the provisions of KRS Chapter 13A, administrative regulations deemed necessary for the application for funds from the agencies identified in KRS 146.570, review and approval of proposed projects, and review and approval of grants. KRS 146.565 requires prior board approval of expenditure of funds. KRS 146.570(3) requires each recipient of fund money to develop and implement a resource management plan, allocate at least ten (10) percent of fund money received for management, and maintain in perpetuity, for the purposes set out in KRS 146.560, lands acquired with fund money. This administrative regulation governs the management of land acquired with fund money.

Section 1. Purpose. Each recipient of fund money shall maintain in perpetuity for the purposes set forth in KRS 146.560 land acquired with fund money. Management practices shall also meet the requirements of KRS 146.550 through 146.570, this chapter, any other applicable laws of the Commonwealth, the application, any memorandum of agreement between the board and the recipient of fund money, any conservation easement which pertains to the project site, and the most recent RMP approved by the board.

Section 2. Preliminary RMP. (1) An applicant for fund money shall submit to the board a preliminary RMP simultaneously with an application submitted pursuant to 418 KAR 1:030 or 1:040. The applicant shall follow the preliminary RMP instructions incorporated by reference in Section 16 of this administrative regulation.

(2) The preliminary RMP shall include at least the following information:

- (a) The purpose for which the project site will be acquired and managed;
- (b) A description of the management activities that will occur on the project site, including those related to natural resource protection, resource restoration and enhancement, archeological and historical resource protection, security, safety, and maintenance of the project site;
- (c) An explanation of how the management activities will further the purpose of the project site;
- (d) A description of physical improvements, existing and proposed, at the project site, and an explanation of how these activities will be coordinated with the protection of plant and animal species and communities;
- (e) A description of how public access will be provided;
- (f) A description of all agreements, existing and anticipated, which affect, or may affect, the project site and its use, including, but not limited to, management agreements, leases, easements, and licenses;
- (g) A description of existing and anticipated types of public use and restrictions at the project site; and
- (h) The approximate costs, including staffing costs, and potential funding sources for the items listed in paragraphs (a) through (g) of this subsection.

Section 3. Final RMP. (1) A recipient of fund money shall submit to [file with] the board [county clerk in each county in which the project site is located], within two and one-half (2 1/2) years of receipt of funding [land acquisition], a final RMP which [has been approved by the board]; is consistent with the preliminary RMP and application, and which meets the requirements of KRS 146.550 through 146.570, this chapter, any memorandum of agreement between the board and the recipient, and any conservation easement which pertains to the project site. The applicant shall follow the final RMP instructions incorporated

by reference in Section 16 of this administrative regulation.

(2) The final RMP shall include at least the following information:

- (a) A table of contents;
 - (b) General information including the name of the project, the location of the project site, the name, address, and phone number of the property owner and contact persons, a description of natural resources, and historical information relative to site management;
 - (c) The purpose(s) and proposed future uses of the project site;
 - (d) An explanation of how commitments made in the application, preliminary RMP, memorandum of agreement and conservation easement are reflected in the management plan;
 - (e) Any biological or archaeological inventories that have been conducted; [A description of the management activities that will occur on the project site, including those related to natural resource protection, resource restoration and enhancement, archeological and historical resource protection, staffing, security, safety, maintenance of the project site, and coordination of management activities with adjacent landowners and other resource protection agencies;]
 - (f) A monitoring plan to ensure the continued viability of natural communities and endangered, threatened and special concern plant and animal species on the project site;
 - (g) A description of the management activities that will occur on the project site, including those related to natural resource protection, resource restoration and enhancement, archeological and historical resource protection, staffing, security, safety, maintenance of the project site, and coordination of management activities with adjacent landowners and other resource protection agencies;
 - (h) An explanation of how the proposed management activities will further the purpose(s) of the project site;
 - (i) The identification and location of physical improvements, existing and proposed, on a master site plan;
 - (j) A description of how public access will be provided;
 - (k) A description of all agreements, existing and anticipated, which affect, or may affect, the project site and its use, including, but not limited to, management agreements, leases, easements, and licenses;
 - (l) A description of existing and anticipated types of public use and restrictions at the project site;
 - (m) An explanation of the procedures that will be utilized to assess progress in achieving the goals set forth in the final RMP;
 - (n) An explanation of the procedures that will be utilized to ensure that the project site is identified by one (1) or more appropriate signs and if the site will be identified on literature or advertising; and
 - (o) The estimated costs of the activities listed in paragraphs (e) through (n) of this subsection.
- (3) An applicant may request that its preliminary RMP serve as the final RMP if the preliminary RMP meets all the requirements of subsection (2) of this section.
- (4) The board shall vote to accept or reject the final RMP. If it is rejected, the board shall identify the deficiencies and notify the applicant of those deficiencies. The applicant shall correct these deficiencies within sixty (60) days of notification from the board. [An explanation of how the proposed management activities will further the purpose(s) of the project site;
- (g) The identification and location of physical improvements, existing and proposed, on a master site plan;
 - (h) A description of how public access will be provided;
 - (i) A description of all agreements, existing and anticipated, which affect, or may affect, the project site and its use, including, but not limited to, management agreements, leases, easements, and licenses;
 - (j) A description of existing and anticipated types of public use and restrictions at the project site;
 - (k) A monitoring plan to ensure the continued viability of natural communities and endangered, threatened and special concern plant and animal species on the project site;
 - (l) An explanation of the procedures that will be utilized to assess progress in achieving the goals set forth in the final RMP;
 - (m) An explanation of the procedures that will be utilized to ensure that the project site is identified on all signs, literature, and advertising as being publicly owned and as having been purchased with fund money; and
 - (n) The estimated costs of the activities listed in paragraphs (c)

through (m) of this subsection.]

Section 4. Land acquired, in whole or in part, with money from the fund shall be managed in strict accordance with the most recent RMP approved by the board.

Section 5. Amendment of RMPs. RMPs may be amended only upon prior written board approval. Until [and unless] board approval of an amendment is obtained, the recipient of fund money shall adhere strictly to the most recent RMP approved by the board.

Section 6. Management Agreements. A recipient of fund money may, with prior approval of the board, enter into agreements with third parties for management of land. Despite the terms of any management agreement, the recipient of fund money retains full responsibility for management of the land in accordance with the requirements of KRS 146.550 through 146.570, this chapter, any other applicable laws of the Commonwealth of Kentucky, any memorandum of agreement between the board and the recipient, any conservation easement which pertains to the project site, and the most recent RMP approved by the board.

Section 7. Time Limits. Money initially approved by the board for management shall be expended within two and one-half (2 1/2) years of receipt of funds from the board [land acquisition]. Extensions may be granted for cause by the board upon receipt of a written request for extension.

Section 8. Application for Additional Management Funds. (1) The board may, at its discretion, grant requests for additional management money. [Requests for additional management money shall be in writing and shall be submitted to the board at least two and one-half (2 1/2) years after land acquisition.]

(2) [Additional management awards shall not exceed fifty (50) percent of the initial management funds allocated to the project.

(3) The board shall consider the following factors in its evaluation of requests for additional management money:

- (a) The applicant's past management record;
- (b) The applicant's need for additional management funds; and
- (c) Funds available.

Section 9. Verification. Recipients of fund money shall provide to the board, within three (3) years of land acquisition or six (6) months of expenditure of funds, whichever comes first, verification of money expended on land management.

Section 10. Joint RMPs. Applicants may submit joint RMPs which specify which entity will perform each aspect of management. Each applicant shall remain responsible for all aspects of management.

Section 11. Reports. (1) Recipients of fund money shall submit to the board management reports detailing:

- (a) The status of the project;
- (b) The applicant's compliance with the most recent RMP approved by the board; and
- (c) The status of any final RMP that has yet to be submitted to, or approved by, the board.

(2) Management reports shall be submitted annually until the final RMP has received board approval. Following approval of the final RMP, additional management reports shall be submitted upon request of the board. [Thereafter, the reports shall be submitted biennially.] State agency reports are due on or before the date of the first board meeting of the year. Local government and state college and university reports are due on or before the date of the third board meeting of the year.

Section 12. [Filing. Recipients of fund money shall file, in the office of the county clerk in the county in which the land is located, approved preliminary RMPs within thirty (30) days of land acquisition. Final RMPs shall be filed within the time limits set forth in Section 3 of this administrative regulation. Approved RMP amendments shall be filed within thirty (30) days of receipt of board approval.

Section 13.] Right of Entry. Recipients of fund money shall permit members or agents of the board to enter, at any reasonable time, with or without notice, property purchased, in whole or in part, with fund money to ensure that the property is being managed in accordance with KRS 146.550 through 146.570, this chapter, any other applicable laws of the Commonwealth, the application, any memorandum of agreement between the board and the recipient, any conservation easement that pertains to the project site, and the most recent RMP approved by the board.

Section 13. [14.] Transfer or Encumbrance of Land. Recipients of fund money shall not, without prior board approval, sell, give, devise, or otherwise convey or encumber land acquired, in whole or in part, with fund money.

Section 14. [15.] Identification. The project site shall be identified by one (1) or more signs, and literature or advertising, where appropriate, shall also identify the site as having been purchased with money from the fund, [on all signs, literature, and advertising as being publicly owned and as having been purchased with money from the fund.]

Section 15. [16.] Incorporation by Reference. (1) The following material is [documents are] incorporated by reference:

(a) [and are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the Office of the Commissioner, Department for Natural Resources, Natural Resources and Environmental Protection Cabinet, 663 Teton Trail, Frankfort, Kentucky 40601:

(1) "Preliminary Resource Management Plan Instructions (January 1999), Form Number HL-2", [3, Kentucky Heritage Land Conservation Fund Board, Frankfort, Kentucky, April 1995; and]

(b) [(2)] "Final Resource Management Plan Instructions (January 1999), Form Number HL-3", [4, Kentucky Heritage Land Conservation Fund Board, Frankfort, Kentucky, April 1995.]

(2) This material may be inspected, copied, or obtained at the Office of the Commissioner, Department for Natural Resources, 663 Teton Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. through 4:30 p.m.

WILLIAM H. MARTIN, Chairman

BARBARA FOSTER, General Counsel

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 12, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for June 23, 1999, at 10 a.m. EST at the Department for Natural Resources, Natural Resources and Environmental Protection Cabinet, 663 Teton Trail, Frankfort, Kentucky 40601. Individuals who intend to be heard at this hearing shall notify this agency, in writing, by June 16, 1999, five (5) work days 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 June 23, 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) work days prior to the hearing.

CONTACT PERSON: Joseph R. Dietz, Staff Assistant, Kentucky Heritage Land Conservation Fund Board, c/o Department for Natural Resources, 663 Teton Trail, Frankfort, Kentucky 40601, Telephone: (502) 564-2184, FAX: (502) 564-6193.

REGULATORY IMPACT ANALYSIS

Contact person: Joseph R. Dietz

(1) Type and number of entities affected: State agencies, local governments and state colleges and universities that apply for Kentucky Heritage Land Conservation Fund money. Due to the large number of local governments potentially eligible for fund money, the number of entities affected is impossible to determine.

(2) Direct and indirect costs or savings to 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: This administrative regulation will be implemented throughout the Commonwealth. Kentucky residents may be employed to conduct management activities on lands acquired with fund money.

(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: None

(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, for the:

1. First year following implementation: This administrative regulation requires applicants for fund money to submit a resource management plan with their application. It also requires recipients of fund money to submit: (1) a final resource management plan within 2 1/2 years of receipt of funding; (2) verification of money expended on management; and (3) annual management reports until the final RMP has been approved, and then additional management reports only upon the board's request. Finally, it permits recipients of fund money to submit written requests for additional management money if needed.

2. Second and subsequent years: Same as above. In addition, management of heritage lands may periodically require the hiring of permanent and seasonal staff.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The stewardship committee may incur relatively minor costs associated with the review of preliminary and final resource management plans and ensuring that land purchased with fund money is being maintained for the purposes set out in KRS 146.560. The exact costs cannot be determined since it will depend upon the number of applications submitted and approved and the complexity of the management issues associated with each project.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: This regulation will allow local governments, as well as state agencies and state colleges and universities, to apply for additional management funds from the Kentucky Heritage Land Conservation Fund.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The Kentucky Heritage Land Conservation Fund. KRS 146.560(1) also directs the Natural Resources and Environmental Protection Cabinet and the Department of Fish and Wildlife Resources to provide staff support to the board.

(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: None

(b) Kentucky: None

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

(8) Assessment of expected benefits of the administrative regulation: The resource management plans, verification of money expended on management, and management plans required by this regulation will ensure that lands acquired with fund money are maintained in perpetuity for the purposes set out in KRS 146.560. Also, permitting recipients of fund money to apply for additional management money, if needed, will reduce strains on state and local budgets.

(9)(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This regulation will ensure that lands acquired with fund money are maintained in perpetuity for the purposes set out in KRS 146.560 and that moneys in the fund are used exclusively for the purposes of acquisition and management of lands. It also ensures that acquisition and management money not expended is returned to the board.

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

(c) If detrimental effect would result, explain detrimental effect: If this administrative regulation is not implemented, heritage lands may not be maintained for the purposes set out in KRS 146.560 and fund money may be misspent.

(10) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplicate: 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.

(11) Any additional information or comments: None

(12) TIERING: is tiering applied: No. Since KRS 146.570(3) requires that all lands acquired with fund money be maintained in perpetuity for the purposes set out in KRS 146.560, there is no reason to differentiate between state and local entities.

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 local government entities, including counties, municipalities, school districts, special districts or a combination thereof, that apply for Kentucky Heritage Land Conservation Fund money.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation relates to the management of land funded by the Kentucky Heritage Land Conservation Fund and permits local governments to apply for additional management money.

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: None

Expenditures: None

Other explanation: This administrative regulation governs the management of land acquired with Kentucky Heritage Land Conservation Fund money. It requires recipients of fund money to develop and implement resource management plans and submit management reports to the Kentucky Heritage Land Conservation Fund. In addition, when heritage lands are acquired, management of these lands may require additional employees. However, this regulation also provides a mechanism whereby local governments can apply for management money to cover the costs associated with these requirements. At least 10% of the original fund award must be allocated for management. This initial amount should cover the management costs incurred for the first 2 1/2 years after receipt of fund money. After 2 1/2 years, recipients become eligible to apply for additional management money.

KENTUCKY HERITAGE LAND CONSERVATION FUND BOARD
(Amendment)

418 KAR 1:070. Remedies.

RELATES TO: KRS 146.550 through 146.570

STATUTORY AUTHORITY: KRS 146.560, 146.565, 146.570

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.570(3) requires each recipient of money to implement a RMP for each tract acquired, allocate at least ten (10) percent of moneys received for management, and maintain in perpetuity, for the purposes set out in

KRS 146.560, lands acquired with fund money. It also requires fund money to be spent exclusively on acquisition and management of lands as defined in KRS 146.560. Pursuant to KRS 146.565, board approval is a prerequisite to land acquisition and expenditure of funds. This administrative regulation ensures that land acquired with fund money is maintained in accordance with these requirements and that fund money is used for acquisition and management only, in accordance with KRS 146.560.

Section 1. Forfeiture of Money. (1) Funds approved by the board pursuant to KRS 146.570(4)(f) for land acquisition which, within two (2) years of board approval, is not expended on acquisition of approved land shall revert to the fund. The board may grant written extensions for cause upon receipt of a written request.

(2) Money initially approved by the board for management pursuant to KRS 146.570(4)(f) which, within two and one-half (2 1/2) years of receipt of funds from the board [land-acquisition], is not expended on management of approved land shall revert to the fund. The board may grant written extensions for cause upon receipt of a written request.

Section 2. Forfeiture of Land. (1) Land acquired with fund money is subject to forfeiture, as determined by the board, if any of the following has occurred: (The following occurrences may result, as determined by the board, in the forfeiture of land acquired with fund proceeds.)

(a) Failure to maintain and manage land acquired with fund proceeds for the purposes set forth in KRS 146.560;

(b) Violation of a memorandum of agreement between the board and the recipient of fund money;

(c) Violation of the terms of any conservation easement which pertains to land purchased, in whole or in part, with fund proceeds;

(d) Falsification of information or inaccurate information in the application for a competitive grant or state agency project;

(e) Failure to provide, within ninety (90) days of acquisition, verification of land acquisition and money expended for acquisition;

(f) Falsification of information or inaccurate information in the preliminary or final RMP;

(g) Failure to adhere strictly to, or implement, the most recent RMP which has received board approval;

(h) Failure to submit a final RMP to the board [file with the county clerk's office], within two and one-half (2 1/2) years, of receipt of funds from the board [of land-acquisition, a final RMP which has been approved by the board];

(i) Expenditure of fund money on anything other than items which have received prior board approval;

(j) Failure to provide verification, within three (3) years of land acquisition or six (6) months of expenditure of funds, whichever comes first, of money expended on management of the land;

(k) Failure to permit entry of members or agents of the board pursuant to 418 KAR 1:060, Section 13;

(l) Failure to submit reports to the board pursuant to 418 KAR 1:060, Section 11;

(m) Any attempt to transfer land in violation of 418 KAR 1:060, Section 14; or

(n) Dissolution of the recipient entity.

(2) Any land forfeited pursuant to this administrative regulation shall be transferred to an appropriate land management entity, as designated by the board. Forfeited land shall continue to be managed in accordance with 418 KAR 1:060, Section 1.

Section 3. [Other] Remedies. The board may utilize all [other] remedies available to it by law, including, but not limited to, injunctions and restraining orders to enforce the provisions of KRS 146.550 through 146.570, this chapter, and any other applicable laws of the Commonwealth of Kentucky; any application submitted to the board; any memorandum of agreement between the board and a recipient of fund money; any conservation [conversation] easement which pertains to land purchased, in whole or in part, with fund money; and any RMP approved by the board.

WILLIAM H. MARTIN, Chairman
BARBARA FOSTER, General Counsel

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 12, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation is scheduled for June 23, 1999, at 10 a.m. EST at the Department for Natural Resources, Natural Resources and Environmental Protection Cabinet, 663 Teton Trail, Frankfort, Kentucky 40601. Individuals who intend to be heard at this hearing shall notify this agency, in writing, by June 16, 1999, five (5) work days 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 June 23, 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) work days prior to the hearing.

CONTACT PERSON: Joseph R. Dietz, Staff Assistant, Kentucky Heritage Land Conservation Fund Board, c/o Department for Natural Resources, 663 Teton Trail, Frankfort, Kentucky 40601, Telephone: (502) 564-2184, FAX: (502) 564-6193.

REGULATORY IMPACT ANALYSIS

Contact person: Joseph R. Dietz

(1) Type and number of entities affected: State agencies, local governments and state colleges and universities that receive Kentucky Heritage Land Conservation Fund money. Due to the large number of local governments potentially eligible for fund money, the number of entities affected is impossible to determine.

(2) Direct and indirect costs or savings to 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: None. This administrative regulation contains remedies only.

(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: None. See above.

(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, for the:

1. First year following implementation: None. See above.

2. Second and subsequent years: None. See above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation enables the Kentucky Heritage Land Conservation Fund Board to transfer land to an appropriate land management entity if the recipient of fund money fails to comply with the requirements of KRS 146.550 through 146.570 and 418 KAR Chapter 1, as proposed. It also enables the board to utilize all other remedies available at law, including but not limited to injunctions and restraining orders.

2. Continuing costs or savings: Same as above. In addition, this regulation permits the board to recover fund money not spent on acquisition and management of approved land within certain time limits.

3. Additional factors increasing or decreasing costs: KRS 146.560(1) directs the Natural Resources and Environmental Protection Cabinet and the Department of Fish and Wildlife Resources to provide staff support to the board. In addition, in an effort to minimize the need for the remedies set forth in this regulation, the application, review, acquisition and management procedures set forth in the preceding proposed regulations were designed to detect and

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correct problems at an early stage.

(b) Reporting and paperwork requirements: The only paperwork that will be incurred as a result of this administrative regulation is whatever letters or pleadings are necessary to enforce the requirements of KRS 146.550 through 146.570 and 418 Chapter 1, as proposed.

(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: Staff support from the Natural Resources and Environmental Protection Cabinet and the Department of Fish and Wildlife Resources.

(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: This administrative regulation will only affect those recipients of fund money who fail to meet the requirements of KRS 146.550 through 146.570 and 418 Chapter 1, as proposed. Those recipients may be required to return fund money, or land acquired with fund money, or they may be forced, via court action, to comply with board requirements.

(b) Kentucky: Same as above.

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

(8) Assessment of expected benefits of the administrative regulation: This administrative regulation ensures that fund money will be spent on acquisition and management of lands as defined in KRS 146.560. It also ensures that lands acquired will be maintained in perpetuity for the purposes set out in KRS 146.560.

(9)(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: See (8) above.

(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 could not ensure that fund money is spent exclusively on acquisition and management or that lands acquired are maintained in perpetuity for the purposes set out in KRS 146.560. In addition, fund money could be tied up indefinitely.

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

(11) Any additional information or comments: None

(12) TIERING: is tiering applied: No. The requirements of KRS 146.550 through 146.570 apply equally to all affected entities.

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 local government entities, including counties, municipalities, school districts, special districts or a combination thereof, that apply for Kentucky Heritage Land Conservation Fund money.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation provides the Kentucky Heritage Land Conservation Fund Board with remedies should recipients of Kentucky Heritage Land Conservation Fund money fail to meet the requirements of KRS 146.550 through 146.570 and 418 Chapter 1, as proposed.

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: None

Expenditures: None

Other explanation: No effect on the expenditures and revenues

of local government entities is expected because this regulation pertains to remedies only and will only be implemented if recipients of Kentucky Heritage Land Conservation Fund money fail to comply with the requirements of KRS 146.550 through 146.570 and 418 Chapter 1, as proposed. The remedies include forfeiture of fund money no expended within certain time limits, forfeiture of land purchased with fund money, and injunctions and restraining orders to ensure that fund money is expended for the purposes set forth in KRS 146.550 through 146.570 and that land acquired is maintained in perpetuity for the purposes set forth in KRS 146.560.

JUSTICE CABINET Department of Corrections Division of Adult Institutions (Amendment)

501 KAR 6:070. Kentucky Correctional Institution for Women.

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 [commissioner] to promulgate [adopt, amend or rescind] administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. ~~[These administrative regulations are in conformity with those provisions.]~~

Section 1. Incorporation by Reference. (1)(a) Kentucky Correctional Institution for Women [Pursuant to the authority vested in the Department of Corrections the following] policies and procedures, May 12, 1999 [revised December 14, 1994] are incorporated by reference.

(b) ~~It may be inspected, copied, or [and shall be referred to as Kentucky Correctional Institution for Women Policies and Procedures. Copies of the procedures may be] obtained at [from] 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. [or may be reviewed at the Office of General Counsel on weekdays between 8 a.m. to 4:30 p.m.]~~

(2) Kentucky Correctional Institution for Women Policies and Procedures include:

KCIW 01-08-01	News Media Access
KCIW 02-01-01	Comprehensive Insurance Coverage
KCIW 02-02-01	Fiscal Management: Audits
KCIW 02-02-04	Institution Purchasing Procedures
KCIW 02-03-01	Inventory Control of Nonexpendable Personal Property
KCIW 02-03-02	Inventory and Control of Stores <u>(Amended 5/12/99)</u>
KCIW 02-04-01	Accounting Procedures <u>(Amended 5/12/99)</u>
KCIW 02-05-01	Inmate Canteen and Staff Canteen
KCIW 06-01-01	Inmate Records <u>(Amended 5/12/99)</u>
KCIW 06-01-02	Transfers to Community Centers and the Minimum Security Unit [(Amended 12/14/94)]
KCIW 06-01-03	Storage of Expunged Records
KCIW 10-01-01	Special Management Unit General Operation and Regulations
KCIW 10-01-02	Special Management Unit Programs, Placement and Review [(Amended 12/14/94)]
KCIW 10-01-04	Special Security
KCIW 11-01-01	Food Service Operation Inspections
KCIW 11-01-02	Budgeting, Accounting, and Purchasing Procedures for Food Products
KCIW 11-02-01	Menu Preparation/Special Diets
KCIW 11-03-01	General Guidelines for Food Service Workers
KCIW 11-04-01	Health Regulations and General Guidelines for the Food Service Area
KCIW 11-07-01	Special Religious Diets
KCIW 12-01-01	Control of Pests and Vermin

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KCIW 12-02-01 Laundry and Clothing Issuance [(Amended 12/14/94)]

KCIW 12-02-03 Donated Items

KCIW 12-04-02 Hair Care Services [(Amended 12/14/94)]

KCIW 13-01-01 Provision of Medical and Dental Care

KCIW 13-01-02 Preliminary Health Screening and Appraisal

KCIW 13-01-03 Use of Pharmaceutical Products

KCIW 13-03-01 Emergency Care

KCIW 13-03-02 Infirmary Care and Outside Services

KCIW 13-04-01 Medical Alert System

KCIW 13-04-02 Psychiatric/Psychological Services

KCIW 13-06-01 Informed Consent

KCIW 13-07-01 Detoxification and Alcohol or Chemical Dependency Guidelines

KCIW 13-08-01 Medical Examination for Employees [(Amended 12/14/94)]

KCIW 13-09-01 Suicide Prevention and Intervention Program

KCIW 13-11-01 Infection Control

KCIW 14-01-02 Inmate Rights

KCIW 14-02-01 Access to Attorneys and Designated Counsel Substitutes

KCIW 14-04-01 Inmate Grievance Procedure

KCIW 15-06-01 Restriction Guidelines

KCIW 16-01-01 Inmate Correspondence

KCIW 16-02-01 Inmate Access to Telephone [(Amended 12/14/94)]

KCIW 16-03-01 Inmate Visiting Regulations [(Amended 12/14/94)]

KCIW 16-03-02 Unauthorized Items for Picnic Lunches, Food Packages and Regular Packages

KCIW 16-04-01 Inmate Indigent Fund

KCIW 16-05-01 Inmate Packages [(Amended 12/14/94)]

KCIW 17-01-01 Assessment Center Operation and Reception Programs

KCIW 17-01-02 Assessment/Classification Center Operations, Rules and Regulations

KCIW 17-01-03 Assessment and Classification Unit Property Guidelines

KCIW 17-02-01 Identification Department Admissions [(Amended 12/14/94)]

KCIW 17-05-01 Inmate Personal Property Guidelines [(Amended 12/14/94)]

KCIW 18-01-02 Institutional Housing Assignments [(Amended 12/14/94)]

KCIW 18-01-03 Honor Program

KCIW 18-02-01 Classification Procedures

KCIW 18-05-01 Special Needs Inmates

KCIW 18-06-01 Institutional Status Codes

KCIW 19-01-01 Inmate Work/Program Assignments

KCIW 19-03-01 Landscape and Maintenance Work Details

KCIW 20-01-01 Education Programs

KCIW 20-01-03 Vocational Education: Curriculum Flexible Schedule, Upgrade Programs and Release Preparation Program

KCIW 20-01-04 Entry - Exit Vocational School

KCIW 20-01-05 Vocational Programs: Approved, Assessed and Contain Guidelines for Vocational Records

KCIW 20-01-06 Vocational Education: Staffing Patterns/Requirements

KCIW 20-01-07 Vocational Counselor

KCIW 20-01-08 Vocational Education: Community Resources and the Integration with Academic Progress

KCIW 20-01-09 Vocational Education: Support Equipment

KCIW 20-01-10 Control of Flammable, Hazardous, Toxic and Cautic Materials in the Vocational Area

KCIW 22-01-04 Inmate Club Activities

KCIW 23-01-01 Religious Services

KCIW 25-02-02 Furloughs

KCIW 25-03-01 Escorted Community Leave

DOUG SAPP, Commissioner
TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: May 12, 1999

FILED WITH LRC: May 14, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative

regulation shall be held on June 21, 1999, at 9 a.m., in the State Office Building Auditorium. Individuals interested in being heard at this hearing shall notify this agency in writing by June 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 T. Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, Phone (502) 564-2024, Fax (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact person: Tamela Biggs, Staff Attorney

(1) Type and number of entities affected: 217 employees of the correctional institutions, 671 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.

**TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
Office of General Counsel
(Amendment)**

601 KAR 14:010. Headgear and eye-protective devices.

RELATES TO: KRS 186.865, 189.285, 49 CFR Part 571.218[~~SB 158, sec. 2 (1990 RS)~~]

STATUTORY AUTHORITY: KRS 174.080, 186.865, 189.285[~~49 GFR Part 571.218, SB 158, sec. 2 (1990 RS)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.285 establishes the categories of motorcycle operators and passengers who are required to wear protective headgear. KRS 189.285 establishes conditions for the operation of a motorcycle without wearing protective headgear. KRS 186.865 requires the Transportation Cabinet to develop a decal to be attached to the motorcycle license plate. KRS 189.285(5) requires the Secretary of Transportation, to:

(1) Establish [by administrative regulation, to fix] minimum standards for approved protective headgear and [;] approved eye-protective devices;

(2) [and] Prescribe the manner in which protective headgear and eye-protective devices [they] shall be used;

(3) [He is also required to] Maintain and cause to be published a list of approved protective headgear and approved eye-protective devices; and

(4) [Further, he is required to] Prescribe headgear for use with all-terrain vehicles when they are not being operated for agricultural purposes. [This administrative regulation is designed to comply with the statutory requirements.]

Section 1. Definitions. (1) "Health insurance" is defined by KRS 304.5-040.

(2) "Proof" means documentation which establishes that a person possesses health insurance coverage.

Section 2. A [No] person shall not operate [or ride as a passenger on] a motorcycle unless:

(1) The person wears protective headgear which meets the standards set forth in Section 5 [4] of this administrative regulation; or

(2) A "No Helmet" decal is affixed to the license plate of the motorcycle being operated.

Section 3. [2.] The protective headgear required when operating an all-terrain vehicle shall meet the standards set forth in Section 5 [4] of this administrative regulation.

Section 4. A [3- No] person shall not operate [or ride as a passenger on] a motorcycle unless such person wears an eye-protective device which meets the standards set forth in Section 6 [5] of this administrative regulation.

Section 5. List of Approved Protective Headgear and Approved Eye-protective Devices. (1) For protective headgear, a motorcycle helmet that:

(a) Meets the requirements of 49 CFR 571.218; and

(b) Has been permanently and legibly labeled with the letters "DOT".

1. The letters "DOT" shall:

a. Appear on the outer surface;

b. Be in a color that contrasts with the background;

c. Be at least one (1) centimeter high; and

d. Be located a minimum of two and nine-tenths (2.9) centimeters and a maximum of three and five-tenths (3.5) centimeters, from the bottom edge of the posterior of the helmet.

(2) For eye protective devices: a motorcyclists' eye protection device that has been permanently and legibly marked on the structure of each lens in a manner that does not interfere with the vision of the wearer with:

(a) "VESC-8"; or

(b) If space is limited, "V-8". [Section 4. Federal Motor Vehicle Safety Standards; Motorcycle Helmets as set forth in 49 CFR Part 571.218 effective October 3, 1988 adopted and issued by the National Highway Traffic Safety Administration, U.S. Department of Transportation, specifies the standards for approved protective headgear to be followed in Kentucky.]

Section 5. (1) Minimum Requirements for Motorcyclists' Eye Protection, adopted August 5, 1971, and amended July, 1980 by the Vehicle Equipment Safety Commission are hereby adopted and incorporated by reference in this administrative regulation.

(2) A copy of the standards cited in subsection (1) of this section may be viewed at the Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622, between 8 a.m. and 4:30 p.m. eastern time on weekdays.]

Section 6. Adoption Without Change. (1) 49 CFR 571.218 (October 1, 1998) is adopted without change. The material may be viewed, copied or obtained from the Transportation Cabinet, Office of General Counsel, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. through 4:30 p.m. [The following shall constitute the lists of approved protective headgear and approved eye-protective devices as contemplated by KRS 189.285:

(1) For protective headgear, any motorcycle helmet which has been permanently and legibly labeled with the symbol "DOT". The symbol shall appear on the outer surface in a color that contrasts with the background, in letters at least one (1) centimeter high. It shall be located a minimum of two and nine-tenths (2.9) centimeters and a maximum of three and five-tenths (3.5) centimeters from the bottom edge of the posterior of the helmet.

(2) For eye protective devices, any motorcyclists' eye protection which has been permanently and legibly marked on the structure of each lens in a manner so as not to interfere with the vision of the wearer either "VESC-8" or where space is limited "V-8".]

Section 7. Incorporated by Reference. (1)(a) "Minimum Requirements for Motorcyclists' Eye Protection" July 1980 edition, published by the Vehicle Equipment Safety Commission; and

(b) The "No-Helmet" decal required by the provisions of this administrative regulation.

(2) The material may be viewed, copied or obtained from the Transportation Cabinet, Office of General Counsel, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. through 4:30 p.m.

ED LOGSDON, Commissioner

JAMES C. CODELL, III, Secretary

E. JEFFREY MOSLEY, Executive Director

APPROVED BY AGENCY: May 4, 1999

FILED WITH LRC: May 13, 1999 at 2 p.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on June 22, 1999 at 10 a.m. local prevailing time in the Transportation Cabinet, First Floor Training Room a and B, 501 High Street, Frankfort, Kentucky 40622. Persons wishing to attend this meeting must notify this agency in writing by June 15, 1999. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comments hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirement by June 15, 1999. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is held, written comments will be accepted until the close of the hearing. If the hearing is cancelled, written comments will be accepted until close of business on June 22, 1999. Send written notification of intent to attend public comment hearing or written comments on the administrative regulation to: Charles Harman, Staff Assistant, Transportation Cabinet, State Office Building, 501 High Street,

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Frankfort, Kentucky 40622, (502) 564-7650, Fax: (502) 564-5238.

REGULATORY IMPACT ANALYSIS

Contact person: Charles Harman

(1) Type and number of entities affected: There are over 34,000 of registered motorcycles 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 impact.

(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 impact.

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

1. First year following implementation: Motorcyclists must provide required information to clerk's office.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Some minor staff time for Transportation Cabinet employees. Clerk and staff will provide implementation network.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None known.

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

(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: Some increased tourism may result.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The cabinet did not identify any alternatives that are permitted by KRS 189.285. Exemptions relating to motorcycle passengers and out of state riders were not set forth in the legislation. KRS 13A.120(2) prohibits the cabinet from addressing issues which are not clearly authorized by statute.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Limited effect; the cabinet supports safe driving and riding habits. Helmets and eye protection help prevent serious injury.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: None known.

(c) If detrimental effect would result, explain detrimental effect: N/A

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

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

(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. KRS 189.285 identifies motorcyclist who may obtain a "No Helmet" decal.

EDUCATION, ARTS AND HUMANITIES CABINET Education Professional Standards Board (Amendment)

704 KAR 20:470. Principal Intern Program.

RELATES TO: KRS 161.020, 161.027, 161.028

STATUTORY AUTHORITY: KRS 161.027, 161.028

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.027 requires a certificate of legal credentials for each public school position for which a certificate is issued. KRS 161.027 requires that an applicant for certification as school principal with less than two (2) years of appropriate service complete a one (1) year intern program. This administrative regulation establishes the procedures to implement the Principal Intern Program required under KRS 161.027.

Section 1. An applicant for principal certification requesting exemption from the Principal Intern Program as allowed by KRS 161.027 shall have successful principal experience confirmed by the school official responsible for evaluating the applicant during the time of employment as a school principal.

Section 2. (1) An applicant who has successfully completed all prerequisites to certification specified by KRS 161.027 and administrative regulation and who has been issued either a statement of eligibility or a temporary certificate by the Kentucky Department of Education shall be eligible to participate in the Principal Intern Program specified by this administrative regulation.

(2) The principal internship specified by KRS 161.027 shall take place when a person holding either a valid statement of eligibility or temporary certificate is employed as a principal or full-time assistant principal in a public school or a nonpublic school that is accredited by a regional or national accrediting agency.

Section 3. (1) The purposes of the Principal Intern Program shall be:

(a) To provide beginning principals with the opportunity for learning under the supervision of experienced educators; and

(b) To provide continuing certification upon the demonstration of the principal intern's ability to meet the administrator standards established in Section 4(1) of this administrative regulation.

(2) These purposes shall be accomplished through the principal intern committee which shall be assigned to supervise, assist, and assess the principal intern.

Section 4. (1) The administrator standards used in the assessment of the principal intern shall be as follows:

(a) A school administrator is an educational leader who promotes the success of all students by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community;

(b) A school administrator is an educational leader who promotes the success of all students by advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth;

(c) A school administrator is an educational leader who promotes the success of all students by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(d) A school administrator is an educational leader who promotes the success of all students by collaborating with families and community members, responding to diverse community interests, and needs, and mobilizing community resources;

(e) A school administrator is an educational leader who promotes the success of all students by acting with integrity, fairness, and in an ethical manner; and

(f) A school administrator is an educational leader who promotes the success of all students by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context. [The administrator is the instructional leader who guides, facilitates, and supports the curriculum, instruction, and assessment;

(b) The administrator practices positive, promotional, and proactive communication strategies (oral and written) for effective parent, community, and school involvement to improve the learning environment for all students; and

(c) The administrator is the organizational leader and manager who acts within legal and ethical guidelines to accomplish educational purposes;]

(2) The intern shall demonstrate to the intern committee the ability to meet the administrator standards through observations of performance and the preparation of a portfolio.

(3) The required entries in the portfolio shall be documentation which illustrates each of the administrator standards and the Principal Intern Program professional growth targets.

Section 5. (1) Members of the principal intern committee shall include a principal mentor, employing school district superintendent or designee, and an administrator educator.

(2) The principal mentor shall be selected by the superintendent of the school district employing the principal intern. Preference in selection shall be given to the following criteria in the order stated:

(a) A currently-employed principal ~~[of a similar school level]~~ within the employing district ~~but outside the intern's school~~;

(b) A currently-employed principal within the employing [of a similar school level in a nearby] school district;

(c) A currently-employed principal in a nearby school district [of a different school level within the employing school district]; or

(d) ~~[A currently-employed principal of a different school level in a nearby school district;~~

~~(e) A recently-retired successful principal [of a similar school level; and~~

~~(f) A recently-retired successful principal of a different school level].~~

(3) Selection of a principal mentor from another school district shall be subject to the approval of the superintendent of the proposed principal mentor. An assistant principal shall not serve in this capacity. If a principal mentor is not available through these options, a qualified person shall be identified by the Kentucky Department of Education.

(4) The superintendent of the employing local school district shall serve on the committee or shall appoint a designee who has had experience as a principal or assistant principal.

(5) An administrator educator, who is a faculty member in a state-approved administrator training program at an institution of higher education, shall be appointed by the Kentucky Department of Education in consultation with the employing institution of higher education. Preference in selection shall be given to an administrator educator who has had experience as a principal or an assistant principal. [The administrator educator shall have had experience as a principal or assistant principal.] If an administrator educator is not available, the Kentucky Department of Education shall identify a [qualified] person who has had principal experience. Preference in selection shall be given in the following order:

(a) A district level administrator with previous principal experience in the employing district;

(b) A district level administrator with previous principal experience in a nearby school district; or

(c) A recently retired successful principal.

Section 6. (1) Each member of the principal intern committee shall successfully complete a training program approved by the Kentucky Education Professional Standards Board in the supervision, assistance, and assessment of principal interns.

(2) Updated training shall be required for an intern committee member if:

(a) The member has not assessed an intern within the previous two (2) years; or

(b) The Principal Intern Program is revised.

(3) The training shall provide for a high degree of consistency of implementation throughout the state.

(4) The cost of travel expenses incurred during the training shall be reimbursed by the Kentucky Department of Education in accordance with 200 KAR 2:006.

(5) Training sessions shall be scheduled during the summer months if possible.

(6) Training for administrator educators shall be scheduled through the institutions of higher education.

Section 7. (1) The period of internship shall include the term of employment covered by the contract with the school district.

(2) If a principal intern is employed after the school year has commenced, the period of internship shall not be less than 140 contract days. In some instances, the period of internship may span two (2) school years.

Section 8. (1) The school district employing a principal intern shall submit a confirmation of employment to the Kentucky Department of Education, Office of Teacher Education and Certification. Except in unforeseen circumstances, this confirmation shall be received by the Kentucky Department of Education not later than July 15 [4] of the employment year.

(2) If a principal intern is employed after July 15 [4], the confirmation of employment shall be submitted not later than twenty (20) calendar days following employment.

(3) Upon receipt of the confirmation of employment, the Kentucky Department of Education shall appoint the administrator educator member to the principal intern committee.

Section 9. The superintendent of the employing school district shall provide an orientation meeting for each principal intern to clearly inform the intern of the requirements of the program. At that time, or as soon as possible thereafter, the principal intern shall be provided the names of members of the principal intern committee.

Section 10. (1) The employing school district shall provide to the Kentucky Department of Education information related to the principal mentor and superintendent or designee who will serve as members of each principal intern committee as soon as these members are identified. The information shall include name, Social Security number, address, and telephone number.

(2) If a principal mentor is not available through the options specified in Section 5 of this administrative regulation, the employing school district shall request that the Kentucky Department of Education, Office of Teacher Education and Certification, assist in the identification of a principal mentor.

Section 11. (1) The superintendent of the local school district employing the principal intern shall schedule a meeting of the members of the principal intern committee to be held not later than fifteen (15) days following appointment of all committee members. At that time, the committee shall meet with the principal intern to clarify roles, procedures and expectations. The committee shall also select a chairperson who shall be responsible for scheduling all future visits and conferences and for the completion of required reports.

(2) The principal mentor shall spend a minimum of fifty (50) hours outside of scheduled school hours with the principal intern. The number of hours spent with the intern and the administrator standards and performance indicators addressed shall be reported to the principal intern committee at each committee meeting, and a final report of the total number of hours shall be made in writing by the committee to the superintendent of the local school district employing the principal intern. A copy of the committee's report confirming the number of hours spent by the principal mentor shall be submitted to the Kentucky Department of Education by the local school district in applying for reimbursement of funds as specified in Section 13(1) of this administrative regulation.

(3) Each committee member shall make a minimum of three (3) performance observations of the principal intern and conduct a review as described in subsection (4) of this section of the principal intern portfolio. Following each sequence of performance observations and portfolio review, all committee members shall meet to discuss observed performance and the portfolio. A conference shall then be held with the principal intern by committee members to provide information on the skill level on each administrator standard demonstrated and suggestions for professional growth.

(4) The committee shall follow these guidelines for scheduling a sequence of observations, portfolio review, meetings, and conferences:

(a) The sequence shall be conducted on days that are included in the intern's term of employment [school calendar];

(b) There shall be a minimum of thirty (30) work days between each formal sequence; and

(c) Except for internships provided in Section 7(2), the three sequences shall be completed by May 15.

(5) The final meeting of the principal intern committee shall include a decision reached by a majority vote regarding completion of the internship.

Section 12. (1) In arriving at a professional judgment of the completion of internship, the committee shall consider the progress of the principal intern throughout the entire school year, with particular emphasis on the progress demonstrated during the final months of the internship.

(2) At the completion of the internship experience, the chairperson shall report to the Kentucky Department of Education and to the superintendent of the employing local school district, if the superintendent is not a member of the committee, the committee's decision regarding the principal intern's completion of the intern program.

Section 13. (1) The Kentucky Department of Education shall reimburse the school district employing the principal intern for the payment to each principal mentor of mileage expenses in accordance with 200 KAR 2:006 and for an amount not to exceed \$1,000 to each principal mentor as compensation for out-of-school time spent with the principal intern.

(2) The Kentucky Department of Education shall contract with institutions of higher education to pay an amount of \$300 [200] for each administrator educator and for mileage expenses in accordance with 200 KAR 2:006. Each institution shall make its own determination as to the allocation of funds received from this program.

(3) If the administrator educator member of the committee does not represent an institution of higher education, the Kentucky Department of Education shall reimburse the appropriate agency or individual for mileage expenses in accordance with 200 KAR 2:006 and for an amount not to exceed \$300 [200].

(4) All costs for the superintendent or designee, except travel reimbursement to attend required training, shall be the responsibility of the local school district.

(5) Payments to members of principal intern committees for secondary vocational principal interns shall be administered by the Kentucky Department of Education with reimbursement through the Cabinet for Workforce Development, Department for Technical Education.

Section 14. A complaint relative to the failure of the principal intern committee to comply with statutory and regulatory provisions of the Principal Intern Program shall be reviewed by a committee of four (4) persons appointed by the Kentucky Education Professional Standards Board. The review committee shall include one (1) principal, one (1) superintendent or designee, one (1) administrator educator, and one (1) employee of the Office of Teacher Education and Certification. If practical, a decision on the complaint shall be made within sixty (60) days following receipt of the complaint.

Section 15. The Kentucky Education Professional Standards Board shall collect and analyze data, on an annual or biennial basis, which permit evaluation of the Principal Intern Program covered by this administrative regulation.

ROSA WEAVER, Chair

MARCIA SEILER, Office of Legal Services

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 11, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held June 22, 1999, at 10 a.m. in the State Board Room, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 15, 1999, five work days prior to hearing, of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Dr. Susan Leib, Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, FAX: (502) 573-1610.

REGULATORY IMPACT ANALYSIS

Contact person: Marilyn Troupe

(1) Type and number of entities affected: All applicants for principal certification and principal intern committee members.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There will be a slight increase in the stipend awarded to all administrator educators who serve on the principal intern committees.

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

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: State 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: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: The new administrator standards for performance are much more rigorous and comprehensive than the ones that are being replaced.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Certification requirements are the same for all applicants.

EDUCATION AND HUMANITIES CABINET Department for Libraries and Archives Division of Public Records (Amendment)

725 KAR 1:070. Standards for documents presented for recording.

RELATES TO: KRS 171.450(1)(c), (2), 171.520

STATUTORY AUTHORITY: KRS 171.450(1)(c), (2), 171.520

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450(1)(c) requires the Department for Libraries and Archives to establish standards and procedures for:

(1) Recording, managing, and preserving public records; and

(2) Reproduction of public records by photographic or microphotographic process. KRS 171.520 requires the department to prescribe policies for state and local agencies for efficient record

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management programs. County clerks are required by statute to record, manage, preserve and make accessible instruments lodged for recording with them, but have no specific authoritative standards by which to definitively measure the recording acceptability of documents [the clerks]. This administrative regulation establishes standards for print clarity, paper quality, and document size and format uniformity [of these] instruments shall meet before a county clerk may accept them for official recording.

Section 1. Definitions. (1) "Dark" means equal to or darker than Step 8 on a Stouffer Opaque Sensitivity Guide or "Gray Scale".

(2) "Hand printing" or "hand writing" means writing done by hand with a pen or pencil.

(3) "Nonessential information" includes information that does not affect the validity of a document, such as instructions, page numbers, form number and other notations.

(4) "Printed" means an image produced by a mechanical device, such as a printing press, typewriter, and computer printer.

Section 2. Document Size. (1) An instrument lodged for record in the office of a county clerk shall:

(a) Consist of one (1) or more individual sheets measuring eight and one-half (8 1/2) inches by eleven (11) inches in size;

(b) Not be permanently bound;

(c) Not be a continuous form; and

(d) For each page except the first page and the final page, have a minimum one (1) inch top, side and bottom margin;

(e) For the first page [and the final page], have a minimum:

1. Two (2) inch top margin;

2. One (1) [Two (2)] inch bottom margin; and

3. One (1) inch side margins [margin].

(f) For the final page, have a minimum:

1. One (1) inch top margin;

2. Two (2) inch bottom margin; and

3. One (1) inch side margins.

(2)(a) The following documents [A map, plat, drawing, will, and instrument whose specific size is mandated by federal or state law] shall be exempt from the requirements of this section:

1. A document covered by KRS 322.400;

2. A will;

3. An instrument whose size is mandated by federal law or regulation or state law.

(b) A document covered by KRS 322.400 [A map, plat or drawing] shall contain a two (2) [three (3)] inch by three (3) inch space in one (1) of the top corners [at the bottom right corner].

Section 3. Print Clarity. A printed instrument lodged for record in the office of a county clerk shall meet the following requirements:

(1) It shall be printed with dark ink, on white paper that shall not have background color, images or writing.

(2)(a) Except as provided by paragraph (b) of this subsection, a printed character shall be no smaller than eight (8) point, standard, noncursive font type.

(b) Nonessential information that is printed or written in the margin, and instructions for completing a form, shall be exempt from the provisions of paragraph (a) of this subsection.

(3) A printed character shall be crisp, clean, complete and legible.

(4) A document governed by the provisions of this administrative regulation [it] shall not have [no] superfluous decorations, such as wax, ribbons and gold seals.

Section 4. (1) Except as provided by subsection (2) of this section, a handwritten signature, date, modification, or fill-in blank [and other portions required to be completed by handwriting] shall be written in dark ink.

(2) Blue ink shall be accepted if it is dark when photographically or electronically reproduced.

Section 5. An instrument lodged for record in the office of a county clerk shall be printed on a minimum of twenty (20) pound weight [bond] paper.

Section 6. A county clerk shall not be prohibited from filing an instrument that does not meet the requirements established by this administrative regulation if the instrument has been [is] created, certified, or accepted for filing or recording by the:

(a) United States government; or

(b) [the] Government of a [any] nation or state.

Section 7. Exemptions. The following documents shall be exempt from the provisions of this administrative regulation:

(1) A document executed prior to February 1, 1999; and

(2) A document governed by KRS Chapters 355 and 186A.

JAMES A. NELSON, State Librarian and Commissioner

RICHARD CARROLL, Assistant Attorney General

APPROVED BY AGENCY: May 14, 1999

FILED WITH LRC: May 14, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 22, 1999, at 10 a.m. at the Kentucky Department for Libraries and Archives Board Room. Individuals interested in being heard at this hearing shall notify this agency in writing by June 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 documents 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: Darrell Gabhart, Local Records Branch Manager, Department for Libraries and Archives, Public Records Division, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Ph: (502) 564-8300 x255, Fax: (502) 564-5773.

REGULATORY IMPACT ANALYSIS

Contact Person: Darrell Gabhart

(1) Type and number of entities affected: 120 county clerks' offices and individuals, companies, and other agencies presenting a document for official recording in a county clerk's office will be affected.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There were 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 cost of recording documents over 3 pages in length will increase by the amount specified per page in KRS 64.012, the county clerk fee statute. County clerks urged use of provision KRS 382.295, allowing the filing of "Master Mortgages" or "Standard Mortgage Clauses" that can be attached by reference to a mortgage being presented for recording, to drastically reduce the number of pages per document. County clerk's cost of doing business will be dramatically reduced due to reduction in staff time and materials now being wasted due to prevalent problems, each of which are addressed in this 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: Recording paper and bookbinder cost will be reduced by an average of 20%. Since many clerks will continue to use current stock, this saving may not be fully realized the first year of implementation. Recording fees may increase slightly, due to a small increase in the number of pages per document. This could be off-set by users taking advantage of the provision of KRS 382.295 allowing the filing of standard mortgage clauses that can be attached by reference to the specific mortgage, lien, or other document being presented for recordation. These provisions will greatly increase the legibility of documents, resulting in

savings in labor, recording time and copying costs, especially when electronic or photographic systems are being used. Users will receive better, more legible copies.

2. Second and subsequent years: Savings in supplies and equipment will continue due to the standardization in size. Savings in the costs of recording by photo reproduction or digitization of the original will be realized by the faster, more accurate throughput of a standard size, more legible original.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will be no costs or savings realized by the Kentucky Department for Libraries and Archives the first year.

2. Continuing costs or savings: No direct continuing cost will be realized. There should be indirect savings in providing access to these records in future years due to better legibility and uniform size.

3. Additional factors increasing or decreasing costs:

(b) Reports and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: Recording fees may increase slightly due to increased number of pages on multipage documents.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: None needed.

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

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

(b) Kentucky: No public comments received.

(7) Assessment of alternative methods: None. Reasons why alternatives were rejected: This change can only be uniformly brought about through administrative regulation.

(8) Assessment of expected benefits: In addition to the cited savings to the county clerk's office, implementation of this administrative regulation will greatly enhance a clerk's ability to use automated recording and retrieval devices, such as optical imaging systems, thus providing much better, faster and more accurate, citizen access to the vital public records in his office.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There will be no effect on public health and environmental welfare in Kentucky.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Failure to implement this administrative regulation would not effect the environment or public health.

(c) If detrimental effect would result, explain detrimental effect: There will be no detrimental effect.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication. There is no statute, administrative regulation or government policy in conflict with, overlapping or duplicating this administrative regulation.

(a) Necessity of proposed if in conflict: This proposal is not in conflict with any statute, administrative regulation or government policy.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No effort to harmonize the proposed administrative legislation with other provisions was made because there is no conflict.

(10) Any additional information or comments: The advantages of standardization of letter size documents has long been recognized by: professional records management groups, such as the Association of Records Manager and Administrators (ARMA), who published the results of a study on the subject in 1991 called ELF = Eliminate Legal Size Files - a guideline; by a growing number of state governments and federal agencies; by the Administrative Office of the Courts, since 1978, and, by the Kentucky's legislature (KRS Chapter 13A). Now, county clerks must accept documents of any size, forcing them to purchase and maintain copy equipment and storage equipment that will accommodate the largest of documents presented to them. This increases their costs and uses more valuable storage space. In addition, documents presented to the clerk for recordation vary greatly in legibility due to size of type, faded copies in color and shades and poor handwriting. Some documents do not

allow enough blank space for the clerk's recording stamp to be applied without covering information. All of these problems are compounded when, as more and more clerks are doing, a county clerk utilizes microfilm, photocopy machines or optical scanners to provide preservation, certified copies or digitized access of the records. By setting specific and measurable standards that documents must meet to be accepted for recording. This administrative regulation will enable a county clerk to fulfill his statutory recording duties faster, more efficiently, more accurately and less costly. The result will be greatly enhanced public access, now and in the future.

(11) TIERING: Is tiering applied? No. Tiering was not used since this administrative regulation will apply to all individuals or entities equally.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. The county clerk's office.

3. State the aspect or service of local government to which this administrative regulation relates: This administrative regulation relates to the county clerk's statutory mandate to act as the official recorder and custodian of legal documents (KRS Chapters 382; 73; 376; and 355).

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 (+/-): The specific fiscal impact of this administrative regulation on the office of the county clerk or on state government revenues is not possible to predict. The county clerk is assigned specific fees for recording legal instruments. Many of these fees are designed with a base amount for documents up to a specified number of pages, with a specified additional amount assessed for each page over the base. By going to a standard letter size page and eliminating extremely small size type clauses, some of the traditionally larger documents, leases, mortgages and liens, for instance, will contain more pages and therefore a larger fee will be assessed. However, this may not be the case if this administrative regulation acts as a catalyst for more regular customers, such as lawyers, mortgage companies and banking institutions, to take advantage of the statutory provision for filing standard document clauses with the clerk. These standard clauses are filed under the user's name, and can be attached to the document being recorded by reference. This practice would eliminate all but the base fee being charged for a very large percentage of documents filed, thus reducing to some extent the overall amount of fees collected. With these variables it is not possible to predict the specific fiscal effect, if any, the standard paper size will have on revenues.

Expenditures (+/-): County clerks should realize approximately a 20% savings through the purchase of letter size recording paper (32 or 36 lbs.) and bookbinders as well as the purchase of any copying, scanning or storage equipment.

Other Explanation: KRS 171.520 requires the department to prescribe policies for state and local agencies for efficient record management programs. County clerks are required by statute to record, manage, preserve and make accessible instruments lodged for recording with the clerks. County clerks are increasingly finding it more difficult to provide users access to a legible record, in a reasonable time frame. Many of the documents presented for recording are faded, have colored ink or contain clauses in such small print that they cannot be read, especially when photocopied, microfilmed, or digitally scanned. They are also experiencing problems with the format and layout of some documents that do not provide room for a clerk's recordation stamp on the margins. This administrative regulation establishes standards for print clarity, paper quality, and document size uniformity of these instruments and should provide the county clerks a foundation to ensure that they can fulfill adequately their record keeping mandates. Since the county clerk keeps the vital records of every citizen, everyone will benefit from that im-

provement.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Building Codes Enforcement
(Amendment)

815 KAR 7:105. Kentucky Building Code/1997.

RELATES TO: KRS 198B.010, 198B.040, 198B.050, 198B.060, 198B.080, 198B.110, 198B.260, 198B.990

STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.040(7) requires the board to adopt a mandatory uniform state building code to establish standards for the construction of all buildings in the state. This administrative regulation incorporates by reference the Kentucky Building Code, Seventh Edition 1997.

Section 1. Incorporation by Reference. (1) "The Kentucky Building Code", (Seventh Edition - 1997), as amended January 21, 1999 and April 15, 1999, by the Kentucky Board of Housing, Buildings and Construction, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Housing, Buildings, and Construction, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CHARLES A. COTTON, Commissioner
 RONALD MCCLOUD, Secretary
 JUDITH G. WALDEN, Office of General Counsel

APPROVED BY AGENCY: May 5, 1999

FILED WITH LRC: May 14, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, June 29, 1999 at 10 a.m., local time, in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 22, 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 wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person.

CONTACT PERSON: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden, General Counsel

(1) Type and number of entities affected: Contractors, architects, engineers, design professionals.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No costs or savings involved because administrative regulation only establishes acceptability and sets standards.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No costs or savings involved as stated above.

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

1. First year following implementation: None to users of KBC.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Cost of printing KBC but this is recouped by the sale of the code books.

2. Continuing costs or savings: Cost of printing revised or updated pages.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Paperwork requirements to agency involve updating code by reprinting and distributing to purchasers.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Plan review fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: Kentucky Building Code is used and enforced statewide.

(b) Kentucky: Statewide

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative option available; Board of Housing adopts or amends material within defined limits.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Public safety concerns.

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

(c) If detrimental effect would result, explain detrimental effect: Without a building code, construction would not conform to the latest safety standards listed and confusion over some provisions would make design more difficult.

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

(a) Necessity of proposed regulation if in conflict: No known conflict of statute or policy.

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. Tiering was applied in that the mandatory requirements for buildings are different depending upon the occupancy type and number of persons occupying a building; building size and construction type.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect a part of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation will affect local government where there is a local building inspection program. KRS 198B.060 requires local government to provide for building officials to enforce the Kentucky Building Code

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There is no increased fiscal impact created by this regulation, nor does it increase the number of persons needed by local government. State revenues are neither increased nor decreased by this administrative regulation.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing
(Amendment)

815 KAR 20:020. Parts or materials list.

RELATES TO: KRS 318.010, 318.015, 318.130, 318.150, 318.200

STATUTORY AUTHORITY: KRS 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department, after review by the State Plumbing Code Committee, to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. This administrative regulation established an "approved parts or materials list" containing the parts and materials that have been approved for use in Kentucky.

Section 1. Definitions. (1) "APML" means the "Approved Parts or Materials List."

(2) "ABS" means acrylonitrile-butadiene-styrene pipe.

(3) "ASTM" means American Society for Testing Materials.

(4) "Parts or materials" means all types of fittings and piping used in the soil, waste and vent systems, house sewers, potable water supply, plumbing fixtures, appurtenances, and mechanical sewage systems in plumbing systems.

(5) "Committee" means the State Plumbing Code Committee.

(6) "Code" is defined by KRS 318.010(11).

(7) "Department" is defined by KRS 318.010(1).

(8) "Person" is defined by KRS 318.010(9).

(9) "PVC" means polyvinyl chloride pipe.

Section 2. Approved Parts or Materials List (APML). (1) A part or material manufactured or produced according to a specification listed in the code shall be considered approved if it meets the latest edition of the specification.

(2) A part or material shall not be used in a drainage or plumbing system, other than those currently authorized by the code, unless the use of the part or material has been considered by the committee and approved by the department as being equal to or better than other similarly approved items for inclusion in the APML. The APML may also specify methods of installation or restrictions applicable to a particular part or material.

Section 3. Amending the APML. (1) A person may petition the committee, in writing, no later than fourteen (14) days prior to the committee's next scheduled meeting for the purpose of amending the APML. The request shall include:

(a) A description of the part or material for which approval is sought;

(b) Available technical data;

(c) A listing of other authorities which have approved the use of the part or material; and

(d) Any other pertinent information requested by the committee.

(2)(a) The committee shall consider all parts or materials for which approval is sought and shall forward its recommendations within thirty (30) days to the department.

(b) A hearing shall be held before the committee if requested, by a person having an interest in the subject matter within thirty (30) days following the determination of the committee.

(c) Upon approval of a recommendation by the department, the APML shall be amended by listing the new part or material in Section 5 of this administrative regulation.

Section 4. Custody of the APML. The Director, Division of Plumbing, shall maintain an up-to-date APML and make it available for inspection during regular office hours. Copies of the APML may be obtained by mailing a self-addressed stamped envelope to the Division of Plumbing, Department of Housing, Buildings and Construction, Frankfort, Kentucky 40601.

Section 5. Content of Approved Parts or Materials List. The fol-

lowing list of parts or materials have been approved by the Kentucky Plumbing Code Committee and the Division of Plumbing and shall be allowed for installation in Kentucky.

(1) Flexible three-fourths (3/4) inch hot and cold water connectors for hot water heaters, minimum wall thickness, .032.

(2)(a) Flushmate water closet tank.

(b) Microphor company. Two (2) quart flush toilets.

(c) Jomar 3 and 4 water conserver water closets to operate efficiently on three and one-half (3 1/2) gallons of water per flush.

(d) Superinse toilet that operates on one (1) gallon of water per flush as manufactured by Universal Rundle for the Thetford Wastewater Treatment Systems.

(e) IFO Sanitar AB Model-3160 and 3180 China Water Closet equipped with a Fluidmaster 4003A-F77 Ballcock.

(f) Cashsaver MX (quantum 150-1) Water Closet Combination and Flushmate II Flushometer/Tank as manufactured by Mansfield Plumbing Products.

(3) Tubular traps with gasket in trap seal.

(4)(a) Polyethylene sump pump basin. Polyethylene sump pump basin shall be constructed of polyethylene material and shall be provided with a sump cover.

(b) Liberty Pump Model 402, Laundry Tray Pump for pipe size one and one-half (1 1/2) inch for light commercial and household usage.

(c) Zoeller Drain pump and HiLo Industries Power Drain for pipe sizes one and one-half (1 1/2) inch and two (2) inch for light commercial and household usage.

(d) Sewage ejector pit - eighteen (18) inch by twenty-two (22) inch with steel cover pit and eighteen (18) inch by thirty (30) inch with steel cover sump pit as manufactured by A. K. Industries [Lunsford and Associates, Inc.].

(e) Little Giant Pump Company, Drainosaur Water Removal System, Model #WRS-6. This approval shall be limited to two (2) drainage fixture units since it has a one and one-half (1 1/2) inch drain.

(f) Add A Drain (Waste Discharge System) as manufactured by Lunsford and Associates.

(g) Sta-Rite Pump Corporation, laundry tray system approved for residential and light commercial use.

(h) Electric Drain System as manufactured by Myers for light commercial and household usage.

(5)(a) No-caulk roof flashing. No-caulk roof flashing shall be eighteen (18) inch by eighteen (18) inch galvanized iron base with a neoprene boot forming a water tight seal with the stack that it serves.

(b) Polyethylene roof flashing. Polyethylene roof flashing shall have a base which shall extend six (6) inches in all directions from the base of a stack and shall have a boot with a preformed thermoplastic rubber gasket.

(c) Dektite pipe flashing system to be used on metal building decks for plumbing vent stacks as manufactured by Buildex Corporation.

(d) Oatey eighteen (18) inch by eighteen (18) inch no caulk thermoplastic flashing, one (1) piece construction, positive double seal in three (3) inch only.

(e) Carlisle syntec systems. Vent flashings for sureseal and Brite-Ply roofing systems as required by Carlisle Corporation.

(f) Trocal roofing systems. Vent flashings for Trocal roofing systems as required by Dynamit Nobel of American, Inc.

(g) Masterflash Pipe Flashing system for plumbing vent stacks as manufactured by Aztec Washer Company.

(h) Hi-Tuff Roofing Systems pipe flashing system for plumbing vent stacks as required by J.P. Stevens and Company, Inc.

(6)(a) Kitchen sink faucet. Kitchen sink faucets may have corrugated supply piping if the piping has a wall thickness equal to Type M copper pipe.

(b) Sink and lavatory faucets and pop-up lavatory assembly parts manufactured by CPVC plastic as manufactured by Nibco Co.

(c) Series 1000 Automatic Faucets as Manufactured by Hydrotek USA, Inc.

(7) Lab-Line Enfield L-E acid waste systems, one and one-half (1 1/2) through four (4) inch inside measurement for above and below ground installation on acid waste. Underground shall be laid on six (6) inches of sand grillage and shall be backfilled by hand and tamped six (6) inches around piping or surrounded by six (6) inches of sand grillage.

(8) Floor drains, shower drains, urinal drains and clean-outs manufactured by Plastic Oddities, Inc.

(9) Tubular plastic components conforming to ASTM F409-75, bathtub waste and overflow, traps, continuous sink wastes and extension tubes as manufactured by J & B Products Corporation.

(10)(a) Water heaters. Heat pump water heaters as manufactured by Dec International, Inc., Therma-Stor Products Group.

(b) Water heaters, point of use or instantaneous.

1. In-Sink-Erator's Ultra System. For instant hot water to serve individual fixtures, Model #777W, W, WH, WA and WHA, W-152 and W-154.

2. Eemax Electric Tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve; the pressure type with the requirement that the temperature and pressure relief valve be of a one-half (1/2) inch short shank valve and shall be installed with the product.

3. Vitacimate Control Systems, Inc. - Heatrae Instantaneous Water Heaters Models 7000 and 9000, pressure type, point of use water heater and shall be equipped with an approved temperature and pressure relief valve installed so that the thermo couple of the relief valve extends into the heat chamber discharge.

4. Paloma Automatic Instantaneous Gas Water Heaters Numbers PH-6DN, PH-6DP, PH-12A-DN, PH-12A-DP, PH-12M-DN, PH-12M-DP, PH-16A-DN, PH-16A-DP, PH-16M-DN, PH-16M-DP, PH-24A-DN, PH-24A-DP, PH-24M-DN and PH-24M-DP.

5. Rinnai Gas Fired Instantaneous Water Heaters Model Numbers REU-95GS-2R, REU-95GS-3R, REU-90, REU-130 pressure type and shall be equipped with an approved temperature and pressure relief valve.

6. Elkay Aqua-Temp tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve.

7. International Technology Sales Corporation AEG Telefunken MDT instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve.

8. International Technology Sales Corporation Zanker Faucet Model W05U without a temperature and pressure relief valve.

9. Amtrol hot water maker model numbers WH7P, WH7 and WH7C with a minimum three-fourths (3/4) inch inlet and outlet.

10. Chronomite Laboratories, Inc. - instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve.

11. Chronomite Instant-Flow Tankless Water Heater without a temperature and pressure relief valve.

12. Nova Hot Water Generator Models: VES5/10, VES6/12, VES7/14, VES8/16, VES9/18 and VES11/22 as manufactured by Hot Water Generators, Inc.

13. Aqua Star tankless gas water heaters, model numbers 125 VP and 80 VP and shall be equipped with an approved temperature and pressure relief valve.

14. Ariston electric water heaters, model numbers P-15S and P-10S and shall be equipped with an approved temperature and pressure relief valve.

15. Vaillant Corporation gas fired point of use water heater.

16. Trinom Hot Man Tankless Water Heater as manufactured by Siemens.

17. Field Controls Company Power Venter - Models PVAE and SWG for use in conjunction with gas and oil fired water heaters.

18. Acutemp Instantaneous Water Heater as manufactured by Keltech, Inc., Model #100/208; #100/240; #150/208; #150/240; #180/208; #180/240; #153/208; #153/240; #183/208; #183/240; #183/480 and #C183/480, all requiring an approved pressure and temperature relief valve.

19. Hot Aqua Instantaneous Tankless Electric Water Heaters, Model Numbers, 18/125PC, 24/125PC, 24/120, 32/120, 24/240, 36/240, 48/240, 59/240, 70/240, 24/208, 35/208, 46/208, 60/208, 28/277, 42/277, 55/277, 69/277, 24/120-P, 59/240-P, 46/208-P, 55/277-P, 18/125PC and 24/125PC. This product is not approved for supplying hot water for showers.

20. Stiebel Eltron Tankless Water Heater: Models DHC 3, DHC 6 and DHC 8 approved for use with lavatories and sinks.

(11) Compression joints. Fail-safe hot and cold water systems.

(12) Orion fittings for acid waste piping systems for above and below ground.

(13) R & G Stone Manufacturing Company. Fuseal mechanical joint for the connection of polypropylene and waste piping.

(14) Johns Manville Flex I drain roof drain system.

(15) Hydrocide liquid membrane (HLM) to be used as a shower pan material conforming to ASTM C836-76. The density of the material shall be at least one-sixteenth (1/16) inch thick.

(16) Scotch-Clad brand waterproofing system as manufactured by the 3M Company for thin-set installation of ceramic and quarry tile in shower stalls, bathrooms, janitorial closets limited to those applications on concrete floors and using metallic soil and waste piping.

(17) Elkay Aqua-chill water dispensers.

(18) Flexible connectors for hot and cold potable water supply in plumbing fixture connections as manufactured by Aqua-Flo Corporation limited to thirty (30) inch length except dishwashers which shall be forty-eight (48) inches maximum.

(19)(a) Delta Faucet Company's quick-connect fitting known as "grabber" to be used with hot and cold potable water installations above ground only.

(b) REMCO Angle Stop Quick connect valve for use with hot and cold potable water installations above ground only.

(20) Interceptors.

(a) Town and Country plastic interceptors to be used as a grease trap.

(b) Grease recovery unit (GRU) as manufactured by Lowe Engineering, Lincoln Park, NJ.

(c) Scienco, Inc., models SI-101-20G, SI-104-35G, SI-102-50G and SI-103-100G with PVC solvent connections.

(d) Rockford separators for grease, oil, hair and solids in various styles and sizes and being more specifically model series G, G LO, G M, G LOM, GF, GFE, GAS, GPS, GSS, OS, RHS, GSC, RMS, RSD, SD, SDE, GTD, and RTD that are used for their intended purpose and installed in accordance to the manufacturer's specification and the plumbing code.

(e) Grease interceptors as manufactured by Enpoco, Inc. of St. Charles, IL.

(f) Grease Traps U.S.A.: Polypropylene grease trap, model number GT-25, as certified by the Plumbing and Drain Institute.

(21) Plastic Oddities Srv (sewer relief vent) clean-out.

(22) Contech A-2000 - a PVC corrugated pipe with smooth interior meeting or exceeding all the material and service test requirements of ASTM D-3034-74 except dimensions at the time of manufacture.

(23) Nonchemical water treatment to control lime scale and corrosion buildup superior water conditioners as manufactured by Kemtune, Inc.

(24) Eljer plumbing ware - Elgers ultra one/G water closet.

(25)(a) "Power Flush" and "Quik Jon" as manufactured by Zoeller Company; shall have a three (3) inch vent; alternate additional waste openings to be located in pump chamber above top of base chamber.

(b) Hydromatic JB-1 System as manufactured by Hydromatic Pumps, Inc.

(26) Exemplar Energy garden solar water heater.

(27) ProSet systems for pipe penetrations in fire rated structures. System A for copper and steel pipe. System C using solvent weld joints only. ProSet E-Z flex coupling is approved for similar or dissimilar materials.

(28)(a) ABS and PVC backwater valves, Models 3281, 3282, 3283 and 3284 for solvent cement joints only as manufactured by Canplas Industries.

(b) Flood-Gate Automatic Backwater Valve as manufactured by Bibby-Ste-Croix.

(29) Clamp-All Corporation Pipe Coupling Systems is approved size for size on dissimilar materials on new or existing installations. Snap-All Increaser/Reducer transition bushings are approved for repairs using dissimilar materials or sizes.

(30) Mission Rubber Company "Band-Seal Specialty Coupling" is approved as a transition between any combination of the following materials: cast iron, copper, galvanized steel, schedule 40 PVC and ABS and SDR 35.

(31)(a) Laticrete 9235 Waterproof Membrane to be used as a saing material for floors and walls in showers, bathtubs and floor drain pans.

(b) Ultra-Set as manufactured by Bostik Construction Products to be used as a water proofing material.

(32) DFW Elastomeric PVC coupling manufactured by DFW Plastics, Inc. for use on building sewers.

(33)(a) Fernco Lowflex Shielded Couplings, approved for connecting extra heavy, no-hub and service weight cast iron pipe, DWV PVC and ABS pipe, SDR 35 sewer pipe, galvanized steel pipe and copper pipe or as a transition between any of these materials in soil waste and vent systems above or below grade.

(b) Fernco Proflex Shielded Couplings: Series 3000 for service weight cast iron to plastic, steel or extra cast iron in sizes one and one-half (1 1/2) inch to four (4) inch, Series 3001 for cast iron, plastic or steel to copper in sizes one and one-half (1 1/2) inch to two (2) inch, Series 3003 for copper to copper in one and one-half (1 1/2) inch.

(34) TBA drain, waste and vent pipe, schedule 40 PVC piping marked "meets dimensional specifications of ASTM D-2665". This pipe has been tested for the tensile strength, durability, etc., of ASTM D-2665 except that it is made from recycled, unused plastics rather than virgin materials.

(35) Blucher-Josam stainless steel pipe, fittings and drains for disposal of corrosive wastes.

(36) Paul Panella Industries Hostalen GUR UHMW Polymer Cleanout approved for use on sewers of Schedule 40 PVC, ABS and SDR in four (4) inch and six (6) inch sizes.

(37) Advanced Drainage Systems, Inc., Series 35 polyethylene corrugated sewer pipe with a smooth interior in sizes four (4) inch through twenty-four (24) inches for underground storm water drainage within a building.

(38) "Flowguard Gold" one (1) step CPVC cement for joining copper tube size CPVC piping systems through two (2) inches without the requirement of a cleaner or primer.

(39) E-Z Trap Adapter as manufactured by S & S Enterprises to be used as connection between chrome plated P trap and PVC waste line.

(40) Canplas Industries LTD Specialty DWV Fittings: Part #3628 ABS or PVC forty-five (45) degree Discharge Closet Flange, Part #2321 Appliance (dishwasher) Wye, Part #3650A Closet Flange Kit for Concrete Installations.

(41) Conbraco 78-RV Series In-Line Water Heater Shut-Off Thermal Expansion Control Valve preset at 125 psi to relieve thermal expansion.

FRANK PHIEFFER, Chairman, Plumbing Code Committee
CHARLES A. COTTON, Commissioner
RONALD MCCLOUD, Secretary
JUDITH G. WALDEN, Office of General Counsel

APPROVED BY AGENCY: May 5, 1999

FILED WITH LRC: May 13, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, June 29, 1999 at 10 a.m., local time, in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 22, 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 wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person.

CONTACT PERSON: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden, General Counsel

(1) Type and number of entities affected: Manufacturers of new

products not yet made part of a national standard allowed by the Kentucky Plumbing Code.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: There will be no impact on the cost of living or employment with this amendment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: Provides ability of manufacturer to market his product in the state.

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

1. First year following implementation:

2. Second and subsequent years:

(3) Effects on the promulgating administrative body: Formalizes, with proper regulatory oversight the procedure for acceptability of new products in the State Plumbing Code.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Unchanged by this amendment.

(4) Assessment of anticipated effect on state and local revenues: No effect on revenues because the regulation merely identifies existing procedures in regulatory form.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: The previous method of filing new parts or materials did not meet KRS Chapter 13A requirements.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Not applicable with this amendment.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Not applicable with this amendment.

(c) If detrimental effect would result, explain detrimental effect:

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This is the only known law or policy dealing with this product.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: Additional change made in Section 5(4)(d) to correct technical error; sales representative was listed instead of manufacturer.

(11) **TIERING:** Is tiering applied? Yes. Tiering was used in that each product presented for approval is considered separately for compliance with generally recognized safety and workability standards.

PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction Division of Plumbing (Amendment)

815 KAR 20:120. Water supply and distribution.

RELATES TO: KRS 318.010, 318.130, 318.150, 318.165, 318.200

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This ad-

ministrative regulation establishes the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control the water supply system and requires the manufacturer's specification number of the material accepted in those installations to be identified and published.

Section 1. Definition of Terms. (1) "ASSE" means American Society of Sanitary Engineers and copies of specifications identified in this administrative regulation may be obtained by writing the American Society of Sanitary Engineers, P.O. Box 40362, Bay Village, Ohio 44140.

(2) "ASTM" means American Society for Testing Materials and copies of specifications identified in this administrative regulation may be obtained by writing the American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103.

(3) "Critical level (CL)" means the level to which the vacuum breaker may be submerged before backflow will occur. If the CL marking is not shown on the vacuum breaker, the bottom of the device shall be taken as the CL.

(4) "DWV" means drain, waste and vent piping.

(5) "SDR" means standard dimensional ratio.

Section 2. Quality. (1) The bacteriological and chemical quality of the water supply shall comply with the administrative regulations of the department and other governing authorities. Toxic materials shall be kept out of the potable water system.

(a) The pipe conveying and the surfaces in contact with potable water shall be constructed of nontoxic materials.

(b) Chemicals or other substances that could produce either toxic conditions, taste, odor, or discoloration in a potable water system shall not be introduced into, or used in, the systems.

(c) The interior surface of a potable water tank shall not be lined, painted, or repaired with a material which will affect either the taste, odor, color, or potability of the water supply if the tank is placed in, or returned to, service. All interior tank coatings shall be from the list approved by the authority having jurisdiction.

(2) Potable water shall be accessible to plumbing fixtures that supply water for drinking, bathing, culinary use or the processing of medicinal, pharmaceutical or food products.

(3) The potable water supply system shall be designed, installed, and maintained to prevent contamination from nonpotable liquids, solids, or gases being introduced into the potable water supply through cross connections or other piping connections to the system.

(4) Cross connections shall be prohibited except as approved by the authority having jurisdiction, and suitable protective devices shall be installed.

(5) Cross connections between a private water supply and a public water supply shall not be made.

(6) Closed water systems, protection from excess pressure:

(a) If a single check valve is installed in a water system, a thermal expansion tank sized in accordance with manufacturer's instructions shall be installed in the cold water supply located near the water heater.

(b) If a backflow preventer is installed in a water system, a properly sized thermal expansion tank or other pressure relief device listed in 815 KAR 20:020 must be installed in the water distribution system.

(c) If a pressure reducing valve not equipped with a bypass is installed in the cold water supply line to a water heater, a thermal expansion tank must be installed in the cold water line near the water heater. [If cross-connection control devices are properly installed, they shall create a closed water system. A properly sized thermal expansion tank shall be installed in the cold water supply located near the water heater.]

(7) Backflow and back siphonage protection. Means of protection against backflow shall be as required in paragraphs (a) through (l) of this subsection in order of degree of protection provided. Backflow shall include both back pressure and back siphonage.

(a) An air gap shall provide the best level of protection in all backflow situations. The minimum required air gap shall be determined as follows:

1. How measured. The minimum required air gap shall be measured vertically from the lowest end of a potable water outlet to the

flood rim or line of the fixture or receptacle into which it discharges.

2. Size. The minimum required air gap shall be twice the effective opening of a potable water outlet, unless the outlet is a distance less than three (3) times the effective opening away from a wall or similar vertical surface, in which case the minimum required air gap shall be three (3) times the effective opening of the outlet. The minimum required air gap shall not be less than shown in the following table - Minimum Air Gaps for Plumbing Fixtures.

MINIMUM AIR GAPS FOR PLUMBING FIXTURES		
Fixture	Minimum Air Gap	
	When not affected by near wall (inches)	When affected by near wall (inches)
Lavatories and other fixtures with effective opening not greater than 1/2 inch diameter	1	1 1/2
Sink, laundry trays, gooseneck bath faucets and other fixtures with effective openings not greater than 3/4 inch diameter	1 1/2	2 1/4
Over rim bath fillers and other fixtures with effective openings not greater than 1 inch diameter	2	3
Drinking water fountains - single orifice not greater than 7/16 (0.437) inch diameter or multiple orifices having total area of 0.150 square inches (area of circle 7/16 inch diameter)	1	1 1/2
Effective openings greater than 1 inch	2 x diameter of effective opening	3 x diameter of effective opening

NOTE 1. Side walls, ribs, or similar obstructions do not affect air gaps if spaced from inside edge of spout opening a distance greater than three (3) times the diameter of the effective opening for a single wall, or a distance greater than four (4) times the diameter of the effective opening for two (2) intersecting walls.

NOTE 2. Vertical walls, ribs, or similar obstructions extending from the water surface to or above the horizontal plane of the spout opening require a greater air gap if spaced closer to the nearest inside edge of spout opening than specified in NOTE 1 above. The effect of three (3) or more vertical walls or ribs has not been determined. In this case, the air gap shall be measured from the top of the wall.

(b) Reduced pressure principle back pressure backflow preventer. Reduced pressure principle back pressure backflow preventers shall provide the best mechanical protection against backflow available, and may be considered equivalent to an air gap.

(c) Double check valve assembly: applicable to low level of hazard back pressure backflow conditions. These devices shall be manufactured assemblies consisting of two (2) independently acting check valves and including shutoff valves at each end, and petcocks and test gauges for testing the watertightness of each check valve.

(d) Pressure type vacuum breaker: applicable to back siphonage conditions.

(e) Atmospheric type vacuum breaker: applicable to back siphonage conditions. If applicable, all atmospheric type vacuum breakers shall be installed after the last cutoff valve on the water line. These devices may operate under normal atmospheric pressure if the critical level (CL) is installed at the required height in accordance with the following table:

CRITICAL LEVEL (CL) SETTINGS FOR ATMOSPHERIC TYPE VACUUM BREAKERS	
Fixture or Equipment	Method of Installation
Aspirators, ejectors, and showers	CL at least 6 in. above flood level of receptacle
Bidets	CL at least 6 in. above flood level of receptacle
Cup beverage vending machines	CL at least 12 in. above flood level of machine
On models without built-in vacuum breakers:	

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Dental units	CL at least 6 in. above flood level rim of bowl.
Dishwashing machines	CL at least 6 in. above flood level of machine
Flushometers (closet & urinal)	CL at least 6 in. above top of fixture supplied
Garbage can cleaning machines	CL at least 6 in. above flood level of machine
Hose bibs (sinks or receptacles)	CL at least 6 in. above flood level of receptacle served
Hose outlets	CL at least 6 in. above highest point on hose line
Laundry machines	CL at least 6 in. above flood level of machine
Lawn sprinklers	CL at least 12 in. above highest sprinkler or discharge outlet
Steam tables	CL at least 12 in. above flood level
Tanks & vats	CL at least 6 in. above flood level rim or line

NOTE 1. Critical level (CL) is defined as the level to which the vacuum breaker may be submerged before backflow will occur. If the CL marking is not shown on the vacuum breaker, the bottom of the device shall be taken as the CL.

(f) Barometric loop: applicable to back siphonage conditions. The use of a barometric loop shall not be acceptable as the primary back siphonage preventer.

(g) Location of backflow and back siphonage preventers. Backflow and back siphonage preventers shall be in an accessible location, preferable in the same room as the fixture or connection they protect. Devices may be installed in utility or service spaces. Devices and air gaps shall not be subject to flooding or freezing.

(h) Inspection of devices. Periodic inspections shall be made of all backflow and back siphonage preventers to determine if they are in proper working condition. Reduced pressure principle back pressure backflow preventers shall be tested on at least an annual basis. Records shall be kept on all inspections.

(i) Approval of devices. Before any device for the prevention of backflow or back siphonage is installed, it shall have first been certified by a recognized testing laboratory acceptable to the plumbing official. Devices installed in a building potable water supply distribution system for protection against backflow shall be maintained in good working condition by the person or persons responsible for the maintenance of the system.

(j) Protection of potable water system. Potable water openings, outlets, and connections, except those serving residential units, shall be protected against backflow in accordance with paragraphs, (a) through (l) of this subsection.

(k) Degree of hazard. The protection required at any given outlet or connection shall be determined based on the degree of hazard posed by that outlet or connection as follows:

1. Severe hazard. Potential for contamination by toxic substances or disease-causing organisms.

2. Moderate hazard. Potential for contamination by nontoxic but objectionable substances.

3. Minor hazard. Potential for contamination by generally nontoxic, nonobjectionable substances, but which may cause the consumer to question the quality of water.

(l) Minimum acceptable protection. An opening or outlet shall be protected by an air gap between the opening and flood level rim if possible. The acceptable protection for various types of outlets or connections shall be as shown in the following table:

APPLICATION CHART				
TYPE AND PRES-SURE	DESCRIPTION	INSTALLED AT	EXAMPLES OF INSTALLATIONS	APPLICABLE SPECIFICATIONS
Reduced Pressure Principle Backflow Preventer For high hazard cross connections.	Two independent check valves with intermediate relief valve. Supplied with shut-off valves and ball-type test cocks.	All cross connections subject to backpressure or back siphonage where there is a high potential health hazard from contamination. Continuous pressure.	Main Supply Lines Commercial Boilers Cooling Towers Hospital Equipment Processing Tanks Laboratory Equipment Waste Digesters Car Wash Sewage Treatment Lawn Sprinklers	ASSE No. 1013 AWWA C506 FCCCHR of USC CSA B.64.4 Sizes 3/4" - 10"
(A) Double Check Valve Assembly For low hazard cross connections.	Two independent check valves. Supplied with shutoff valves and ball type test cocks.	All cross connections subject to back pressure where there is a low potential health hazard or nuisance. Continuous pressure.	Main Supply Lines Food Cookers Tanks and Vats Commercial Pools	N ASSE No. 1015 O AWWA C506 N FCCCHR of USC T CSA B.64.5 O Sizes 3/4" - 10"
(B) Dual Check Valve Backflow Preventer For low hazard applications.	Two independent check valves. Checks are removable for testing	Cross connections where there is a low potential health hazard and moderate flow requirements.	Post ground hydrants.	X ASSE No. 1024 I Sizes 3/4" & 1" C
(A) Backflow Preventer with Intermediate Atmospheric Vent For moderate hazard cross connections in small pipe sizes.	Two independent check valves with intermediate vacuum breaker and relief valve.	Cross connections subject to back pressure or back siphonage where there is a moderate health hazard. Continuous pressure.	Boilers (Small) Cooling Towers (Small) Dairy Equipment Residential	ASSE No. 1012 CSA B.64.3 Sizes 1/2" & 3/4"
		Pump outlet to prevent backflow to carbon dioxide gas and carbonated water into the water supply system to beverage machines.	Postmix Carbonated Beverage Machine	Special Approvals
(B) Laboratory Faucet and Double Check Valve with Intermediate Vacuum Breaker in small pipe sizes for moderate to low hazard.	Two independent check valves with intermediate vacuum breaker and relief vent.	Cross connection subject to back pressure or back siphonage where there is a moderate to low health hazard.	Laboratory Faucets and Pipe Lines Barber Shop and Beauty Parlor Sinks	ASSE No. 1035 (N-LF9)

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(A) Atmospheric Vacuum Breakers For moderate to high hazard cross connections.	Single float and disc with large atmospheric port.	Cross connections not subject to backpressure or continuous pressure. Install at least 6" above fixture rim. Protection against back siphonage only.	Process Tanks Dishwashers Soap Dispensers Washing Machines	ASSE No. 1001 ANSI.A112.1.1 CSA B.64.1.1 FCCCHR of USC Sizes 1/4" - 3"
(B) Antisiphon Pressure Breakers For moderate to high hazard cross connections.	Spring loaded single float and disc with independent 1st check. Supplied with shutoff valves and ball type test cocks.	This valve is designed for installation in a continuous pressure potable water supply system 12" above the overflow level of the system being supplied. Protection against back siphonage only.	Laboratory Equipment Cooling Towers Comm. Laundry Machines, Swimming Pools Commercial Plating Tanks Lg. Total & Urinal Facilities Degreasers, Photo Tanks Livestock Water Systems Lawn Sprinklers	ASSE No. 1020 CSA B.64.1.2 FCCCHR of USC Sizes 1/2" - 2"
(C) Hose Connection Vacuum Breakers For residential and industrial hose supply outlets.	Single check with atmospheric vacuum breaker vent.	Install directly on hose bibs, service sinks and wall hydrants. Not for continuous pressure.	Hose Bibs Service Sinks Hydrants	ASSE No. 1011 CSA B.64.2 Size 3/4" Hose

CROSS CONNECTIONS, DEGREE OF HAZARD AND ACCEPTABLE PROTECTION FOR VARIOUS PLUMBING OUTLETS AND CONNECTIONS								
Type of Connection	Degree of Hazard				Acceptable Protection			
	Severe	Moderate	Minor	Air Gap	Reduced Pressure Device	Backflow		Backsiphonage
						Double Check Valve Assembly	Pressure Type Vacuum Breaker	Atmospheric Type Vacuum Breaker
I. Connections subject to back pressure from:								
A. Pumps, tanks, and lines handling :								
1. Toxic substance	X			X	X			
2. Nontoxic substance		X		X	X	X		
B. Boilers								
1. With chemical additives	X			X	X			
2. Without chemical additives		X		X	X	X		
C. Gravity due to obvious site conditions subject to:								
1. Contamination by toxic substances	X			X	X			
2. Contamination by nontoxic substances		X		X	X	X		
II. Water outlets and connections not subject to back pressure:								
A. Connection to sewer or sewage pump	X			X				
B. Outlet to receptacles containing toxic substances	X			X	X		X	X
C. Outlet to receptacles containing nontoxic substances		X		X	X	X	X	X
D. Outlet into domestic water tanks			X		EACH CASE TREATED SEPARATELY			
E. Flush valve toilets	X			X	X		X	X
F. Flush valve urinals		X		X	X		X	X
G. Outlets with hose attachments subject to contamination from:								
1. Toxic substance	X			X	X		X	X
2. Nontoxic substance		X		X	X	X	X	
H. Outlets to recirculating cooling tower								
1. With chemical additives	X			X	X			
2. Without chemical additives		X		X	X	X		

Section 3. Water Required. (1) A building equipped with plumbing fixtures and used for habitation or occupancy shall be equipped with a supply of potable water.

(2) In buildings used as residences or buildings in which people assemble or are employed, both hot and cold water shall be supplied.

Section 4. Water Service. (1) The water service piping to A build-

ing shall not be less than three-fourths (3/4) inch nominal pipe size but shall be of sufficient size to permit a continuous and ample flow of water to all fixtures in the building.

(2) The underground water service pipe from the main or water supply system to the water distribution system shall not be less than five (5) feet apart horizontally from the house sewer and shall be separated by undisturbed or compacted earth except they may be placed

in the same trench if:

- (a) The bottom of the water service pipe at all points shall be at least eighteen (18) inches above the top of the sewer at its highest point.
- (b) The water service pipe shall be placed on a solid shelf excavated at one (1) side of the common trench.
- (c) The number of joints in the water service pipe shall be kept to a minimum.

Section 5. Distribution. (1) The water supply shall be distributed through a piping system entirely independent of any other piping system.

(2) Piping which has been used for purposes other than conveying potable water shall not be used for conveying potable water.

(3) Nonpotable water may be used for flushing water closets and urinals, if the water is piped in an independent system. If a dual water distribution system is used, the nonpotable water supply shall be durably and adequately identified by color markings and metal tags, or other appropriate method as may be approved by the governing authority. An outlet on the nonpotable water distribution system used for drinking or domestic purposes shall be permanently posted: DANGER - UNSAFE WATER. The branches, fittings or valves shall be identified by the word - "NONPOTABLE WATER" either by signs or brass tags that shall be permanently affixed to the pipe, fittings, or valves. These identification markings shall not be concealed. Their maintenance shall be the responsibility of the owner.

(4) Any backflow device or cross-connection control device shall be approved by the department.

(5) Combination stop and waste valves, cocks, or hydrants shall not be installed in the underground water distribution system without the installation of an approved backflow preventer.

(6) A private water supply shall not be interconnected with any public water supply.

(7) Water used for cooling of equipment or in other processes shall not be returned to the potable water system. The water shall be discharged into a drainage system through an air gap, or may be used for nonpotable purposes on written approval of the plumbing official.

Section 6. Water Supply to Fixtures. Plumbing fixtures shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. A water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a sufficient amount of water to thoroughly cleanse the surface area of water closets, urinals or similar fixtures. If a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, the valves shall be set above the fixture to prevent the possibility of polluting the potable water supply by back siphonage. These fixtures shall have a vacuum breaker. Plumbing fixtures, devices or appurtenances shall be installed in a manner that shall prevent any possibility of a cross connection between the potable water supply system, drainage system or other water system.

Section 7. Connections to Boilers. Potable water connections to boiler feed water systems in which boiler conditioning chemicals are introduced shall be made through an air gap, or provided with a reduced pressure principle backflow preventer located in the potable water line before the point where chemicals are introduced. Boilers shall be equipped with a check valve in the cold water supply to the boiler.

Section 8. Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent contamination of the potable water supply system.

Section 9. Sizing of Water Supply Piping. (1) The minimum size water service from the property line to the water heater shall be three-fourths (3/4) inch. The hot and cold water piping shall extend three-fourths (3/4) inch in size to the first fixture branch. More than three and one-half (3 1/2) inch fixture branches shall not be supplied from any one-half (1/2) inch pipe.

(2) The following schedule shall be used for sizing the water supply piping to fixtures. The branch pipe to a fixture shall terminate not

more than thirty (30) inches from the point of connection to the fixture and shall be brought to the floor or wall adjacent to the fixture. A concealed water branch pipe shall not be less than one-half (1/2) inch nominal pipe size.

Fixture Branches	Nominal Pipe Size (Inches)
Bath tubs	1/2
Combination sink and tray	1/2
Cuspidor	1/2
Drinking fountain	1/2
Dishwasher (domestic)	1/2
Kitchen sink (res.)	1/2
Kitchen sink (com.)	1/2 or 3/4 as required
Lavatory	1/2
Laundry tray	1/2
Sinks (service, slop)	1/2
Sinks flushing rim	3/4
Urinal (flush tank)	1/2
Urinal (direct flush type)	1/2 or 3/4 as required
Water closet (tank type)	1/2
Water closet (flush valve type)	1
Hot water boilers	3/4
Hose bibs	1/2
Wall hydrant	1/2
Domestic clothes washer	1/2
Shower (single head)	3/4

(3) Water hammer. In building supply systems in which devices or appurtenances are installed utilizing quick acting valves that cause noises due to water hammer, protective devices, including air chambers or approved mechanical shock absorbers, shall be installed as close as possible to the quick acting valve causing the water hammer.

(a) If mechanical shock absorbers are installed, they shall be in an accessible place.

(b) If mechanical devices are used, the manufacturer's specifications shall be followed as to location and method of installation.

Section 10. Water Supply Pipes and Fittings, Materials. (1) Water supply piping for a potable water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing produced and labeled as ASTM B-586-73, fusion welded copper tubing produced and labeled as ASTM B-447-72 and ASTM B-251, DWV welded brass tubing produced and labeled as ASTM B-587-73, seamless stainless steel tubing, Grade H produced and labeled as ASTM A-268-68, filament-wound reinforced thermosetting resin pipe produced and labeled as ASTM D-2996 (red thread for cold water use and silver and green thread for hot and cold), polyethylene (PE) plastic pipe produced and labeled as ASTM D-2239-69 or ASTM F-714, cross-linked polyethylene (PEX), produced and labeled as ASTM F-876 for cold water and ASTM F-877 for hot or cold water applications, cross-linked Polyethylene /Aluminum/Cross-linked Polyethylene (Pex-Al-Pex) produced and labeled as ASTM F-1281, Polyethyl-ene/Aluminum/Polyethylene (Pe-Al-Pe) produced and labeled as ASTM F-1282, copper tubing size PE produced and labeled as ASTM D-2737 for water service if installed with compression couplings, Poly(vinyl chloride) (PVC) plastic pipe produced and labeled as ASTM D-1785-69, Chlorinated Poly(vinyl chloride) (CPVC) plastic pipe produced and labeled as ASTM D-2846-70, Poly(vinyl chloride) (PVC) standard dimensional ratio (SDR) 21 and (SDR) 26 produced and labeled as ASTM D-2241-84, polybutylene (PB) plastic pipe produced and labeled as ASTM-D-3309-85b with brass or copper fittings.

(2) Plastic pipe and fittings shall bear the NSF seal of approval.

(3) Polybutylene pipe utilizing insert fittings of brass or copper shall use copper clamping rings.

(4) Polybutylene hot and cold water connectors to lavatories, sinks and water closets shall be produced and labeled as ASTM-D-3309-85b, and polybutylene plastic pipe produced and labeled as ASTM 2662 for cold water applications.

(5) Fittings shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping or fittings that have been used for other purposes shall not be used for the water distribution system.

(6) All joints in the water supply system shall be made of screw,

solder, or plastic joints. Cast iron water pipe joints may be caulked, screwed, or machine drawn.

(7) If Type M copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or passes through a concrete floor, it shall be wrapped with an approved material to permit expansion or contraction.

(8) Polyethylene or PVC shall not be used below ground under a house or building. If Chlorinated Poly(vinyl chloride) (CPVC) joints or connections are installed below ground under a house or building, the water distribution system shall be tested to at least 100 psi before backfilling. (Refer also to 815 KAR 20:060 and 815 KAR 20:073).

(9) Joints between copper tubing and galvanized steel pipe. Joints between ferrous piping and copper or copper-alloy piping shall be made with a dielectric fitting or other insulating fitting to prevent electrolysis.

Section 11. Temperature and Pressure Control Devices for Shower Installations. Temperature or pressure balance devices to prevent sudden unanticipated changes in water temperature shall be installed to serve all shower compartments and shower-bath combinations.

Section 12. Water Supply Control. (1) A main shutoff valve shall be provided near the curb, in or near the meter box or property line on the water service pipe. In addition, a main supply control valve shall be placed inside a foundation wall. The main supply control valve shall be accessible and provided with a drip or drain valve. A pit or similar type installation shall not be used for a potable water supply shutoff valve.

(2) Pressure on gravity tanks shall have their supply lines valved at or near their source.

(3) A family unit in a two (2) family or multifamily dwelling shall have the unit controlled by an arrangement of shutoff valves which will permit the unit to be shutoff without interfering with the cold water supply to other family units or portions of the building.

(4) In buildings other than dwellings, shutoff valves shall be installed to permit the water supply to the equipment to be isolated without interference with the supply to other equipment.

(5) A fixture or group of bath fixtures shall be valved and lawn sprinkler openings shall be valved. In residential construction all fixtures except bathtub and showers shall be valved individually or as a group of fixtures.

(6) A group of fixtures or a fixture group shall mean two (2) or more fixtures adjacent to or near each other in the same room or back-to-back on a common wall.

(7) The cold water branch to a hot water storage tank or water heater shall be provided with a shutoff valve located near the equipment and serving this equipment.

Section 13. Water Supply Protection. All concealed water pipes, storage tanks, cisterns, and all exposed pipes or tanks subject to freezing temperatures shall be protected against freezing. Water services shall be installed at least thirty (30) inches in depth.

Section 14. Temperature and Pressure Relief Devices for Water Heaters. Temperature and pressure relief devices shall be installed on all water heaters on the hot water side not more than three (3) inches from the top of the heater. Temperature and pressure relief devices shall be of a type approved by the department. If a water heater is installed in a location that has a floor drain, the discharge from the relief device shall be piped to within two (2) inches of the floor; if a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground. The relief device may also discharge through an air gap to a sump basin, service sink, open receptacle or other point of discharge in which equivalent safety shall be provided as approved by the Division of Plumbing. Relief devices shall be installed on a pneumatic water system.

Section 15. Protection of a Private Water Supply or Source. Private water supplies or sources shall be protected from pollution in a manner approved by the department. The approval shall be obtained prior to.

Section 16. Domestic Solar Water Heaters. Domestic solar water heaters may have a "single wall heat exchanger" if the following conditions are met:

(1) The solar panel and the water heater exchanger use a non-toxic liquid such as propylene glycol or an equivalent; and

(2) The heat exchanger is pretested by the manufacturer to 450 PSI; and

(3) The water heater has a warning label advising that a nontoxic heat exchanger fluid shall be used at all times; and

(4) A pressure relief valve is installed at the highest point in the solar panel.

Section 17. Domestic Water Heater Preheating Device. A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air conditioner or heat pump water heater. Double wall heat-exchangers with two (2) separate thicknesses separating the heat exchange fluid (other than potable water) from the potable water supply shall be provided. The water inlet to the heat exchange vessel shall be provided with a check valve, and adjacent to, and at the outlet side of the check valve, an approved pressure relief valve set to relieve at five (5) PSI above the maximum water pressure at the point of installation shall be provided if the heat exchange units contain more than twenty (20) pounds of refrigerants. This device shall be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater through the preheater device. Condensate drain water shall be piped in accordance to the plumbing code and it shall not be permitted to drain into crawl space, or into a sewer or vent stack, or be installed in areas subject to freezing. If a drain is not available or if a drain is located above the vent, a condensate pump shall be utilized.

Section 18. Tanks and Vats, below Rim Supply. Tanks and vats with potable water supply below the rim shall be subject to the following requirements:

(1) If a potable water outlet terminates below the rim of a tank or vat and the tank or vat has an overflow of diameter not less than given in the following table, sizes of overflow pipes for water supply tanks, the overflow pipe shall be provided with an air gap as close to the tank as possible.

SIZES FOR OVERFLOW PIPES FOR WATER SUPPLY TANKS			
Maximum capacity of water supply line to tank	Diameter of Overflow pipe (inches ID)	Maximum capacity of water supply line to tank	Diameter of overflow pipe (inches ID)
0- 50 gpm	2	400- 700 gpm	5
50-150 gpm	2 1/2	700-1000 gpm	6
150-200 gpm	3	Over 1000 gpm	8

(2) The potable water outlet to the tank or vat shall terminate a distance not less than one and one-half (1 1/2) times the height to which water can rise in the tank above the top of the overflow. This level shall be established at the maximum flow rate of the supply to the tank or vat, and with all outlets, except the air gap overflow outlet closed.

(3) The distance from the outlet to the high water level shall be measured from the critical point of the potable water supply outlet.

Section 19. Water Distribution for Fan Coil Units. If a domestic water heater is used for heating purposes through a fan coil medium, its temperature shall not exceed 140 degrees Fahrenheit. It shall utilize not less than three-fourths (3/4) inch piping and its run shall not exceed 140 feet between the water heater and the heating unit (relates to 815 KAR 20:070).

Section 20. Fire Protection Systems. Fire protection systems using water from the potable water distribution system shall be equipped with two (2) check valves, one (1) of which may be an alarm check valve.

Section 21. Water Distribution and Connections to Mobile Homes. (1) An adequate and safe water supply shall be provided to each mobile home conforming to the administrative regulations of the department.

ment.

(2) All materials, including pipes and fittings used for connections, shall conform with the State Plumbing Code.

(3) An individual water connection shall be provided at an appropriate location for each mobile home space. The connection shall consist of a riser terminating at least four (4) inches above the ground with two and three-fourths (2 3/4) inch valve outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control. The ground surface around the riser pipe shall be graded to divert surface drainage. The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or an equivalent with the intervening space filled with an insulating material to protect it from freezing. An insulated cover shall be provided which shall encase both valve outlets but not prevent connection to the mobile home during freezing weather. A shutoff valve may be placed below the frost depth on the water service line, but this valve shall not be a stop-and-waste cock.

Section 22. Conservation of water shall comply with the standards established in 815 KAR 20:070.

FRANK PHIEFFER, Chairman, Plumbing Code Committee

CHARLES A. COTTON, Commissioner

RONALD MCCLOUD, Secretary

JUDITH G. WALDEN, Office of General Counsel

APPROVED BY AGENCY: May 5, 1999

FILED WITH LRC: May 13, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, June 29, 1999 at 10 a.m., local time, in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 22, 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 wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person.

CONTACT PERSON: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden, General Counsel

(1) Type and number of entities affected: Licensed master and journeyman plumbers; users of the State Plumbing Code.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: Some cost savings on installations.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No change in the cost of doing business.

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

1. First year following implementation: No reporting or paperwork required by users of the State Plumbing Code.

2. Second and subsequent years:

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No cost or savings on the administrative agency involved in this amendment.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Preparing amendment to code and distributing the information to users.

(4) Assessment of anticipated effect on state and local revenues: No effect on state or local revenue with the implementation of this amendment.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Division of Plumbing's revenue will not be affected by the enforcement of this amendment.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: The administrative regulation is implemented statewide; however, its implementation should have no economic impact to the area or statewide.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: State Plumbing Code Committee and the Board of Housing review proposed amendments and accept on basis within limits defined.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effect except to make more quality materials available.

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

(a) Necessity of proposed regulation if in conflict: No known conflict.

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

(10) Any additional information or comments:

(11) **TIERING:** Is tiering applied? Yes. Tiering was used in that each product presented for approval is considered separately for compliance with generally recognized safety and workable standards.

CABINET FOR HEALTH SERVICES Office of Inspector General (Amendment)

902 KAR 20:160. Chemical dependency treatment services and facility specifications.

RELATES TO: KRS 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)

STATUTORY AUTHORITY: KRS 216B.010, 216B.042; 216B.105, 314.011(8), 314.042(8), 320.240(14); EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 require [mandate] that the Cabinet for Health Services regulate health facilities and health services. This administrative regulation provides the licensure requirements for the operation and services and facility specifications of chemical dependency treatment programs. [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) "Aftercare" means the process of providing continued contact following primary chemical dependency treatment which will support and increase the gains made in the treatment process.

(2) "Governing authority" means the individual, agency, partnership or corporation in which the ultimate responsibility and authority for the operation of the facility is vested.

(3) "Interdisciplinary team" means a group of at least four (4) professionals including a physician, registered nurse, certified chemical dependency counselor and a person with a master's degree in psychology, social work or counseling.

(4) "Qualified dietitian" means:

(a) A person who has a Bachelor of Science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietitian by ADA; or

(b) A person who has a Masters Degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a Bachelor of Science degree in home economics and three (3) years of work experience with a registered dietitian.

(5) "Restraint" means any physical or mechanical device used to restrict the movement of the patient or the movement of a portion of the patient's body.

Section 2. Scope of Operation and Services. A chemical dependency treatment service has a structured inpatient program which provides medical, social, diagnostic and treatment services to persons who suffer from illness related to the misuse or abuse of alcohol and other drugs. Chemical dependency treatment services last generally for a duration of less than thirty (30) days, are hospital based or free-standing with eight (8) or more patient beds and under the medical direction of a physician with continuous nursing services.

Section 3. Administration and Operation. (1) Governing authority.

(a) The program shall have a recognized governing authority that has overall responsibility for the management and operation of the program and for compliance with federal, state and local laws and regulations pertaining to its operation.

(b) The governing authority shall appoint a program administrator who has a bachelor's degree in a health or human services field or a bachelor's degree in another field supplemented with one (1) year of work experience in the field of chemical dependency or who is a high school graduate with four (4) years of experience in the field of chemical dependency.

(c) The governing authority shall develop goals and objectives for the program and establish a written evaluation plan to assess the attainment of these goals and objectives on an annual basis.

(2) Program administrator.

(a) The program administrator shall be responsible for the daily management of the facility and provide liaison between the governing authority and staff members.

(b) The program administrator shall keep the governing authority fully informed of the operations of the facility through periodic reports and attendance at meetings of the governing authority.

(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.

(b) A written report of any incident or accident involving a patient (including medication errors and drug reactions), visitor or staff shall be made and signed by the program administrator and any staff member who witnessed the incident. The report shall be placed in an incident file.

(c) Licensure inspection reports, plans of correction and program evaluations shall be available to the public upon request at the facility.

(4) Policies.

(a) Administrative policies. The program shall have written administrative policies covering all aspects of the facility's operation to include:

1. A description of the organizational structure, staffing and allocation of responsibility and accountability;

2. A description of referral linkages with other facilities and providers;

3. A description of the services included in the program;

4. A policy for an expense and revenue accounting system following generally accepted accounting procedures;

5. A policy describing the use of volunteers in program activities; and

6. A policy for conducting program evaluation and quality assurance review.

(b) Patient care policies. Patient care policies shall be developed

for all aspects of the program and include:

1. Actions to be taken when a patient is determined to be lost, unaccounted for or on other unauthorized absence;

2. A policy which specifies provisions for patient visitation and use of telephones;

3. A policy to specify the provision of emergency medical services; and

4. Admission and discharge policies including the categories of individuals accepted and not accepted by the program.

(c) Patient rights policies. There shall be written policies designed to enhance the dignity of ~~all~~ patients and to protect their rights as human beings. These policies shall assure that each patient:

1. Is informed of all rules and regulations governing patient conduct and responsibilities, including a procedure for handling grievances;

2. Is informed, prior to admission for rehabilitation, of the services available at the facility and of charges for treatment including any charges not covered under Medicare, Medicaid, or other third-party payor arrangements;

3. Is encouraged and assisted to understand and exercise patient rights, voice grievances and recommend changes in policies and services. Upon the patient's request the grievances and recommendations shall be conveyed within a reasonable time to an appropriate decision making level within the organization which has authority to take corrective action;

4. Is afforded the opportunity to participate in the planning of his treatment and to refuse to participate in experimental research;

5. Is assured confidential treatment of records and is afforded the opportunity to approve or refuse their release to any individual not involved in his care except as required by Kentucky law or third party payment contract; and

6. Is treated with consideration, respect and full recognition of personal dignity and individuality including privacy in treatment and in the care of personal health needs.

(5) Personnel.

(a) The licensee shall establish personnel policies for the program which shall be reviewed, revised, approved and updated on an annual basis.

(b) There shall be an individual personnel record for each person employed by the facility which shall include the following:

1. An employee ~~[All employees]~~ shall have a test for tuberculosis either prior to or within the first week of employment and annually thereafter;

2. Evidence of education, training and experience of the individual along with a copy of the current license or certification credentials, if applicable;

3. Evidence that the employee ~~[employees have]~~ received orientation to the facility's written policies within the first week of employment; and

4. Evidence of regular in-service training which corresponds with job duties and includes a list of training and dates completed.

(6) Staffing requirements. The program shall have adequate personnel to meet the needs of patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the individual treatment plans. If the staff to patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the program administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

(a) Medical director. There shall be a medical director who is a physician having responsibility for the medical direction of the program including patient admission ~~[of individuals]~~, approving individual treatment plans and participating in the quality assurance review. The medical director or a physician designated by the medical director shall be available twenty-four (24) hours a day on at least an on-call basis.

(b) Interdisciplinary team. There shall be an interdisciplinary team responsible for developing ~~[the]~~ individual treatment plans, aftercare plans and conducting the quality assurance reviews.

(c) Treatment coordinator. The program shall have a full time treatment director whose qualifications are defined in writing and approved by the governing authority. The treatment director shall be

responsible for:

1. Coordinating the interdisciplinary team in developing the individual treatment plans;
2. Initiating a periodic review of each patient's treatment plan for necessary changes;
3. Supervising the proper maintenance of patient records; and
4. Coordinating the interdisciplinary team in developing an after-care plan for each patient which assures continuity of care.

(d) Nursing services. Nursing services shall be available on a twenty-four (24) hour basis. The program shall have at least one (1) full-time registered nurse. When a registered nurse is not on duty there shall be a licensed practical nurse present who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

(e) Medical supervision. A physician, or registered nurse under the direction of a physician, shall supervise implementation of the medical aspects of the treatment plan and all staff directly involved in patient medical care.

(f) In-service training. All personnel shall participate in ongoing in-service training programs relating to their respective job activities. These programs shall include thorough job orientation for new personnel and regular in-service training programs emphasizing professional competence and the human relationship necessary for effective health care.

(7) Patient records.

(a) An individual record shall be maintained for each patient [all patients] with entries signed and dated by the person making the entry.

(b) At the time of admission the following information shall be entered into the patient's record:

1. Name, date of admission, birth date and place, marital status and Social Security number;
2. Person to contact in case of emergency;
3. Next of kin; and
4. Type and place of employment.

(c) The record shall contain documentation of [all] medical services provided during detoxification and rehabilitation including the results of physical examinations.

(d) The record shall contain the patient's treatment plan outlining goals and objectives for the individual during treatment. The record shall also contain documentation of how the plan was implemented and of patient progress in meeting the goals and objectives outlined in the treatment plan.

(e) The record shall contain notation of all medication administered including date, time, dosage, frequency of administration and the name of the person administering each dose.

(f) The record shall contain a discharge summary and a plan for aftercare.

(g) The discharge summary shall be entered in the patient's record within seven (7) days after discharge and include:

1. The course and progress of the patient with regard to the individual treatment plan;
2. The general observations of the patient's condition initially, during treatment and at discharge; and
3. The recommendations and arrangements for further treatment including prescribed medications and aftercare.

(h) If the patient is referred to other service providers after discharge, a copy of the discharge summary shall be promptly sent to the provider with the patient's permission.

(i) After a patient's death or discharge the completed 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 longest.

(8) Linkage agreements. The program shall have linkages through written agreements with providers of other levels of care which may be medically indicated to supplement the services available in the program. These linkages shall include a hospital and an emergency medical transportation service in the area.

(9) Quality assurance. [In order to determine the appropriateness and the quality of the services delivered] The service shall have a quality assurance program that includes effective mechanisms for reviewing and evaluating patient care on a regular basis by the interdisciplinary team.

(10) Medications.

(a) [All] Prescription and nonprescription medications administered to patients shall be noted in writing with the date, time and dosage and signed by the person administering the medication.

(b) [All] Prescription medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, date, physician name, caution statement and directions for use.

(c) Prescription and nonprescription medication shall not be administered to any patient except on the written order of a physician or other practitioner acting within his 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)]. All medications shall be administered by licensed personnel.

(d) All medicines shall be kept in a locked storage area which shall be well lighted and of sufficient size to permit storage without crowding. Medications requiring refrigeration shall be kept in a separate locked box in a refrigerator. Drugs for external use shall be stored separately from those administered by mouth or injection.

(e) Medication errors and drug reactions shall be reported immediately to the medical director and treatment coordinator and an entry made in the patient's record.

(f) An emergency medical kit, with contents approved by a physician, shall be maintained at the facility. It shall be inspected after use or at least monthly to remove deteriorated and outdated drugs and ensure completeness of content.

(11) Restraints. Requirements for the use of restraints shall be met pursuant to the Kentucky mental patients bill of rights, 908 KAR 3:010.

(12) Activities schedule. A daily schedule of program activities shall be posted in the facility.

Section 4. Provision of Services. (1) Detoxification. Medical detoxification services pursuant to the requirements of 902 KAR 20:111 shall be available directly or through another licensed provider for patients who require detoxification.

(2) Rehabilitation. The program shall provide at least the following services:

(a) Medical services as needed, provided under the supervision of a physician;

(b) Scheduled individual, group, and family counseling;

(c) Psychological testing and evaluation as needed;

(d) Education of the patient [patients] on the subject of chemical dependency and related lifestyle issues including nutrition and communication skills;

(e) Recreational activities with facilities and equipment shall be available consistent with the patient's needs and the therapeutic program;

(f) Referral to other rehabilitative or community service agencies providing services not available through the program; and

(g) Aftercare services provided directly or through arrangement with other agencies.

(3) Physical examinations. Within ten (10) days prior to or three (3) days after admission for rehabilitation a patient [all patients] shall have a physical examination with tests ordered by physician.

(4) Psychosocial history. A patient [All patients] shall have a psychosocial history and assessment interview within seventy-two (72) hours after admission for rehabilitation entered into the patient record which includes:

(a) Drinking and drug use history;

(b) A determination of current emotional state;

(c) Vocational history;

(d) Familial relationships; and

(e) Educational background.

(5) Treatment plan. The interdisciplinary team, with the participation of the patient, shall develop an individual treatment plan within four (4) days after admission for rehabilitation based on the patient's medical evaluation and psychosocial history and assessment. The treatment plan shall:

(a) Specify the services required for meeting the patient's needs;

(b) Identify goals necessary for the patient to achieve, maintain or reestablish physical health and adaptive capabilities;

(c) Establish goals with both long-term and short-term objectives

and the anticipated time expected to meet these goals; and

(d) Identify the locations and frequency of treatment procedures including referrals for any required services which are not provided by the program.

(6) The treatment plan shall be reviewed and updated at least weekly for the duration of the inpatient treatment.

(7) The patient's family or significant others shall be involved in the treatment process, if approved by the patient. Documentation shall be included in the medical record which establishes that an attempt was made to involve family members or significant others.

(8) Aftercare plan.

(a) There shall be a written individual aftercare plan developed by the interdisciplinary team, the patient and, with the patient's permission, the patient's family or significant others prior to the completion of treatment. The individual aftercare plan shall be designed to establish continued contact for the support of the patient.

(b) The aftercare plan shall include the methods and procedures whereby the needs of the individual are met by the aftercare personnel through direct patient contact or assistance from other community human services organizations.

(c) When aftercare services are provided directly, a periodic review and updating of the aftercare plan shall be conducted with the frequency of review determined by the interdisciplinary team, the patient, and with the patient's permission, the patient's family or significant others. If the patient is referred to another agency for aftercare services, follow-up shall be conducted to determine if services are being provided.

Section 5. Compliance with Building Codes, Ordinances and Regulations. (1) Nothing stated herein shall relieve the licensee from compliance with building codes, ordinances, and regulations which are enforced by city, county, or state jurisdictions.

(2) The following requirements shall apply where applicable and as adopted by the respective agency authority:

(a) Requirements for safety pursuant to the National Fire Protection Association 101, Life Safety Code adopted by the Kentucky Department of Housing, Buildings and Construction;

(b) Requirements for plumbing pursuant to 815 KAR 20:010 through 20:191, as amended;

(c) Requirements for making buildings and facilities accessible to and usable by persons with disabilities.

(3) The facility shall be currently approved by the Fire Marshal's Office before licensing and relicensure is granted by the licensure agency.

(4) The facility [~~All facilities~~] shall receive any necessary approval from appropriate agencies prior to occupancy and licensure.

(5) Physical and sanitary environment.

(a) The condition of the physical plant and overall facility 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 (on site or off site) and housekeeping.

(c) The facility buildings, equipment, and surroundings shall be kept in 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 approved containers and kept separate from other cleaning materials.

5. The facility shall be kept free from insects and rodents with harborages for these eliminated.

6. Garbage and trash shall be stored in closed containers in areas separate from those used for the preparation and storage of food and shall be cleaned regularly and in good repair.

(d) The facility shall have available at all times a quantity of linen

essential to the proper care and comfort of residents.

1. Clean linen and clothing shall be stored in clean, dry, dust-free areas designated exclusively for this purpose.

2. Soiled linen and clothing shall be placed in suitable bags or closed containers and stored in separate areas ventilated to the exterior of the building.

Section 6. Facility Requirements and Special Conditions. (1) Patient rooms. Each patient room shall meet the following requirements:

(a) The maximum room capacity shall be six (6) patients.

(b) The minimum room areas exclusive of toilet rooms, closets, lockers, wardrobes or vestibules shall be 100 square feet in one (1) bed room and eighty (80) square feet per bed in multibed rooms.

(c) In multiperson rooms partitioning, cubicle curtains or placement of furniture shall be used to provide privacy. An ample closet and drawer space shall be provided for the storage of patient's personal property.

(d) The placement of a patient [~~patients~~] in multibed rooms shall be appropriate to the ages and program needs of the patient [~~patients~~].

(2) Lavatory. In single and multibed rooms with a private toilet room, the lavatory may be located in the toilet room. Where two (2) or more patients share a common toilet a lavatory shall be provided in each patient room.

(3) Centralized toilet area. Where a centralized toilet area is used, the facility shall provide the following for each sex on every floor: one (1) toilet for each eight (8) residents or a major fraction thereof. Toilets shall [~~must~~] be separated by a permanent partition and at least one (1) toilet for each sex shall [~~must~~] be designed for wheelchair use.

(4) Patient baths. There shall be one (1) shower stall or one (1) bathtub for each fifteen (15) patients not individually served. Each bathtub or shower shall provide space for the private use of the fixture and for dressing.

(5) The patient [~~Patients~~] shall be encouraged to take responsibility for maintaining his [~~their~~] own living quarters and for other day-to-day housekeeping activities of the program, as appropriate to his [~~their~~] clinical status.

(6) Dietary services.

(a) The facility 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) qualified dietician to supervise the nutritional aspects of patient care and approve all menus on at least a consultative basis.

3. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

(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 physician orders.

(c) Meals served shall correspond with the posted menu. When changes in the 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) Food shall be prepared by methods that conserve nutritive value, flavor and appearance, and shall be served at the proper temperature.

(e) At least three (3) meals shall be served daily with not more than a fifteen (15) hour span between a substantial evening meal and breakfast. Meals shall be served at regular times with between-meal or bedtime snacks of nourishing quality offered.

(f) The facility shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005.

TIMOTHY L. VENNO, Inspector General

JOHN MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 11, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 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 June 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 3 licensed chemical dependency treatment services.

(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 HEALTH SERVICES Office of Inspector General Division of Licensing and Regulation (Amendment)

902 KAR 20:240. Comprehensive physical rehabilitation hospital services.

RELATES TO: KRS 216B.010, 216B.015, 216B.030, 216B.105, 216B.990, 311.560(4), 314.011(8), 314.042(8), 320.210(2) [to 216B.131, 216B.990(1), (2)]

STATUTORY AUTHORITY: KRS 216B.010, 216B.042 [216B.040(2), 216B.105]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 [216B.040] and 216B.105 require [mandate] that the Cabinet for Health Services [Human Resources] regulate health facilities and health services. This administrative regulation establishes [provides] the minimum licensure requirements for inpatient comprehensive physical rehabilitation services including the provision of rehabilitation services in hospitals which have a rehabilitation unit.

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 operation" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator or sources of radiation.

(3) "Full-time equivalent" (FTE) means one (1) employee working thirty-seven and five-tenths (37.5) hours per week or a combination of the hours worked by more than one (1) part-time employee totaling thirty-seven and five-tenths (37.5) hours per week.

(4) "Governing authority" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(5) "Institution" means the freestanding specialty hospital or a general hospital based unit utilized for the delivery of inpatient comprehensive physical rehabilitation services.

(6) "Medical staff" means an organized body of physicians, and dentists when applicable, appointed to the institution staff by the governing authority. All members of the medical staff shall be licensed to practice medicine or dentistry in Kentucky, with the exception of graduate physicians who are in the first year of facility training. ["Governing authority" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.]

(2) "Medical staff" means an organized body of physicians, and dentists when applicable, appointed to the institution staff by the governing authority. All members of the medical staff shall be licensed to practice medicine or dentistry in Kentucky, with the exception of graduate physicians who are in the first year of facility training.

(3) "Registered records administrator" means a person who is certified as a Registered Records Administrator by the American Medical Record Association.

(4) "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.

ciation and the American Medical Record Association; and who is certified as an Accredited Record Technician by the American Medical Record Association.

(5) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(6) "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 sources of radiation.]

(7) "Protective device [devices]" means a device [devices] that is [are] designed to protect a person from falling, to include side rails, safety vest or safety belt.

(8) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(9) "Registered records administrator" means a person who is certified as a registered records administrator by the American Medical Record Association.

(10) "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. ["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.

(9) "Full-time equivalent" (FTE) for this administrative regulation only means one (1) employee working thirty-seven and five-tenths (37.5) hours per week or a combination of the hours worked by more than one (1) part-time employee totaling thirty-seven and five-tenths (37.5) hours per week.

(10) "Institution" means the freestanding specialty hospital or a general hospital-based unit utilized for the delivery of inpatient comprehensive physical rehabilitation services.]

Section 2. Scope of Operation and Services. Comprehensive physical rehabilitation programs are provided in permanent institutions with inpatient beds. These programs include medical, nursing, therapeutic, restorative, psychosocial, vocational and educational services which enable an individual with an injury or disability, either acquired or congenital, to function at his [their] maximum potential. Comprehensive physical rehabilitation programs offer a wide range of therapeutic services provided by registered, certified, licensed or degreed professionals utilizing a multidisciplinary, goal-oriented, team approach with treatment plans designed specifically for the individual patient's needs.

Section 3. Administration and Operation. (1) Governing authority.

(a) The institution shall have a governing authority that has overall responsibility for the management and operation of the institution and for compliance with federal, state, and local laws and regulations pertaining to its operation.

(b) The governing authority shall appoint an administrator whose qualifications, responsibilities, authority and accountability are 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 be responsible for the daily management of the institution and provide liaison between the governing authority and the medical staff.

(b) The administrator shall keep the governing authority fully informed concerning the conduct of the institution through periodic reports and by attendance at meetings of the governing authority.

(c) The administrator shall hold interdepartmental and departmental meetings (where appropriate), shall attend or be represented at such meetings on a regular basis, and shall report to such departments, as well as to the governing authority the pertinent activities of the institution.

(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 institution. Such reports shall include: minutes of the governing authority and staff meetings, financial records and reports, incident investigation reports, and other pertinent reports made in the regular course of business.

(b) The institution shall maintain a patient admission and discharge register.

(c) Licensure inspection reports and plans of correction shall be made available to the general public upon request.

(4) Policies. The institution shall have written policies and procedures governing all aspects of the operation of the institution and the services provided including:

(a) A written mission statement of the comprehensive physical rehabilitation service shall be made available to the general public upon request;

(b) A written program narrative which describes in detail the rehabilitation problems and conditions for which the institution provides services, the delivery of these services, and the goals and treatment;

(c) A written description of the organizational structure of the facility including lines of authority, responsibility and communication, and departmental organization;

(d) Admission policies which assure that patients shall be admitted to the institution in accordance with policies of the medical staff;

(e) Constraints imposed on admissions by limitations of services, physical facilities, staff coverage or other factors;

(f) Financial requirements for patients on admission;

(g) Requirements for informed consent by patient, parent, guardian or legal representative for diagnostic and treatment procedures;

(h) Procedures for recording accidents involving a patient, visitor or staff, and incidents of drug reactions or [;] medication errors, [etc.] and for reporting in writing through the appropriate committees;

(i) Use of restraints and a mechanism for monitoring and controlling their use;

(j) Discharge and termination of services; and

(k) A policy describing the use of volunteers in program activities.

(5) Patient identification. The institution shall have a system for identifying each patient from time of admission to discharge (e.g., an identification bracelet imprinted with name of patient, date of admission, and name of case manager).

(6) Discharge planning.

(a) The discharge decision and plan shall be established with the participation of the person served, if possible, or a significant other person. Discharge planning shall begin early in the treatment phase; all professions involved with the person shall participate in formulating the discharge plan, including professionals from agencies outside the institution who have been or will be involved in the patient's care, if possible.

(b) A discharge authorization and summary shall be prepared for each person who has been discharged or transferred from the institution to a supportive service. The summary shall contain the reason for referral, the diagnosis, the rehabilitation problem, the services provided, the results of services, and any referral action recommended; it shall note procedures and activities to be utilized by the person served and the family to assist the individual to maintain or improve postdischarge functioning and increased independence.

(c) The [individual] family, appropriate staff of the institution, the referring source and other community agencies that will be working with the patient, shall receive advance notice concerning the discharge decision and plan. The requirements for notice of discharge

will vary depending upon the complexity of the individual's presenting problems, the discharge plan, and the kinds and extent of resources required to implement the plan.

(7) Patient follow-up.

(a) The institution shall establish and follow procedures for follow-up of persons served. Follow-up shall be conducted when the person served is discharged from the institution, transferred from the program to a supportive service, or is placed in an inactive status.

(b) Follow-up reports shall be prepared which detail the individual's current status as it relates to program goals and objectives.

(8) Transfer procedures and agreements.

(a) The institution shall have written patient transfer procedures and agreements with other health care facilities which provide a level of inpatient care not provided by the institution. Any institution 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 in compliance with this requirement. The transfer procedures and agreements shall specify the responsibilities each facility assumes in the transfer of patients and shall establish responsibility for notifying the other facility promptly of the impending transfer of a patient and for arranging appropriate and safe transportation.

(b) If the patient is transferred to another health care facility a transfer form shall accompany the patient. The transfer form shall include at least: the attending physician'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 the other health care facility within fifteen (15) days of the patient's discharge.

(9) Medical staff.

(a) The institution shall have a medical staff organized by bylaws approved by the governing authority, which is responsible to the governing authority of the facility 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. 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 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 [f] service meetings 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 institution. These committees may include: executive committee, credentials committee, medical records committee, infections control committee, pharmacy and therapeutics committee, utilization review committee, and quality assurance committee.

(10) Director of rehabilitation. The institution shall have a director of rehabilitation who provides services on a full-time basis for a free-standing specialty hospital or at least twenty (20) hours per week for a general hospital-based unit, is a physician, and has had, after completing a one (1) year facility internship, at least two (2) years of training or experience in the medical management of inpatients requiring rehabilitation services.

(11) Quality assurance and review.

(a) There shall be a planned and systematic process for monitoring and evaluating the quality and appropriateness of patient care and for resolving identified problems.

(b) The quality and appropriateness of patient care shall be moni-

tored and evaluated in all major clinical functions of the comprehensive physical rehabilitation program. Such monitoring and evaluating shall be accomplished through the following means:

1. Routine collection of information about important aspects of rehabilitation care; and

2. Periodic assessments of the collective information in order to identify important problems in patient care and opportunities to improve care. Objective criteria shall be established and applied that reflect current knowledge and clinical experience concerning the services offered by the institution.

(c) When important problems in patient care or opportunities to improve care are identified:

1. Action shall be taken; and

2. The effectiveness of the action shall be evaluated.

(d) The findings from and conclusions of monitoring, evaluating, and problem-solving activities and the actions taken to resolve problems and improve patient care, and information about the impact of the actions taken, shall be documented and shall be reported to the administrator and appropriate committees.

(e) When an outside source(s) provides rehabilitation services the quality and appropriateness of patient care provided shall be monitored and evaluated, and identified problems resolved.

(12) Personnel.

(a) The institution shall employ a sufficient number of qualified personnel to provide effective patient care and all other related services. Written personnel policies and procedures shall be available to all personnel.

(b) There shall be a written job description for each position. Job descriptions shall be reviewed and revised as necessary. Where a job description includes activities which are subject to professional licensure, the employee shall have the appropriate current license.

(c) There shall be an employee health program for mutual protection of employees and patients including provisions for preemployment and periodic health examination. The institution 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 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. No skin testing is required at the time of initial employment if the employee documents a prior skin test of ten (10) or more millimeters of induration or if the employee is currently receiving or has completed six (6) months of prophylactic therapy or a course of multiple-drug chemotherapy for tuberculosis. Two (2) step skin testing is 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. [All] Staff who have never had a skin test of ten (10) or more millimeters induration shall [must] 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 [must] 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. An employee [Employees] whose initial skin test shows ten (10) or more millimeters of induration shall be advised of the symptoms of the disease and instructed to report to his [their] employer and seek medical attention promptly if symptoms persist.

3. The institution director 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 institution administrator to the local health department having jurisdiction immediately upon becoming known:

a. The name [names] of staff who converts [convert] from a skin test of less than ten (10) to a skin test of ten (10) or more millimeters of induration;

b. The name [names] of staff who has [have] a skin test of ten (10)

millimeters or more induration at the time of employment; and

c. [all] Chest x-rays suspicious for tuberculosis.

5. Prophylaxis of a person [persons] with recent infection but no disease. A [Any] resident or 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. A [Such] recently infected person [persons] who has no sign or symptom [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 by a licensed physician. Medications shall be administered to patients only upon the written order of a physician or other practitioner acting within his statutory scope of practice. 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 shall include the following:

1. Name, address, and 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;
6. Evidence that employees have an orientation to the facility's written policies initiated within the first month of employment; and
7. Evidence of regular in-service training which corresponds with job duties and includes a list of training and dates completed.

(13) Physical and sanitary environment.

(a) The condition of the physical plant and overall institution 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 in each of the following areas: plant maintenance, laundry operations (if applicable), and housekeeping.

(c) The institution's 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.

(d) The institution shall be kept free from insects and rodents with harborages and entrances for these eliminated.

(e) 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.

(f) Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in closed containers and kept separate from other cleaning materials.

(g) The institution shall have available at all times a quantity of linen essential for 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.

3. Soiled linen and clothing shall be placed in suitable bags or closed containers and stored in separate areas.

(h) Sharp wastes, such as broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and aggregated in rigid disposable containers immediately after use. Needles and syringes shall not be cut, dismantled, or destroyed after use, but shall be placed intact directly into a rigid container. The rigid containers of sharp wastes shall be incinerated on site or off site, and disposed of in a sanitary land fill [approved pursuant to 401-KAR-47-020].

(14) Patient case records.

(a) The institution shall have a case records service with administrative responsibility for case records. A case record shall be maintained, in accordance with accepted professional principles, for each [every] patient admitted to the facility or receiving outpatient services.

(b) The case records service shall be directed by a registered record administrator, either on a full-time, part-time, or consultative basis, or by an accredited record technician on a full-time basis, and

shall have available a sufficient number of regularly assigned employees so that case record services may be provided as needed.

(c) All case 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 longer.

(d) Provision shall be made for written designation of specific location(s) for storage of case records in the event the facility ceases to operate because of disaster, or for any other reason. It shall be the responsibility of the institution to safeguard both the record and its content against loss, defacement, and tampering.

(e) A system of identification and filing to insure the prompt location of a patient's case record shall be maintained.

1. There shall be a system for coordinating the inpatient and [f] outpatient case record of any patient who has received both inpatient and outpatient services.

2. All clinical information pertaining to a patient's stay shall be centralized in the patient's case record.

(f) Patient records [of patients] are the property of the institution and shall not be taken from the institution except by court order. This does not preclude the routing of patient [the patients] records, or a portion thereof, including x-ray film, to physicians for consultation.

1. Only authorized personnel shall be permitted access to patient [the patients] records.

2. Patient information shall be released only on authorization of the patient, the patient's guardian or the executor of the patient's estate.

(g) Case record review.

1. The institution shall review and evaluate its case records and related policies and procedures regularly and [:] representatives of its service units shall participate to evaluate their adequacy and to propose improvements in the recordkeeping system.

2. A case record committee, which is representative of the major professional services and responsible to the administrator, shall be established. The committee shall:

a. Review, at least quarterly, an appropriate sample of the case records to measure their adequacy and fulfillment of recordkeeping requirements; and

b. Review, at least annually, the policies and procedures concerning case records and reports, and make recommendations which should be considered by the chief executive.

(h) Statements of professional judgment and reports of services to an individual shall be signed by the person qualified by professional competency and official position. The case record shall confirm, in writing, that services recommended and planned actually have been received by the individual patient at the time stated. Such assurances may be in the form of the signature of the staff person rendering the service.

(i) Individual case records shall be maintained on a current basis; clinical information shall be recorded within forty-eight (48) hours of the event, and discharge summaries recorded within two (2) weeks following discharge. Completed case records shall include:

1. Case identification data including name, address and next of kin;

2. The name and address of the personal representative, conservator, guardian, and/or representative payee, if one has been appointed for the person served;

3. Pertinent history, diagnosis of disability, rehabilitation problem, goals, and prognosis;

4. Reports from referring sources;

5. Reports of service referrals;

6. Reports from outside consultation, and from laboratory, radiology, orthotic and prosthetic services, etc.;

7. Designation of the program manager for the individual. A written policy identifying who is responsible for the plan management of given groups would remove the necessity for this information in the case record;

8. Evidence of the individual's participation in the decision making process of his or her own plan;

9. Evaluation reports from each service;

10. Reports of staff conferences;

11. The individual's total treatment plan;

12. Treatment plans from each service;

13. Signed and dated service and progress reports from each service;
14. Correspondence pertinent to the person being served;
15. When information [and/or] photographs have been released or used, there shall be a signed and dated authorization from the person served or the parent or guardian as appropriate, to release the information or use the photograph;
16. Discharge report; and
17. Follow-up reports.

Section 4. Provision of Services. (1) General requirements.

(a) No medication or treatment shall be given without a written order signed by a physician or dentist, when applicable, or other ordering practitioner acting within his statutory scope of practice. Telephone orders for medications shall be given only to a licensed [registered] nurse or a pharmacist and signed by the ordering practitioner [medical staff member] within twenty-four (24) hours from the time the order is given.

(b) Medications shall be administered by a physician, registered nurse, or dentist except in the case of a licensed practical nurse under the supervision of a registered nurse.

(c) No form of patient restraint or protective device other than bed rails, and wheelchair safety belts shall 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.

(d) Patient physical. A physician shall conduct a physical examination, and a determination that the patient can benefit from a rehabilitation program through the use of therapies provided by the institution shall be made within twenty-four (24) hours after admission.

(e) Psychosocial history. All patients shall have a history and assessment interview within seventy-two (72) hours after admission for rehabilitation entered into the patient record which includes:

1. A determination of current emotional state;
2. Vocational history;
3. Familial relationships;
4. Educational background;
5. Social support system; and
6. A determination that the patient can benefit from a rehabilitation program through the use of therapies provided by the institution.

(f) Basic cardiopulmonary resuscitation shall be available within the institution twenty-four (24) hours a day, seven (7) days a week.

(2) Staffing requirements.

(a) The program shall have adequate personnel to meet the needs of patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the individual treatment plans. If the staff to [7] patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the program administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

(b) The staffing ratio of therapists and pathologists to patients shall be equal to or greater than one (1) full-time equivalent for every three (3) patients. Only licensed or certified therapists or speech and language pathologists in the areas of physical therapy, occupational therapy, speech and language pathology, or psychology shall be utilized in the computation of this ratio. Certified or licensed assistants shall not be utilized in the computation of this ratio. The staffing for the whole facility shall be utilized in the computation of this ratio rather than on a department by department basis.

(c) There shall [not] be no more than one (1) aide or assistant for each licensed or certified therapist or speech and language pathologist on staff.

(3) Medical staff services.

(a) Medical care provided in the institution shall be under the direction of the medical director or a medical staff member in accordance with staff privileges granted by the governing authority.

(b) Physician services shall be available twenty-four (24) hours a day on at least an on-call basis.

(c) There shall be sufficient medical staff coverage for services

provided in the institution in keeping with the size of the institution, the scope of services provided and the types of patients admitted to the facility.

(d) An individual rehabilitation program plan shall be developed for each patient under the supervision of a physician. The attending physician shall attend and actively participate in conferences concerning those served.

(e) The attending physician shall complete the discharge summary and sign the records within fifteen (15) days of discharge.

(f) The physician responsible for the patient's rehabilitation program shall have specialized training or experience in rehabilitation.

(g) There shall be direct individual contact by a physician on any day in which there is an active interdisciplinary treatment program.

(4) Nursing services.

(a) These services provide prevention of complications of disability, restoration of optimal functioning, and adaptation to an altered lifestyle through the use of the nursing process (assessment, planning, intervention, and evaluation).

1. The institution shall have a nursing department organized to provide basic nursing services as well as rehabilitation nursing services. A registered nurse with training and experience in rehabilitative nursing shall serve as director of the nursing department.

2. There shall be a registered nurse on duty at all times.

a. There shall be registered nurse supervision of nursing staff personnel for each nursing unit to insure immediate availability of a registered nurse with rehabilitation experience for all patients on a twenty-four (24) hour basis.

b. There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the services of a registered nurse.

c. Nursing care shall be documented on each shift by persons rendering care to patients. This documentation shall describe the nursing care provided and include information and observations of significance which contribute to the continuity of patient care.

(b) Rehabilitation nursing services. Services shall include physical and psychosocial assessment of function of the following:

1. All body systems related to the patient's physical rehabilitation nursing needs, with special emphasis on skin integrity, bowel and bladder function, and respiratory and circulatory systems function;
2. Self-care skills development;
3. Interpersonal relationships;
4. Adaptation mechanisms and patterns used to manage stress; and
5. Sleep and rest patterns.

(c) Nursing services shall also include the following interventions:

1. Health maintenance and discharge teaching;
2. Prevention of the complications of immobility;
3. Physical care including hygiene, skin care, physical transfer from one place to another, positioning, and bowel and bladder care;
4. Psychosocial care including socialization, adaptation to an altered lifestyle; and
5. Reinforcement of the multidisciplinary treatment plan.

(d) As appropriate, nurses shall collaborate with the patient, family, other disciplines and agencies in discharge planning and teaching.

(e) Rehabilitation nursing shall monitor the degree of achievement of individualized nursing patient care goals.

(5) Multidisciplinary team. There shall be a multidisciplinary team responsible for developing the individual treatment plans, discharge plans and conducting the quality assurance reviews. The multidisciplinary team should include a physician, rehabilitation nurse, social worker, or psychologist, and those therapists involved in the patient's care. At a minimum, a team shall [must] include a physician, rehabilitation nurse and two (2) therapists.

(6) Program manager.

(a) A single program manager shall be designated for each patient served. The provision of services by the institution to each patient shall be organized through the patient's program manager. The program manager shall:

1. Assume responsibility for the patient during the course of treatment;
 2. Coordinate the treatment plan; and
 3. Cultivate the patient's participation in the program.
- (b) When more than one (1) major program is being provided simultaneously, there shall be only one (1) program manager. When

the patient's plan changes sequentially from one (1) program area to another, a new program manager may be assigned.

(c) The patient's program manager shall evaluate regularly the appropriateness of the treatment plan in relation to the progress of the patient toward the attainment of stated goals. The program manager shall assure that:

1. The person is adequately oriented;
2. The plan proceeds in an orderly, purposeful, and timely manner; and
3. The discharge decision and arrangements for follow-up are properly made.

(7) Treatment plan.

(a) The multidisciplinary team, with the participation of the patient shall, within seven (7) days after admission for rehabilitation, develop an individual treatment plan based on the patient's medical evaluation and psychosocial history and assessment, and which should be reviewed at least biweekly. The treatment plan shall include:

1. A multidisciplinary assessment of the biological, social and psychological needs of the patients performed by qualified health care professionals;
2. A description of the patient's capacities, strengths, disabilities, and weaknesses;
3. Identification of the patient's rehabilitation goals stated in functional, performance and behavioral objectives relative to the performance of life tasks and capabilities, with criteria for termination of treatment or discharge from the program;
4. Participation of the patient and his/[her] family, to the extent possible;
5. Physician input relative to both the general medical and rehabilitation medical needs of the patient;
6. Discharge planning addressed as part of goal setting as early as possible in the rehabilitation process;
7. Time intervals at which treatment or service outcomes will be reviewed;
8. Anticipated time frame(s) for the accomplishment of the individual's specified goals;
9. The measures to be used to access the effects of treatment or services; and
10. The person(s) responsible for implementation of the plan.

(b) The institution shall obtain and retain a signed consent form where applicable.

(c) The institution shall adopt a procedure to protect against the release of the person served to an unauthorized individual when individuals served are unable to represent their own interests.

(8) Therapeutic services.

(a) In addition to physician and nursing services the institution shall provide the following allied services directly or under contract. These services shall be provided at an intensity appropriate to the disability and to the patient's response to treatment with a minimum average level of three (3) to five (5) hours of therapeutic service per person per day at least five (5) days per week.

(b) Occupational therapy services shall be provided by or under the supervision of an individual certified by the American Occupational Therapy Association as an occupational therapist. Services shall include:

1. Assessment and treatment of functional performance; independent living skills; prevocational or [f] work adjustment skills; educational, play or [f] leisure and social skills.
2. Assessment and treatment of performance components; neuromuscular, sensori-integrative, cognitive and psychosocial skills.
3. Therapeutic interventions, adaptations and prevention.
4. Individualized evaluations of past and current performance shall be achieved through observation of individual or group tasks, standardized tests, record review, interviews, or activity histories.
5. Assess architectural barriers in home and workplace, and recommend equipment, adaptations, and different arrangements.
6. Treatment goals shall be achieved through use of selected modalities and techniques which include:
 - a. Tasks oriented activities; simulation or actual practice of work, self-care, home management, leisure and social skills and their components, creative media, games, computers and other equipment;
 - b. Prevocational training;
 - c. Sensorimotor activities;

- d. Patient and [f] family education and counseling;
- e. Design, fabrication and application of orthotic devices;
- f. Guidance in use of adaptive equipment and prosthetic devices;
- g. Adaptation to physical and social environment, and use of therapeutic milieu;
- h. Joint protection and [f] body mechanics;
- i. Positioning;
- j. Work simplification and [f] energy conservation; and
- k. Cognitive remediation.

7. Occupational therapy services monitor the extent to which goals are met relative to assessing and increasing patient's functional abilities in daily living skills.

(c) Physical therapy services shall be provided by or under the supervision of a licensed physical therapist employed on a full-time basis by a freestanding specialty hospital, or at least twenty (20) hours per week for a general hospital based unit.

1. Services shall include the following:

- a. An initial physical therapy evaluation and assessment of the patient prior to the provision of services;
- b. Development of treatment goals and plans in accord with the initial evaluation findings with treatment aimed at preventing or reducing disability or pain, and restoring lost function;
- c. Therapeutic interventions which focus on posture, locomotion, strength, endurance, balance, coordination, joint mobility, flexibility, and restoring loss of function.

2. Physical therapy services monitor the extent to which services have met therapeutic goals relative to the initial and all subsequent examinations, and the degree to which improvement occurs relative to the identified movement dysfunction or reduction of pain associated with movement.

(d) Psychological services shall be provided by or under the supervision of a licensed psychologist.

1. Assessment areas shall include psychological, vocational, and neuropsychological functioning.

2. Interventions include individual and group psychotherapy; family consultation and therapy; and design of such specialized psychological intervention programs as behavior modification, behavioral treatment regimens for chronic pain patients, and the use of biofeedback and relaxation procedures.

3. Psychological services monitor the cognitive and emotional adaptation of the patient and family to the patient's disability.

(e) Speech-language services shall be provided by or under the supervision of a licensed speech-language pathologist who meets the standards for the Certificate of Clinical Competency by the American Speech-Language, and Hearing Association. Services shall include:

1. Screening to identify individuals who require further evaluation to determine the presence or absence of a communicative disorder.
2. When the speech and language competencies of individuals are evaluated, the pathologist plans, directs and conducts habilitative, rehabilitative, and counseling programs to improve language, voice, cognitive linguistic skills, articulation, fluency, and adjustment to hearing loss, and assesses and provides alternative and augmentative communicative devices.

3. Plans for discharge and provides for the patient's understanding of communication abilities and prognosis.

4. Services are monitored for effectiveness of actions taken to improve communication skills of patients.

(9) The institution shall provide the following services directly or through a contractual arrangement with other providers as needed in accordance with the institution's program narrative:

(a) Social work services shall be provided by an individual with a masters degree in social work from a curriculum accredited by the Council for Social Work Education.

1. The scope of rehabilitation social services shall include the following areas related to work assessment and interventions to facilitate rehabilitation:

- a. Assessment of the personal coding history and current psychosocial adaptation to the disability;
- b. Assessment of immediate and extended family and other support persons relative to increasing support networks;
- c. Assessment of housing, living arrangements, and stability and source of income relative to facilitating discharge plans; and

2. Intervention strategies, aimed at increasing effectiveness of

coping, strengthening informal support systems, and facilitating continuity of care, shall include at least the following:

- a. Discharge planning activities;
- b. Casework with individual patients;
- c. Family counseling and therapy;
- d. Group work focused on both education and therapy; and
- e. Community service linkage [f] referrals.

3. Social work services monitor the achievement of goals relative to discharge planning activities designed to meet the basic sustenance, shelter, and comfort needs of patients and their families.

(b) Audiology services provided by or under the supervision of a licensed audiologist, and certified by the American Speech-Language, and Hearing Association. When the range, nature, and degree of the patient's auditory and vestibular function using instrumentation such as audiometers, electroacoustic emittance equipment, brain stem evoked response equipment, and electronystagmographic equipment is determined; the professional plan directs and conducts aural habilitation and rehabilitation programs. These shall include:

1. Hearing aid and assistive listening device selection and orientation;
2. Counseling, guidance and auditory training; and
3. Speech reading.

(c) Vocational and vocational rehabilitation services. These services provide assessment and evaluation of the patient's or [f] client's need for services to enable return to productive activity through the use of testing, counseling, and other service related activities. These identified needs are met either directly or through appropriate referrals. Services shall include:

1. Evaluation and assessment focusing on maximizing the independent productive functioning of the individual, and;
2. Comprehensive services shall include, at a minimum, the following areas:

- a. Physical and intellectual capacity evaluation;
- b. Interest and attitudes;
- c. Emotional and social adjustment;
- d. Work skills and capabilities;
- e. Vocational potential and objectives; and
- f. Job analysis.

3. Appropriate instruments, equipment and methods, under supervision of a qualified therapist shall be used.

4. A written report with interpretation and recommendations shall be prepared and shared with the individual and referral source.

5. Services shall monitor the degree to which appropriate work skills are achieved; the improvement in independent functioning relative to work skill capability; and, the achievement of vocational objectives.

(d) Prosthetic [and/or] orthotic services.

1. These services shall be provided by authorized specialists who are qualified to manage the orthotic (prosthetic) needs of disabled persons by performing an examination; by participating in the prescribing of needed specialized equipment; by designing and fitting such equipment; and by following up to ensure that the equipment is properly functioning and fitting.

2. Monitoring of prosthetic [and/or] orthotic services shall include:

- a. Documented evidence of communication with the prescribing physician; and
- b. Patient satisfaction with the orthosis or prosthesis relative to function and fit of the equipment.

(e) Therapeutic recreation services shall be provided by or under the supervision of a therapeutic recreation specialist, or under the supervision of an occupational therapist. These services may be provided in conjunction with occupational therapy services. Services shall include the following:

1. Assessment of the patient's leisure or [f] social or [f] recreational abilities, deficiencies, interests, barriers, life experiences, needs, and potential;

2. Treatment services designed to improve social, emotional, cognitive and physical functional behaviors as a necessary prerequisite to future leisure or [f] social involvement;

3. Leisure education designed to help the patient acquire knowledge, skills and attitudes needed for independent leisure or [f] social involvement, community adjustment, responsible decision-making, and use of free time; and

4. Monitoring which measures the extent to which goals are achieved relative to the use of leisure time and socialization skills.

(f) Pharmaceutical services. The institution shall provide [have adequate provisions] for the handling, storing, recording, and distributing of pharmaceuticals in accordance with state and federal laws and regulations. An adequate supply of [and other] medicinal agents shall be available at all times to meet the requirements of the institution. They shall be stored in a safe manner and kept properly labeled and accessible. Controlled substances and other dangerous or poisonous drugs shall be handled in a safe manner to protect against their unauthorized use. Controlled substances shall [must] be under double lock. There shall be adequate refrigeration for biologicals and drugs which require refrigeration. The existing laws, rules and regulations governing drugs and poisons shall be complied with.

1. An institution 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 program.

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. Facilities 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 not be dispensed by a registered pharmacist in this area. 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 institution 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.

(c) Records shall be kept of all transactions of the pharmacy or drug room and correlated with other institution records where indicated.

3. In accordance with accounting procedures of the institution, the pharmacy shall establish and maintain a system of records and book-keeping in accordance with policies of the institution for maintaining adequate control over the requisitioning and dispensing of all drugs and drug supplies and charging patients for drugs and pharmaceutical supplies.

4. 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.

5. 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:

a. The administration of medications only upon the order of an individual who has been assigned medical clinical privileges or who is an authorized member of the house medical staff;

b. Review of the physician's, or dentist's, or other ordering practitioner acting within his statutory scope of practice when applicable, original order, or a direct copy, by the pharmacist dispensing the drugs;

c. The establishment and enforcement of automatic stop orders;

d. Proper accounting for and disposition of unused medications or special prescriptions returned to the pharmacy as a result of the patient being discharged, or when such medications or [f] prescriptions do not meet sterile and label requirements;

e. Provision for emergency pharmaceutical services; and

f. Provision for reporting adverse medication reactions to the appropriate committee of the medical staff.

6. 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.

a. 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.

b. There shall be available a formulary or list of drugs accepted for use in the institution which shall be developed and amended at regular intervals by the appropriate committee of the medical staff.

c. Radiology services.

1. The institution shall provide diagnostic radiology services directly or through arrangements with a radiology service which has a current license or registration pursuant to KRS 211.842 to 211.850 and any administrative regulations promulgated thereunder. If the institution provides radiology services directly:

a. The institution 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.

b. Personnel adequate to supervise and conduct the services shall be provided.

2. ~~[There shall be]~~ Written policies and procedures governing radiologic services ~~shall be in accordance with 902 KAR 100.115. [and administrative routines that support sound radiologic practices:~~

~~a. Signed reports shall be filed in the patient's record and duplicate copies kept in the department.~~

~~b. Radiologic services shall be performed only upon written order of a physician or dentist, and the order shall contain a concise statement of the reason for the service/examination.~~

~~c. Reports of interpretations shall be written or dictated and signed by the radiologist.~~

~~d. 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 and removing radium element, its disintegration products, and radioactive isotopes.]~~

3. 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.

(h) Laboratory services. The institution shall provide laboratory services directly or through arrangements with a licensed facility which has the appropriate laboratory facilities, or with an independent laboratory licensed pursuant to KRS 333.030 and any administrative regulations promulgated thereunder.

1. 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 institution or through a contractual arrangement as specified in subsection (10) of this section.

b. If services are provided by an outside laboratory, the conditions, procedures, and availability of such services shall be in writing and available in the institution.

2. Dated reports of all laboratory services provided shall be filed with the patient's medical record and duplicate copies kept in the department.

a. When work is performed by an outside laboratory, the original report from this laboratory shall be contained in the patient's medical record.

b. The laboratory report shall have the name of the technologist who performed the test.

c. There shall be a procedure for assuring that all requests for laboratory tests are ordered and signed by a medical staff member, or other ordering practitioner acting within his statutory scope of practice.

3. If laboratory services are provided directly, there shall be a basic clinical laboratory which provides services necessary for routine examinations.

a. Equipment necessary to perform the basic tests shall be provided by the facility.

b. All equipment shall be in good working order, routinely checked, and precise in terms of calibration.

c. Provision shall be made to carry out adequate clinical laboratory examinations including chemistry, microbiology, hematology, serology, and clinical microscopy.

d. 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. Laboratory services shall be under the direction of a pathologist on a full-time, part-time, or a consultative basis. The laboratory shall not perform procedures and tests which are outside the scope of training of the laboratory personnel.

(i) Dietary services.

1. The institution shall provide dietary services directly or by contract.

2. The dietary service shall be organized, directed and staffed to provide quality food service and optimal nutritional care.

a. 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.

b. The dietary service shall have at least one (1) qualified dietician or nutritionist, either full time, part time, or on a consultative basis, to supervise the nutritional aspects of patient care.

c. Sufficient additional personnel shall be employed to perform assigned duties to meet the dietary needs of all patients.

d. The dietary department shall have available for all dietary personnel current written policies and procedures for food storage, handling, and preparation.

e. 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.

3. 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.

4. Meals shall correspond with the posted menu. When changes in menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu. Menus shall be kept on file for thirty (30) days.

5. All diets, regular and therapeutic, shall be prescribed in writing, dated, and signed by the attending medical staff member or other ordering practitioner acting within his 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 diet or eating habits.

6. 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).

7. If a patient refuses foods served, nutritious substitutions shall be offered.

8. 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 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.

9. The institution shall comply with all applicable provisions of KRS 217.005 to 217.215 ~~[219.011 to KRS 219.081]~~ and 902 KAR 45:005 ~~[(Kentucky's Food Service Establishment Act and Food Service Code)]~~.

(10) When services are provided under contract, the contract shall:

(a) Assure that services are provided in accordance with the plan of care approved by the physician responsible for the patient's care (except in the case of an adverse reaction to a specific treatment).

(b) Specify the geographical areas in which services are to be furnished;

(c) Provide that personnel and services contracted for meet the same requirements as those which would be applicable if the personnel and services were furnished directly;

(d) Provide that personnel will participate in conferences required to coordinate the care of an individual patient, as needed;

(e) Provide for the preparation of treatment records, with progress notes and observations, and for the prompt incorporation of such into the clinical records of the institution;

(f) Specify the period of time the contract is to be in effect and the manner of termination or renewal.

(11) Outpatient services.

(a) An institution 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, the needs of the patient it serves, and the program narrative.

(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 facility or a laboratory in a licensed facility or a laboratory licensed pursuant to KRS 333.030 and any administrative regulations promulgated thereunder.

(f) Case records shall be maintained and, where appropriate, coordinated with other institution case records.

1. The outpatient medical record shall be filed in a location which ensures 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.

TIMOTHY L. VENO, Inspector General

JOHN MORSE, Secretary

JOHN WALKER, Attorney

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 11, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 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 June 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

Contact Person: Ralph Von Derau

(1) Type and number of entities affected: There are presently 12 licensed providers of comprehensive physical rehabilitation hospital services.

(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 HEALTH SERVICES

Officer of Inspector General

Division of Licensing and Regulation

(Amendment)

906 KAR 1:110. Critical access [Rural primary care] hospital services.

RELATES TO: KRS 216B.010, 216B.015, 216B.040, 216B.042, 216B.045 to 216B.055, 216B.075, 216B.105 to 216B.131, 331.560(4), 314.011(8) [HB 310, 1992 GA]

STATUTORY AUTHORITY: KRS 216.380(11), 216B.010, 216B.040, 216B.042 [HB 310, 1992 GA, sec. 3(11)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires [HB 310 of the 1992 GA mandates that] the Cabinet for Health Services to regulate health facilities and health services [Human Resources promulgate administrative regulations necessary to implement a licensure program for rural primary care hospitals]. KRS 216.380(11) requires this administrative regulation which establishes [sets forth] quality of care and licensure standards for critical access [rural primary care] hospitals.

Section 1. Definitions. "Licensee" means a general acute-care hospital relicensed as a critical access [the rural primary care] hospital.

Section 2. ~~[Special Provisions. (1) The rural primary care hospital~~

(RPGH) shall be licensed in accordance with 902 KAR 20:008.

(2) The RPGH shall submit a licensure application (which shall include the types of medical conditions proposed to be treated at the RPGH) and strategic plan to the Kentucky Board of Family Health Care Providers (KBFHCP).

(3) The KBFHCP shall review the RPGH's application and plan and make recommendations to the Division of Licensing and Regulation.

(4) Prior to licensure, the Division of Licensing and Regulation shall consider the recommendations of the KBFHCP.

(5) Prior to licensure as a RPGH, a licensed acute care hospital shall have been found to be in compliance with 902 KAR 20:009 on its last licensure survey.

(6) The RPGH shall comply with the scope of its licensure application.

Section 3-; Administration and Operation. (1) The licensee shall be legally responsible for the operation of the critical access hospital (RPGH) and for compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the critical access hospital (RPGH).

(2) A critical access hospital [The RPGH] shall be under the medical direction of a physician licensed to practice medicine in Kentucky.

(3) The licensee shall establish written policies, lines of authority, and designate the person ~~(who will be)~~ principally responsible for the daily operation of the critical access hospital (RPGH).

(4) The licensee shall develop patient care policies with the advice of a group of professional personnel identified by the licensee.

(a) The group of professional personnel shall include:

1. One (1) or more physicians licensed in the Commonwealth of Kentucky; and

2. One (1) or more persons who are not members of the [RPGH] staff.

(b) The patient care policies shall include:

1. A description of services that the critical access hospital (RPGH) shall provide directly or through contractual agreement;

2. A written program narrative describing in detail the:

a. Services to be offered;

b. Methods and protocols for service delivery;

c. Qualifications of personnel to be involved in the delivery of services; and

d. Outcomes expected to be reached through the delivery of specified services.

3. Guidelines for medical case management of health problems which include:

a. Criteria for determining if a case requires medical consultation;

b. Patient referral procedures; and

c. Maintenance of health records.

4. Procedures requiring the proper storage, handling and administration of drugs and biologicals; and

5. Procedures establishing the annual review and evaluation of services provided [by the RPGH].

(5) A critical access hospital [The RPGH] shall adopt written policies regarding the rights and responsibilities of patients. These patients' rights policies shall assure that each patient is:

(a) Informed of these rights and of all rules and regulations governing patient conduct and responsibilities, including a procedure for handling patient grievances;

(b) Informed of services available [at the RPGH] and of related charges including any charges not covered under Medicare, Medicaid, or other third-party payor arrangements;

(c) Informed of his:

1. Medical condition, unless medically contraindicated as documented in the patient's medical record;

2. Right to participate in the planning of his medical treatment; and

3. Right to refuse to participate in experimental research;

(d) Assisted in understanding his patient rights;

(e) Provided confidential treatment of his records and is afforded the opportunity to approve or refuse their release to any individual not involved in his care except as required by Kentucky law or third-party payment contract;

(f) Treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in the care

of his personal health needs; and

(g) Informed of procedures through which to file grievances or recommendations to change policies and services. The policy shall establish a time frame within which the critical access hospital (RPGH) personnel shall determine what corrective action to take.

(6) Personnel.

(a) A critical access hospital [The RPGH] shall employ or contract with such staff as deemed essential to the [RPGH's] operation.

(b) A physician shall:

1. Be responsible for all medical aspects of the critical access hospital (RPGH);

2. Provide direct medical services in accordance with [the Medical Practice Act,] KRS Chapter 311.

3. Be present to provide medical direction, supervision, and consultation to the staff at least once in every two (2) week period, unless no patients have been treated since the last visit;

4. Participate with other medical personnel in developing, executing, and periodically reviewing [the RPGH's] written policies and services;

5. Review and sign [the RPGH's] patient records during his site visit; and

6. Provide medical orders and medical care services to patients [of the RPGH] in accordance with the critical access hospital (RPGH's] protocols.

(c) A registered nurse or licensed practical nurse shall be on duty when an inpatient is present. [A physician extender where utilized shall provide medical care services as permitted by their scope of practice and RPGH protocols.]

(7) [Transfer and linkage agreements.

(a) The critical access hospital (RPGH) shall have transfer and linkage contracts that meet the requirements of KRS 216.380(8). [with each of the following for:

1. Secondary and tertiary hospital services;

2. Additional and specialized diagnostic and laboratory services that are not available at the RPGH;

3. Home health agency services;

4. Nursing facility services if not provided on site;

5. Emergency medical services;

6. Pharmacy services if not provided directly by the RPGH; and

7. Dietary services if not provided directly by the RPGH.

(b) Transfer and linkage contracts with inpatient care facilities shall incorporate provisions for the:

1. Referral and transmittal of patients from the RPGH;

2. Coordination of discharge planning with the RPGH staff; and

3. RPGH to receive a copy of the discharge summary and, if necessary, the medical record of each patient referred to the RPGH.

(c) The transfer and linkage contracts shall include provisions establishing the following protocol and responsibilities between the RPGH and the inpatient care facility:

1. Transfer of patient information;

2. Transportation of patients;

3. Utilization of services, equipment, and personnel; and

4. Extent of care, whether total or partial, to be provided by the RPGH or the inpatient care facility.]

(8) Medical records.

(a) A critical access hospital [The RPGH] shall maintain medical records identifying all family members (a single patient may be considered a family unit). Medical records shall contain at least the following:

1. Medical and social history, including data obtainable from other providers;

2. Description of each medical visit or contact, to include condition or reason necessitating visit or contact, assessment, diagnosis, services provided, medications and treatments prescribed, and disposition made;

3. Reports of all laboratory, x-ray, and other test findings; and

4. Documentation of all referrals made, including reason for referral, to whom patient was referred, and any information obtained from referral source.

(b) Confidentiality of all individual patient records shall be maintained at all times.

(c) Transfer of records. The critical access hospital (RPGH) shall establish systematic procedures to assist in continuity of care where

the patient moves to another source of care, and [the RPGH] shall, upon proper release, transfer medical records or an abstract upon request.

(d) Retention of records. After patient's death or discharge, the completed 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.

(9) Utilization review and medical audit. In order to determine the appropriateness of the service(s) delivered, there shall be a written plan for utilization review [developed by the RPGH] which specifies the frequency of reviews and composition of the body conducting the review.

(10) Quality assessment and performance improvement [assurance] program.

(a) A critical access hospital [The RPGH] shall have a [written quality assurance] program to ensure continuous and effective mechanisms for:

1. Review and evaluation of patient care; and
2. Corrective action.

(b) The [quality assurance] program shall be approved by the licensee.

(c) The [RPGH quality assurance] program shall:

1. Establish responsibilities for the monitoring and evaluation of services:

2. Delineate the scope of care;
3. Identify specific aspects of care to be provided [by the RPHG]; [and]

4. Establish and document clinical criteria to be used to monitor all aspects of care and services;

5. Systematically evaluate the standard of care to identify problems and recommend corrective actions or alternatives to improve the standard of care;

6. Establish criteria to assess the effectiveness of the corrective actions taken to improve care; and

7. Require documentation of any improvements in the standard of care, subsequent to corrective actions taken.

(11) Contracted services. The critical access hospital [RPGH] shall be responsible for assuring that any services provided under contract shall be licensed or certified in accordance with applicable local, state, and federal regulations and statutes.

Section 3. [4.] Provision of Services. (1) The critical access hospital shall provide the services required by KRS 216.380(4). [The RPHG staff shall furnish those diagnostic and therapeutic services and supplies that are commonly furnished in a physician's office or at the entry point into the health care delivery system. These include medical history, physical examination, assessment of health status, and treatment for a variety of medical conditions.]

(2) A critical access hospital [The RPHG staff] shall provide, either directly or through contract, basic laboratory services essential to the immediate diagnosis and treatment of the patient on a twenty-four (24) hour basis. If the critical access hospital [RPGH] provides laboratory services directly, it shall be in compliance with 902 KAR 20:016, Section 4(4). If the critical access hospital [RPGH] contracts for laboratory services, the laboratory it contracts with shall [must] be in compliance with KRS Chapter 333, including:

- (a) Chemical examinations of urine by stick or tablet methods or both (including urine ketones);
- (b) Microscopic examinations of urine sediment;
- (c) Hemoglobin or hematocrit;
- (d) Blood sugar;
- (e) Gram stain;
- (f) Examination of stool specimens for occult blood;
- (g) Pregnancy tests;
- (h) Primary culturing for transmittal to a hospital laboratory or licensed laboratory; and
- (i) Test for pinworms.

(3) A critical access hospital [The RPHG] shall provide medical emergency procedures as a first response to common life-threatening injuries and acute illness, and have available the drugs and biologicals commonly used in life-saving procedures, such as analgesics, anesthetics (local), antibiotics, anticonvulsants, antidotes and emetics,

serums and toxoids.

(a) [Emergency room care shall be provided on a twenty-four (24) hour basis.

(b) Examination services shall be provided by the critical access hospital [RPGH] in accordance with 902 KAR 20:012.

(b) There shall be a physician, nurse practitioner, or physician assistant with training or experience in emergency care on-call and immediately available by telephone or radio contact, and available on site within thirty (30) minutes on a twenty-four (24) hour per-day basis.

(4) A critical access hospital shall provide, either directly or through contract, basic pharmacy services essential to the treatment of the patient on a twenty-four (24) hour basis. If the critical access hospital provides pharmacy services directly, it shall be in compliance with 902 KAR 20:016, Section 4(5). If the critical access hospital contracts for pharmacy services, the pharmacy it contracts with shall be in compliance with KRS Chapter 315.

(5) A critical access hospital shall provide, either directly or through contract, basic radiology services essential to the immediate diagnosis and treatment of the patient on a twenty-four (24) hour basis. If the critical access hospital provides radiology services directly, it shall be in compliance with 902 KAR 20:016, Section 4(6). If the critical access hospital contracts for radiology services, the radiology service it contracts with shall have a current license or registration pursuant to KRS 211.842 to 211.852 and any administrative regulations promulgated thereunder.

(6) [(c) At least one (1) person shall be on duty at the RPHG who is minimally certified as a provider by the American Heart Association in advanced cardiac life support and certified as a basic trauma life support provider advanced in accordance with the American College of Emergency Physicians curriculum.

(4) Supplemental services. A RPHG may provide additional services to complement the basic services of the RPHG. Additional services shall be identified and submitted to the Division of Licensing and Regulation for review prior to delivery of services. A RPHG may contract with another provider to deliver supplemental services. Supplemental services may include:

- (a) Surgical services within the scope of RPHG license;
- (b) Obstetrics within the scope of the RPHG license;
- (c) Primary care in accordance with 902 KAR 20:058;
- (d) Adult day health care in accordance with 902 KAR 20:066;
- (e) Respite care; or
- (f) Rehabilitative and therapeutic services in accordance with 902 KAR 20:016, Section 4(7).

(5) Dietary services shall be provided either directly or by contract in accordance with 902 KAR 20:016, Section 4(3), when an inpatient is [resides] in the critical access hospital [RPGH] for more than twelve (12) hours.

[(6) Long-term care beds, if provided, shall be in accordance with applicable state and federal regulations as follows:

- (a) Dual licensure beds shall be in compliance with 902 KAR 20:220;
- (b) Swing beds shall be in compliance with 42 CFR 405; and
- (c) Nursing facility beds shall be in compliance with 902 KAR 20:300 and 42 CFR 483.]

Section 4. [5.] Physical and Sanitary Environment. A critical access hospital [The RPHG] shall comply with the provisions of 902 KAR 20:016, Section 3(10).

Section 5. Facility Requirements. A critical access hospital shall comply with the requirements of 902 KAR 20:009 related to the services offered.

TIMOTHY L. VENO, Inspector General
JOHN MORSE, Secretary
JOHN WALKER, Attorney

APPROVED BY AGENCY: May 10, 1999

FILED WITH LRC: May 11, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 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 June

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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 no licensed rural primary care hospitals.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public comments addressing this issue were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public comments addressing this issue were received.

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

1. First year following implementation: No additional reporting requirements imposed.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: 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. The proposed amendments will improve access to health services for rural residents of Kentucky.

(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-

tal 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.

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, MAY 14, 1999

**GENERAL GOVERNMENT CABINET
Kentucky State Board of Licensure for
Professional Engineers and Land Surveyors
(New Administrative Regulation)**

201 KAR 18:071. Repeal of 201 KAR 18:070.

RELATES TO: KRS 322.040, 322.080, 322.090
STATUTORY AUTHORITY: KRS 322.040, 322.290
NECESSITY, FUNCTION, AND CONFORMITY: 201 KAR 18:070 is being repealed because the information contained in the administrative regulation will be addressed in 201 KAR 18:010.

Section 1. 201 KAR 18:070, Examinations, is hereby repealed.

JOSEPH P. SISLER, Chair
CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: May 6, 1999

FILED WITH LRC: May 13, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1999, at 1:30 p.m., at the State Board's Office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 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 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: Larry Perkins, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone: (502) 573-2680, Fax: (502) 573-6687.

REGULATORY IMPACT ANALYSIS

Agency Contact: Larry Perkins

(1) Type and number of entities affected: Approximately 9000 licensed professional engineers, 1200 land surveyors, 1200 engineers-in-training, and 200 land surveyors-in-training.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

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

No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation of this administrative regulation will be licensing fees. No revenue will be required to enforce the regulation.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensees are treated uniformly under the law.

**GENERAL GOVERNMENT CABINET
Kentucky State Board of Licensure for
Professional Engineers and Land Surveyors
(New Administrative Regulation)**

201 KAR 18:091. Repeal of 201 KAR 18:090.

RELATES TO: KRS 322.130

STATUTORY AUTHORITY: KRS 322.130, 322.290

NECESSITY, FUNCTION, AND CONFORMITY: 201 KAR 18:090 is being repealed because the information contained in that administrative regulation will be addressed in 201 KAR 18:080.

Section 1. 201 KAR 18:090, Serial numbers, is hereby repealed.

JOSEPH P. SISLER, Chair
CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: May 6, 1999

FILED WITH LRC: May 13, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 1999, at 2 p.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 16, 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 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: Larry Perkins, Executive Director, Kentucky State Board of

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Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone: (502) 573-2680, Fax: (502) 573-6687.

REGULATORY IMPACT ANALYSIS

Agency Contact: Larry Perkins

(1) Type and number of entities affected: Approximately 9000 licensed professional engineers, 1200 land surveyors, 1200 engineers-in-training, and 200 land surveyors-in-training.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation of this administrative regulation will be licensing fees. No revenue will be required to enforce the regulation because it is a repealer regulation.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

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

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all licensees are treated uniformly under the law.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources (New Administrative Regulation)

301 KAR 2:182. Repeal of 301 KAR 2:181.

RELATES TO: KRS 150.025(1), 150.620

STATUTORY AUTHORITY: KRS 150.025(1), 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to fix seasons and make seasons conditional, to make seasons apply to a limited area and to promulgate any other administrative regulation reasonably necessary to implement the provisions of KRS Chapter 150. KRS 150.620 authorizes the department to impose and enforce special administrative regulations for the lands it has acquired. This administrative regulation is necessary to repeal 301 KAR 2:181, since its provisions have been incorporated into another administrative regulation.

Section 1. 301 KAR 2:181, is hereby repealed.

C. THOMAS BENNETT, Commissioner

MIKE BOATWRIGHT, Chairman

ANN R. LATTA, Secretary

DOUGLAS SCOTT PORTER, Assistant Attorney General

APPROVED BY AGENCY: February 26, 1999

FILED WITH LRC: May 14, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 28, 1999 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 21, 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: John Wilson, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4406, FAX (502) 564-6508.

REGULATORY IMPACT ANALYSIS

Contact Person: John Wilson

(1) Type and number of entities affected: An estimated 17,000 deer hunters are expected to apply for quota hunts on wildlife management areas. Of these, approximately 11,000 will be drawn to hunt.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation will have no impact on costs of living or employment.

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

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

1. First year following implementation: This administrative regulation decreases paperwork and reporting requirements by replacing a paper application system with an automated telephone application system.

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: An estimated \$6,000 will be saved by converting to an automated application system.
2. Continuing costs or savings: Same as first year.
3. Additional factors increasing or decreasing costs: None
- (b) Reporting and paperwork requirements: Paperwork requirements will be virtually eliminated; reporting will be automated.
- (4) Assessment of anticipated effect on state and local revenues:
- (5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fish and Game Fund.
- (6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
 - (a) Geographical area in which administrative regulation will be implemented: No significant economic impacts.
 - (b) Kentucky: No significant economic impacts.
- (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: None
 - (b) State whether a detrimental effect on environmental 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: Not applicable.
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
- (10) Any additional information or comments:
- (11) TIERING: Is tiering applied? Tiering is not appropriate because the administrative regulation applies equally to all individuals or entities it regulates.

**JUSTICE CABINET
Department of Juvenile Justice
(New Administrative Regulation)**

505 KAR 1:080. Kentucky Educational Collaborative for State Agency Children.

RELATES TO: KRS Chapters 158, 161, 605, 610, 630, 635, 640, 645

STATUTORY AUTHORITY: KRS 158.135, 605.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 605.110 requires that children maintained in a facility or program operated or contracted by the Cabinets for Families and Children, Justice, or Health Services shall, so far as possible, receive a common school education. This administrative regulation sets forth policies for complying with KRS 158.135 and 605.110 in the Cabinet for Families and Children, Justice Cabinet, or Cabinet for Health Services, juvenile detention, residential programs, group homes, day treatment, or other programs operated, contracted, or financed through the cabinets. Programs and facilities for foster children, other than therapeutic foster care, are excluded.

Section 1. Definitions. (1) "Average daily membership" means the average number of state agency children on the KECSAC designated child count days.

(2) "Department" means the Department of Juvenile Justice.

(3) "Educational administrative staff" means a principal, assistant principal, supervisor, coordinator, director, pupil personnel worker or guidance counselor employed or contracted by the Kentucky Educational Collaborative for State Agency Children to provide education services.

(4) "Extended school calendar" means 230 school days, of which at least 210 are instructional days, three (3) are Kentucky Educational Collaborative for State Agency Children approved professional development days, and the remainder to be determined by the local school district, as required in KRS 158.070.

(5) "Individual education program (IEP)" means the instructional

program required for state agency children identified as having educational disabilities as governed by 707 KAR 1:210.

(6) "Individual plan of instruction (IPI)" means the instructional plan required for state agency children not identified as having educational disabilities.

(7) "Individual treatment plan (ITP)" means a social and behavioral intervention plan, including the plan for educational instruction, that is developed for each state agency child being served by a treatment institution or facility.

(8) "KDE" means the Kentucky Department of Education.

(9) "KECSAC" means Kentucky Educational Collaborative for State Agency Children.

(10) "Local school district" means the school district where state agency children are provided educational services.

(11) "On-site state agency school program" means a school program operated on the campus of a residential facility or day treatment program.

(12) "Private child care agency" means a private, not state operated, program which provides care or treatment for children on a per child contractual or financed basis.

(13) "Program director" means the administrator at a state operated or contracted institution or day treatment facility or administrator of a private child care agency that is responsible for the safety and security of youth and staff and the operation of the treatment facility.

(14) "Rated capacity" means the capacity of the program as determined by the Cabinets for Families and Children or Health Services or the Justice Cabinet.

(15) "School" means the site where the educational program for state agency children is provided.

(16) "School administrator" means the lead teacher, principal, or lead educator designated by the local district or by the Kentucky Educational Collaborative for State Agency Children (KECSAC) to be responsible for the operation of the daily education program. The program director may also be the school administrator in some facilities, if they have appropriate educational certification.

(17) "State agencies" means the Justice Cabinet, the Cabinet for Families and Children (CFC), and the Cabinet for Health Services.

(18) "State agency children (SAC)" means those children of school age committed to or in the custody of the Cabinets for Families and Children or Justice or Health Services and placed in a state agency operated or contracted institution, facility or day treatment program, or placed or financed through a state agency in a private facility pursuant to child care agreements, and those children of school age in home and community-based services provided as an alternative to intermediate care facility services for mentally retarded as governed by KRS 158.135(1)(a).

(19) "State agency children's fund" means appropriations to support KRS 158.135 previously known as out-of-district funds.

(20) "Teacher preparation" means those courses provided by public and private colleges and universities which lead to teacher certification.

(21) "Therapeutic foster care state agency child" means a youth in a specialized foster care placement, as defined in KRS 158.135, with "serious emotional problems" defined as those youth identified as having an emotional behavioral disability (EBD) for educational purposes (as defined in KRS 157.200) or severe emotional disability (SED) (as defined in KRS 200.501 to 200.509).

(22) "Treatment" means the total array of services utilized to produce a positive change in children served by the treatment facility.

Section 2. Governance. (1) An interagency advisory group for KECSAC, composed of representatives of the state agencies, KDE, the State Agency Children School Administrators' Association and a superintendent from a school district that provides education to SAC, shall provide recommendations for policy and procedure development. The interagency advisory group shall meet, at a minimum, biannually.

(2) Contracting procedures.

(a) The department shall contract with a university training resource center for the establishment of KECSAC. KECSAC shall be responsible for the oversight or administration of state and federal

education funding and the provision of educational services to state agency children. KECSAC shall be financed by the state agency children's fund. KECSAC shall have knowledge and experience in the following:

1. Appropriate statutes and administrative regulations related to Kentucky's system of schools;
2. State and federal statutes pertaining to youth with educational disabilities, e.g. Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act;
3. Kentucky Unified Juvenile Code and the operation of agency programs for juvenile offenders, status offenders and dependent children; and
4. Research regarding the education of at-risk, incarcerated and difficult to motivate youth.

(b) KECSAC shall plan programs and state agency children's fund budgets cooperatively with the state agencies, KDE and local school district providing programs to state agency children. Local school districts shall be notified of projected funding levels by KECSAC by December 1, for the following school year.

(c) The KECSAC annual applications to the department shall constitute the biennial plan. The applications shall contain educational goals and objectives for the biennium for which funding is requested. The goals and objectives shall be consistent with appropriate statutes and administrative regulations related to the system of common schools and the mandates of the Individuals with Disabilities Education Act. The educational goals and objectives shall be compatible with and complementary to the treatment goals for state agency children. The application shall also include strategies for enhancing teacher preparation and professional development for teachers in local districts serving SAC.

(d) KECSAC, with the cooperation of the state agencies and KDE, shall develop written procedures for the operation of the state-wide education system for state agency children.

(3) Staffing.

(a) Teachers and other educational staff shall be employed or contracted by a local school district.

1. If the local school district is not able or willing to provide the educational personnel for the state agency children's treatment facility for the extended school calendar as defined in Section 1 of this administrative regulation, KECSAC:

a. Shall be notified in writing no later than January 1 prior to the start of the next school year of the school district's intent not to provide an extended school calendar;

b. May contract with another school district for educational staff; or

c. May contract or employ teachers or educational administrative staff.

2. When filling a teacher or an educational administrative staff vacancy in a state-operated or contracted facility, the local school district or KECSAC shall provide the state agency program director an opportunity to interview prospective new teachers or educational administrative staff for the on-site state agency school program. The state agency program director shall provide the local school district with interview results regarding the applicant's suitability for teaching in the on-site state agency school program.

(b) Educational administrative staff and teachers employed or contracted by KECSAC to provide educational services for the extended school calendar shall meet Kentucky education certification requirements and shall be evaluated. KECSAC shall evaluate all KECSAC staff employed by the contracted university.

(c) Educational staff employed by school districts shall be evaluated in accordance with local school district policy.

(d) Each on-site state agency school program shall designate a school administrator.

(e) Education staff employed or contracted by KECSAC to provide educational services for the extended school calendar shall be compensated at rates at least commensurate with public school employees with comparable qualifications, experience and assignments in the school district where the treatment facility is located.

(f) On-site state agency school programs shall have sufficient teachers available with appropriate certification to serve youth identified with educational disabilities as specified in 707 KAR 1:230.

(g) Other specific services identified in an IEP by the admission

and release committee as needed for a youth with educational disabilities may be accessed by KECSAC contracting for appropriate extended school calendar services. KECSAC shall comply with the administrative regulations relating to youth with disabilities as provided in 707 KAR Chapter 1. The extended school calendar may be modified if the SAC in therapeutic foster care are included in the school district's extended school program as approved by KECSAC.

(4) Policy application. Interagency agreements, including program goals and objectives, shall be developed between each local school district and treatment provider regarding their mutual responsibility for education and care of state agency children. This agreement shall be reviewed annually. If a conflict arises between the local agencies regarding the development or fulfillment of the inter-agency agreement by either party, it shall be resolved by KECSAC.

(5) Student eligibility. If a specific activity (e.g. football, debate, etc.) is not provided to youth in a state or private contracted agency program, the youth shall not lose eligibility to participate based on the requirements in 702 KAR 7:070. Eligibility shall be figured on a month-to-month basis (e.g., nine (9) months in a state agency facility without a formal football program leaves nine (9) months of eligibility in a local school district). The eligibility period shall not exceed one (1) additional year. Other eligibility criteria however, shall be met by the youth

Section 3. Finance. (1) The amount of funds generated by state agency children under the Support Education Excellence in Kentucky (SEEK) Program as specified in KRS 157.360 for the guaranteed SEEK base and adjustments shall be sent to the school district providing education for state agency children to be used pursuant to Memoranda of Agreement (MOA) negotiated with KECSAC.

(2) Distribution of state agency children's funds shall be as follows:

(a) State agency children's funds shall be used to fund the Memorandum of Agreement with KECSAC.

(b) State agency children's funds may be used for educational services which benefit state agency programs in a collective manner.

(c) State agency children's funds may be used as matching funds if the match shall increase the amount of funds available to educate state agency children.

(d) After paragraphs (a), (b), and (c) of this subsection have been funded the remainder of the state agency children's fund appropriation shall be divided by the total number of state agency children to be educated. The resulting per pupil amount shall be allocated for each state agency child.

(3) KECSAC shall be considered the same as a school district for the generation, application, distribution and accountability of state and federal funds, other than SEEK, available to educate on-site state agency school children.

(4) An annual memorandum of agreement shall be negotiated between KECSAC and each school district providing education to state agency children. The MOA is to be signed and returned to KECSAC within ninety (90) days of issuance. KECSAC may decrease funding by quarterly increments for noncompliance with the submission deadline. Attachments shall include the state approved budget format. All funds expended for SAC shall be included in the annual school audit. An itemized budget shall be part of the MOA. State agency children's fund distribution shall be based upon SAC average daily membership (ADM) or rated capacity as defined in Section 1 of this administrative regulation.

(a) Noncompliance with the MOA provisions may result in decreasing SACF allocation as determined by KECSAC.

(b) For new or expanded programs, the SACF shall be allocated based on the rated or licensed capacity if opened during the first three (3) quarters of the fiscal year. Programs opened or expanded during the last quarter of the fiscal year shall receive funding based on the rated or licensed capacity for the initial fifteen (15) months of operation. New or expanded programs may be funded at a lower per-pupil amount based on availability of state agency children's funds.

(5)(a) Each biennium, KECSAC, in consultation with the state agencies and KDE, shall submit a biennial budget plan benchmarked to the projected SEEK increase and projected set-aside to

reimburse district's for excess cost.

(b) The state agency children's fund, as specified in KRS 158.135, shall be cost reimbursed to school districts biannually from KDE upon approval by KECSAC and the appropriate state agency.

(c) KECSAC shall develop a procedure by October 1, 1999, for school district's reimbursement of expenses exceeding twenty (20) percent of total amount received from state and federal sources to serve a state agency child.

(6) KECSAC as part of the MOA with each local school district shall ensure the development of a plan for professional development of certified staff. All teachers and administrators new to SAC on-site programs shall attend Professional Development for New Educators. SAC school programs shall commit three (3) days of the extended school calendar for teacher participation in the KECSAC approved professional development events. These three (3) days are in addition to the Professional Development for New Educators. The school district shall maintain an annual record of professional development for all school district employees in SAC on-site programs.

(7) School districts shall ensure that the SAC access all eligible federal and state funding (such as KETS Funding, Title I).

(8) On-site SAC programs shall have access to textbooks, instructional materials, technology, and equipment comparable to that available in the local school district.

(9) KECSAC shall obtain information from the Kentucky Department of Education and the Workforce Development Cabinet regarding all discretionary and entitlement state, federal and miscellaneous funding opportunities available to local school districts and file applications or reports necessary to procure and use funds for the education of state agency children.

(10) If a state agency plans to open or contract for a new program or to expand an existing SAC program during a biennium, the state agency shall notify KDE and KECSAC by April 1 of the first year of the biennium regarding the projected number of youth to be educated in the new or expanded program.

(11) If youth age sixteen (16) years through twenty (20) enter with or receive a GED while attending a state agency program, that youth shall continue in the state agency program for further academic and vocational training and continue to generate SEEK funds. SACF may be expended to support a GED preparation program. SACF may be used to educate GED and high school graduates.

(12) The state agencies, the Kentucky Department of Education, the Workforce Cabinet and other appropriate agencies shall develop and review annually an interagency agreement defining services and financial responsibilities of each state and local agency providing educational services for state agency children. The agreement shall include procedures for resolving interagency disputes.

Section 4. Operations. (1) School options for state agency children with an IEP shall be planned, when not restricted by treatment needs, using the least restrictive environment based on specific child needs. Additional days beyond the school year may take place either at the local public school or on the state agency program site. If the state agency child is not restricted to the treatment site for security purposes, the continuum from least restrictive to most restrictive alternatives are as follows:

(a) A program for state agency children may send all of its children to be educated in the local public school where children in the local public school district are assigned or where their IEP indicates placement.

(b) A program for state agency children may send some of its children to be educated in the local public school as in paragraph (a) of this subsection and have on-site state agency school option for other children.

(c) A program for state agency children may have an on-site state agency school for all children due to reasons necessary for the conditions of placement in the state agency program.

(2) Assessments.

(a) The local school district shall complete an informal academic assessment of the educational needs of all SAC, and vocational needs of SAC aged fourteen (14) and up or in eighth grade and above, within the first thirty (30) days after admission to on-site programs. Educational goals and objectives shall be consistent with goals specified in each youth's individual treatment plan.

(b) If the youth is suspected to have an educational disability as governed by 707 KAR 1:180 and 707 KAR 1:190, assessments shall be administered, following required due process procedures.

(3) In school districts providing educational services, local school district staff shall coordinate the completion of required individual education program pursuant to 707 KAR 1:180 and 707 KAR 1:190.

(4) Instructional services.

(a) The teacher pupil ratio for on-site state agency school programs serving state agency children shall average, based on annual average daily attendance, no more than ten (10) students to one (1) teacher without a classroom aide and fifteen (15) students to one (1) teacher with a classroom aide. Classrooms only serving students with educational disabilities shall comply with teacher pupil ratios as specified in 707 KAR 1:230, Section 5.

(b) By the 30th school day after admission to a school program, an individual plan of instruction shall be developed by the school district for state agency children not identified with a disability. The individual plan of instruction shall be developed in coordination with the ITP. If a youth is determined to have an educational disability, the IEP requirements as governed by 707 KAR Chapter 1 shall suffice. The IPI shall be in a standardized format, as determined by the KECSAC Interagency Advisory Group.

(c) The educational passport, as defined in KRS 158.137, shall be used in on-site programs. For students who are in a program longer than thirty (30) school days, an educational passport shall be prepared by educational staff and delivered to the applicable receiving school or state agency within two (2) school days of the SAC's departure.

(d) Any SAC reading at two (2) or more years below the appropriate grade level, as measured by an educational assessment tool, shall be provided developmental reading, listening and writing instruction.

(5) Accountability.

(a) State agency children shall have the same assessments administered as other public school youth in A-5 and A-6 schools as specified in 703 KAR 4:080 and 703 KAR 5:040. The results of the assessments shall be included in the accountability index of the last A-1 school the youth attended prior to admittance to a state agency program or the A-1 school the youth would have attended if the youth had remained in that local school district.

(b) State agency children shall develop portfolios consistent with the content requirements of the state's assessment program. A youth's portfolio shall be sent to the receiving school as part of the educational records when the youth is transitioned from the state agency program.

(c) An accountability system shall be designed by KECSAC for state agency children school programs. The memorandum of agreement which includes quality of educational services shall be monitored, at a minimum, in conjunction with KDE's IDEA monitoring cycle. Noncompliance with MOA may result in reduction, elimination, or recoupment of district's reimbursement from SACF as determined by KECSAC.

(d) When required by the state agency, the SAC school programs shall be in compliance with accreditation standards of the respective professional accrediting association of that state agency.

(6) Transition.

(a) KECSAC shall ensure that transition procedures for SAC moving from the state agency education program to the next instructional or vocational setting are being implemented. Educational staff at on-site programs shall participate in the transition process.

(b) The transition planning to post school settings shall comply with the transition plan and service requirements of Individuals with Disabilities Education Act (IDEA) and 707 KAR 1:220 for students with educational disabilities.

(c) KECSAC shall design and implement a system of educational data collection and information dissemination in order to improve the quality of educational delivery for SAC.

(d) The last school or school district a state agency youth attends prior to placement in a state agency program shall be responsible for forwarding the educational records to the state agency program within five (5) school days of receipt of the request.

(e) The school administrator shall ensure that the educational

records of state agency children are forwarded to the receiving school within five (5) school days following the release of the youth from the treatment facility.

RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel

APPROVED BY AGENCY: May 13, 1999

FILED WITH LRC: May 13, 1999 at 2 p.m.

PUBLIC HEARING A public hearing on this proposed administrative regulation shall be held on June 25, 1999, at 10 a.m. in the State Board Room on the first floor of the Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by June 18, 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 is made for a transcript. 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: Michael Keith Horn, Office of General Counsel, Department of Juvenile Justice, Capital Complex East, 1025 Capital Center Drive, Building #3, Third Floor, Frankfort, Kentucky 40601, (502) 573-2738, FAX: (502) 573-4308.

REGULATORY IMPACT ANALYSIS

Agency Contact: Michael Keith Horn

(1) Type and number of entities affected: The type and numbers of entities affected are state agency children (SAC) and those local school districts receiving state agency children funds for the purpose of educating state agency children as defined in the regulation, as well as state operated and private child caring facilities providing services to state agency children. State cabinets affected include the Justice Cabinet, Cabinet for Families and Children, Cabinet for Health Services and the Kentucky Department of Education.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received. Implementation of these regulations will have no impact on the cost of living. Implementation could possibly effect employment in that as new SAC are identified and new programs are implemented to serve these children, more teaching staff may be necessary to provide services. A public hearing has been scheduled during which public comments may be received.

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

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

1. First year following implementation: Since school districts are currently using the MUNIS budgeting format, paperwork and reporting should be reduced and, more importantly, more accountable. Compliance issues will be monitored primarily by the Kentucky Educational Collaborative for State Agency Children; however, local school districts will remain responsible for complying with the regulation.

2. Second and subsequent years: No significant impact is anticipated in the compliance, reporting and paperwork requirements in the second and subsequent years of implementation.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Indirect costs include the requirement that KECSAC conduct quality educational service delivery monitoring. It is anticipated that there will be an increase in the KECSAC operating budget in order to meet this provision.

2. Continuing costs or savings: It is anticipated that the KECSAC

operating costs will increase in order to properly monitor the quality of educational services in all programs receiving state agency children's funds.

3. Additional factors increasing or decreasing costs: There are no additional factors which increase or decrease the cost for the promulgating agency.

(b) Reporting and paperwork requirements: The only change in reporting and paperwork requirements is that SAC programs effected by the regulation will be required to maintain adequate records to document compliance and KECSAC staff will be required to monitor compliance and request that corrective action plans be completed.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Sources of revenue used to implement this administrative regulation include the funds that must be provided by the Department of Education for the education of state agency children.

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

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

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

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternative methods were considered because KRS 605.110 requires that education for state agency children be provided in this manner.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: State agency children are the true beneficiaries of this regulation as it will hold all stakeholders, particularly local school districts, accountable in meeting proper educational service delivery to state agency children. When state agency children receive the most appropriate educational services, the possibility of SAC returning to the system, whether it be for abuse, neglect or public offenses, is decreased.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There are no detrimental effects on the public health or environmental welfare, but this regulation will improve conditions for youth in SAC programs.

(c) If detrimental effect would result, explain detrimental effect: There would be no detrimental effect.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation or government policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(a) Necessity of proposed regulation if in conflict: There is no statute, administrative regulation or government policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, administrative regulation or government policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(10) Any additional information or comments: There is no additional information or comments at this time.

(11) TIERING: Is tiering applied? No. This administrative regulation sets forth the manner in which educational services will be provided to state agency children throughout the state.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate. The existence of the Kentucky Educational Collaborative for State Agency Children is required by state law.

2. State compliance standards. Since there is no federal mandate, there are no state compliance standards.

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate.

4. Will this administrative regulation impose stricter requirements,

- (b) The plan of care goals;
- (c) The expected benefits of the admission;
- (d) The expected outcome;
- (e) The initial estimated time frames for achieving the plan of care goals;
- (f) The services required; and
- (g) The cost-effectiveness of service delivery as an alternative to nursing facility and nursing facility brain injury services.
- (3) ABI waiver services shall not be furnished to an individual while he is an inpatient of a hospital, nursing facility, or an intermediate care facility for persons with mental retardation.
- (4) The department or its designated agent shall make:
 - (a) An initial evaluation for level of care;
 - (b) A periodic reevaluation level of care determinations; and
 - (c) A determination of admission to the ABI Waiver Program.

Section 4. Recipient Participation Termination. (1) An individual with an approved plan of care who receives ABI waiver services may withdraw from the ABI Waiver Program at any time without cause.

(2) Continued coverage for an ABI Waiver Program recipient shall be terminated if the department determines that the individual does not have the potential for reentry into the community in accordance with Section 3(1)(d) of this administrative regulation without the availability of continued ABI waiver services.

Section 5. Conditions for Agency and Service Provider Participation. (1) A participating provider agency shall meet the following requirements:

- (a) A "free-standing case management provider" shall be a legally constituted entity in the Commonwealth of Kentucky and have documenting evidence of its operating authority, such as:
 - 1. The administrative framework of the governmental department of which it is a component;
 - 2. A private agency shall have:
 - a. A charter or articles of incorporation;
 - b. A constitution; and
 - c. By-laws.

(b) With the exception of a free-standing case management agency, a brain injury service provider shall be an agency licensed in the Commonwealth of Kentucky in accordance with 902 KAR 20.008.

(c) A participating brain injury service provider agency, including a free-standing case management agency shall:

- 1. Be subject to the financial sanctions as established in 907 KAR 1:671;
- 2. Have written policies and procedures that comply with the conditions for participation in the Acquired Brain Injury Services and Reimbursement Program Manual; and
- 3. Comply with applicable federal and state statutes and regulations relating to the provision of services under the Kentucky Medicaid Program.

(2) A participating ABI waiver service provider shall meet the applicable certification requirements for providing ABI waiver services in accordance with 907 KAR 1:672, KRS 205.8477 and 42 CFR 455 Subpart B.

(3) An ABI waiver provider agency or service provider shall comply with the conditions for participation established in the Acquired Brain Injury Services and Reimbursement Program Manual.

(4) Prior to employing an individual to provide ABI waiver services, an ABI waiver provider agency shall verify that all requirements of subsections (5) and (6) of this section have been met.

- (5) Professional direct service and paraprofessional staff shall:
 - (a) Have a high school diploma or GED;
 - (b) Be CPR certified;
 - (c) Not have a criminal record as defined in Section IV of the Acquired Brain Injury Services and Reimbursement Program Manual;
 - (d) Not have a history of perpetrating fraud, abuse, neglect, or exploitation;
 - (e) Complete six (6) hours of continuing education in brain injury annually; and
 - (f) Meet other requirements pertinent to the service they shall

provide as specified in the Acquired Brain Injury Services and Reimbursement Program Manual.

(6) All professional direct service staff shall meet:

- (a) The requirements in subsection (5) of this section; and
- (b) Licensing, certification, and degree requirements necessary to practice in the Commonwealth of Kentucky.

(7) Providers terminated from another Medicaid Program shall not be eligible for participation in the ABI Waiver Program in accordance with 907 KAR 1:672.

Section 6. Provider Participation Termination. A provider's participation may be terminated by the provider or the department in accordance with 907 KAR 1:671.

Section 7. Covered Services. (1) Except as limited in Section 8 of this administrative regulation, the following shall be considered Medicaid covered services:

- (a) Case management;
- (b) Personal care service;
- (c) Respite care;
- (d) Companion service;
- (e) Structured day program service;
- (f) Prevocational service;
- (g) Supported employment service;
- (h) Behavior programming;
- (i) Counseling and training;
- (j) Occupational therapy, speech, hearing, and language service;
- (k) Specialized medical equipment and supplies;
- (l) Environmental modification; and
- (m) Community-residential service.

(2) ABI Waiver Program services and services established in 42 USC 1396a, b, d, and n shall be available to an ABI recipient to prepare him to reside in the community without the need for continued ABI waiver services.

(3) The ABI waiver services listed in subsection (1) of this section are described in the Acquired Brain Injury Services and Reimbursement Program Manual, which is incorporated by reference.

Section 8. Limits on Coverage. (1) Respite services are limited to no more than 168 units in a six (6) month period. An exception to this period may be granted by the department if the individual's primary caregiver's ability to provide care for the individual is compromised by:

- (a) A death in the family;
- (b) A serious illness; or
- (c) Hospitalization.

(2) An environmental modification shall be limited to being provided to the individual's home.

Section 9. Prior Approval for an ABI waiver service. The department's designated agent shall prior-authorize an ABI waiver service for an individual to ensure that:

(1) The level of care criteria and ABI waiver service eligibility requirements are met in accordance with Section 3 of this administrative regulation;

(2) An ABI waiver service being provided is defined in the individual's approved plan of care;

(3) A service shall have direct or remedial benefit to prepare the recipient for reentry into the community;

(4) The ABI waiver services prevent placement of the individual in a nursing facility and prepare him to reside in the community without continued ABI waiver services;

(5) Adequate service is available to meet the needs of the individual's care needs; and

(6) The services shall not reasonably be expected to exceed the cost of the appropriate level of institutional care.

Section 10. Recipient Choice. An individual eligible to receive acquired brain injury waiver services and his legal representative shall be given a choice to:

(1) Receive home- and community-based services or nursing facility services subject to the limitations established in Section 3 of

this administrative regulation; and

(2) Select a participating ABI waiver provider from whom he wishes to receive a service.

Section 11. Appeals Rights. (1) An appeal of a negative action regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 12. Incorporation by Reference. (1) "Acquired Brain Injury Services and Reimbursement Program Manual", Department for Medicaid Services, May 1999 Edition, is incorporated by reference.

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

DENNIS BOYD, Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: May 7, 1999

FILED WITH LRC: May 11, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 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 June 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 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: 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).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Trish Howard or Karen Doyle

(1) Type and number of entities affected: 95 individuals with brain injuries who meet program criteria.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

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

1. First year following implementation: Will increase due to paperwork requirements.

2. Second and subsequent years: Same and are expected to increase due to training requirements and the need to verify that providers receive training.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Budget neutral

2. Continuing costs or savings: Budget neutral

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

nues: None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. *Federal matching funds of 70.49% and state matching funds of 29.51%. State revenues will come from general and agency funds.

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

(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide.

(b) Kentucky: No public comments were received.

(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: The benefits expected from this administrative regulation are to provide individuals with brain injuries an alternative to nursing facility services by providing rehabilitative services so these individuals needing only existing resources can remain in the community.

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

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health or welfare of Medicaid recipients. The regulation would permit individuals with brain injuries to receive rehabilitative services so they can reenter and remain in the community. This prevents trauma individuals from being transferred to out-of-state facilities where they would be isolated from their families.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: The department believes this administrative regulation would result in budget neutrality because expenditures will be offset by not having to place these individuals in more expensive nursing facility settings.

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et. seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et. seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation does not set minimum or uniform standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation does not set stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

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?

or additional or different responsibilities or requirements, than those required by the federal mandate? There is no federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate.

PUBLIC PROTECTION AND REGULATION CABINET
Public Service Commission
(New Administrative Regulation)

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.

RELATES TO: KRS 278.180, 278.455

STATUTORY AUTHORITY: KRS 278.040(3), 278.180, 278.455
 NECESSITY, FUNCTION, AND CONFORMITY: 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 for a lesser time, no change shall 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 shall 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. This administrative regulation prescribes filing and notice requirements for a generation and transmission cooperative or a distribution cooperative to decrease rates and for a distribution cooperative to change rates to reflect a change in the rates of its wholesale supplier.

Section 1. Filing Requirements. To decrease rates, a generation and transmission cooperative or a distribution cooperative shall file with the commission an original and five (5) copies, and with the Attorney General's Office of Rate Intervention one (1) copy, of the following information:

- (1) The tariff incorporating the reduced rates, specifying an effective date no sooner than thirty (30) days from the date filed;
- (2) The name and address of the filing cooperative;
- (3) A brief statement of the facts demonstrating that the filing is made pursuant to the authority of KRS 278.455;
- (4) A comparison of the current and proposed rates;
- (5) An analysis demonstrating that:
 - (a) The rate change does not change the rate design currently in effect; and
 - (b) That the revenue change has been allocated to each class and within each tariff on a proportional basis;
- (6) A certification that a complete copy of the materials filed with the commission has been sent to the Attorney General's Office of Rate Intervention;
- (7) A statement that notice of the rate change pursuant to Section 3 of this administrative regulation has been given, not more than thirty (30) days prior to the date the application is filed, by one (1) of the following methods:
 - (a) By typewritten notice mailed to all customers;
 - (b) By publication in a newspaper of general circulation in the affected area; or
 - (c) By publication in a periodical distributed to all members of the cooperative;
- (8) A copy of the notice given pursuant to subsection (6) of this

section.

Section 2. To change rates to reflect an increase or decrease in its wholesale supplier's rates, a distribution cooperative shall file with the commission an original and five (5) copies, and with the Attorney General's Office of Rate Intervention one (1) copy, of the following information:

- (1) The tariff incorporating the new rates and specifying an effective date no sooner than the effective date of the wholesale supplier's rate change;
- (2) The information required by Section 1(2) through (8) of this administrative regulation.

Section 3. Contents of Notice. Notice given pursuant to Section 1(7) of this administrative regulation shall include the following information:

- (1) The name, address, and phone number of the cooperative;
- (2) The existing rates and the revised rates for each customer class;
- (3) The effect of the rate change, stated both in dollars and as a percentage, upon the average bill for each customer class;
- (4) A statement, as appropriate, that:
 - (a) The rate reduction is being made at the sole discretion of the utility, pursuant to KRS 278.455(1); or
 - (b) The rates are being revised to reflect a change in wholesale rates pursuant to KRS 278.455(2);
- (5) A statement that any person may examine the rate application at the main office of the utility or at the office of the Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky.

B. J. HELTON, Chairman

RONALD B. MCCLOUD, Secretary

DEBORAH T. EVERSOLE, Assistant General Counsel

APPROVED BY AGENCY: April 29, 1999

FILED WITH LRC: May 12, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 29, 1999 at 10 a.m. at the Public Service Commission's office, Hearing Room No. 1, 730 Schenkel Lane, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by June 22, 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 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: Deborah T. Eversole, Assistant General Counsel, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602, Telephone: (502) 564-3940, Facsimile: (502) 564-7279.

REGULATORY IMPACT ANALYSIS

Contact person: Deborah T. Eversole, Assistant General Counsel

- (1) Type and number of entities affected: 2 generation and transmission cooperatives and 21 electric distribution cooperatives exist and will be affected by this administrative regulation.
- (2) Direct and indirect costs or savings on the:
 - (a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments on this subject were received.
 - (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments on this subject 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: Minimal paperwork, com-

pliance, and reporting are required. The streamlined proceedings specified in this administrative regulation will greatly reduce compliance, reporting, and paperwork requirements for relevant rate changes pursuant to KRS 278.455.

2. Second and subsequent years: See answer to (2)(c)(1) above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Staff time spent reviewing relevant rate changes will be reduced.

1. First year: See answer to (3)(a).

2. Continuing costs or savings: See answer to (3)(a).

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The streamlined proceedings specified in this administrative regulation will greatly reduce compliance, reporting, and paperwork requirements for relevant rate changes in accordance with KRS 278.455.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No new source of revenue is required to implement and enforce this administrative regulation.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments were received. However, no economic impact is expected.

(b) Kentucky: No public comments were received. However, no economic impact is expected.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods of implementing KRS 278.455 have been suggested. The commission believes the requirements specified in this proposed administrative regulation are the minimum necessary to provide proper notice to the public and the Attorney General and to enable the commission to ensure that relevant rate changes are implemented in accordance with KRS 278.455.

(8) Assessment of expected benefits: This administrative regulation will enable the cooperatives to reduce rates pursuant to appropriately streamlined proceedings, while supplying the commission with sufficient information to ensure that, pursuant to KRS 278.455, the filing utility's rate design is unaffected. The administrative regulation will also ensure that the Attorney General and affected citizens will receive appropriate notice.

(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 exists.

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The statute draws no distinction among cooperatives wishing to decrease rates or to pass through wholesale rate reductions by streamlined means, and there does not appear to be any reason to prescribe different filing and notice requirements for cooperatives based upon size.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(New Administrative Regulation)**

907 KAR 3:090. Acquired brain injury services.

RELATES TO: KRS 205.8451, 205.8477, 42 CFR 441 Subpart G, 455 Subpart B, 42 USC 1396a, b, d, n, 1998 Ky. Acts ch. 615,

Part IX, 25.h

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has 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 coverage provisions relating to home- and community-based waiver services provided to an individual with an acquired brain injury as an alternative to nursing facility services for the purpose of rehabilitation and retraining for reentry into the community with existing resources.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designated agent.

(2) "Acquired brain injury (ABI) waiver services" means home and community-based waiver services provided to a Medicaid eligible person aged twenty-one (21) to sixty-five (65) who has acquired a brain injury to his central nervous system of the following nature:

(a) Injury from a physical trauma;

(b) Damage from anoxia or hypoxic episode; or

(c) Damage from an allergic condition, toxic substance or another acute medical incident.

Section 2. Exclusions of the Acquired Brain Injury Waiver Program. The following list includes conditions which shall not be considered acquired brain injuries requiring specialized rehabilitation:

(1) A stroke treatable in a nursing facility providing routine rehabilitation services;

(2) A spinal cord injury in which there is no known or obvious injury to the intracranial central nervous system;

(3) Progressive dementia or another mentally impairing condition of a chronic degenerative nature such as, senile dementia, organic brain disorder, Alzheimer's Disease, alcoholism or another addiction;

(4) A depression or a psychiatric disorder in which there is no known or obvious central nervous system damage;

(5) Birth defect;

(6) Mental retardation without an etiology to the acquired brain injury; or

(7) A condition which causes an individual to pose a level of danger or aggression which is unable to be managed and treated in the community.

Section 3. General Coverage Provision. (1) The aggregate cost of the ABI Waiver Program shall not exceed the cost of care in a nursing facility as established in the 1998 Ky. Acts ch. 615, Part IX, 25.h.

(2) ABI waiver services shall be provided to an individual eligible for Medicaid who:

(a) Is twenty-one (21) to sixty-five (65) years of age with an impairment that may involve cognition, behavior, or a physical function which necessitates supervised and supportive services;

(b) Meets the level of care criteria established in 907 KAR 1:022 for nursing facility services, including nursing facility services for brain injuries;

(c) Meets the following conditions:

1. Has a primary diagnosis that indicates an acquired brain injury with structural, nondegenerative brain damage as defined in Section 1 of this administrative regulation and is medically stable;

2. Exhibits cognitive, behavioral, motor or sensory damage with indications for rehabilitation and retraining potential; and

3. Has a rating of at least four (4) on the Rancho Los Amigos Level of Cognitive Function Scale, which is incorporated by reference;

(d) Upon discharge from the program, an individual shall be expected to remain in a community setting with existing community resources and shall not remain in the Acquired Brain Injury Waiver Program for an indefinite period of time.

(2) The basis of the determination for eligibility in the ABI waiver program shall be:

(a) The presenting problem;

ernment? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. No

3. State the aspect or service of local government to which this administrative regulation relates. None

4. 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 (+/-): None

Expenditures (+/-): None

Other Explanation: None

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(New Administrative Regulation)

907 KAR 3:100. Payments for acquired brain injury services.

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

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has 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 payment provisions relating to home- and community-based waiver services provided to an individual with an acquired brain injury as an alternative to nursing facility services for the purpose of rehabilitation and retraining for reentry into the community with existing resources.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designated agent.

(2) "Acquired brain injury (ABI) waiver services" means home- and community-based waiver services provided to a Medicaid eligible individual aged twenty-one (21) to sixty-five (65) who has acquired a brain injury to his central nervous system of the following nature:

(a) Injury from a physical trauma;

(b) Damage from anoxia or hypoxic episode; or

(c) Damage from an allergic condition, toxic substance or another acute medical incident.

Section 2. Coverage. (1) The department shall reimburse a participating provider for an ABI waiver service to a Medicaid eligible person who meets the ABI Waiver Program requirements as established in 907 KAR 3:090.

(2) The department shall reimburse an ABI participating provider for a prior-authorized ABI waiver service, which is included in the plan of care and is medically necessary and essential for the rehabilitation and retraining of the recipient.

Section 3. Exclusions to Acquired Brain Injury Waiver Program. Under the ABI Waiver Program, the department shall not reimburse a provider for a service provided:

(1) To an individual who has a condition established in 907 KAR 3:090, Section 2 or;

(2) Which has not received prior authorization as a part of the plan of care.

Section 4. Payment Amounts. (1) A participating ABI waiver service provider shall be reimbursed a fixed rate for reasonable and medically necessary services for a prior-authorized unit of service provided to the recipient.

(2) A participating ABI waiver service provider certified in accordance with 907 KAR 3:090 shall be reimbursed at the lesser of the provider's usual and customary charge or the Medicaid fixed upper payment limit per unit of service as established in Section 5 of this

administrative regulation.

Section 5. Fixed Upper Payment Limits. (1) The following rates are the fixed upper payment limits for ABI waiver services units of service as defined in Section 7 of this administrative regulation:

(a) A case management unit of service provided shall be reimbursed at the maximum of \$407.50;

(b) A personal care unit of service shall be reimbursed at the maximum of five (5) dollars and twenty-two (22) cents;

(c) Respite care services shall be reimbursed at a maximum of fifteen (15) dollars per unit of service not to exceed \$150 per day;

(d) An environmental modification shall be reimbursed based on the actual cost of each modification, not to exceed a total reimbursement of \$1,000 per six (6) month period;

(e) A companion unit of service shall be reimbursed at the maximum of five (5) dollars and twenty-two (22) cents;

(f) An occupational therapy unit of service shall be reimbursed at the maximum of twenty-four (24) dollars and thirty-two (32) cents;

(g) A speech, hearing, and language unit of service shall be reimbursed at the maximum of twenty-six (26) dollars and sixty-eight (68) cents;

(h) A behavioral programming unit of service shall be reimbursed at the maximum rate of thirty-one (31) dollars and fifty-five (55) cents;

(i) A counseling and training unit of service shall be reimbursed at the maximum of twenty-two (22) dollars and thirty-nine (39) cents;

(j) A structured day program unit of service shall be reimbursed at the maximum of fifteen (15) dollars and thirteen (13) cents;

(k) Specialized medical equipment and supplies, not covered through the Medicaid Durable Medical Equipment Program, that are provided to the individual, shall be reimbursed on a per item basis based on a reasonable cost as negotiated by the department;

(l) A prevocational unit of service shall be reimbursed at the maximum of seventeen (17) dollars and eighteen (18) cents;

(m) A supported employment unit of service shall be reimbursed at the maximum of twenty-nine (29) dollars and ninety-seven (97) cents;

(n) A community-residential unit of service shall be reimbursed according to the number of hours provided as defined in Section 7(14) of this administrative regulation as follows:

1. Level One (1) shall not exceed the maximum of fifty-four (54) dollars and eighteen (18) cents;

2. Level Two (2) shall not exceed the maximum of sixty-seven (67) dollars and seventy-two (72) cents; and

3. Level Three (3) shall not exceed:

a. The maximum of eighty-four (84) dollars and sixty-five (65) cents; and

b. 230 days. An exception to this period may be granted by the department for an individual in extreme and difficult circumstances.

(2) The Medicaid fixed upper payment limits shall be adjusted by the department annually for inflation using the Standard and Poor's DRI Medical Index.

Section 6. Payment Exclusions. Payment shall not include:

(1) The cost of room and board, except as a provided part of respite care in a Medicaid certified nursing facility;

(2) The cost of maintenance, upkeep, an improvement, or an environmental modification to a group home or other licensed facility;

(3) The cost of maintenance, upkeep, or an improvement to the recipient's place of residence excluding an environmental modification as established in the Acquired Brain Injury Services and Reimbursement Program Manual, incorporated by reference;

(4) The cost of a service that is not listed in the approved plan of care; or

(5) A service provided by a family member.

Section 7. Units of Service. (1) A case management unit of service shall be one (1) month;

(2) A personal care unit of service shall be fifteen (15) minutes;

(3) A respite care unit of service shall be one (1) hour;

(4) An environmental modification unit of service shall be one (1) modification;

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- (5) A companion unit of service shall be fifteen (15) minutes;
- (6) An occupational therapy unit of service shall be fifteen (15) minutes;
- (7) A speech, hearing, or language unit of service shall be fifteen (15) minutes;
- (8) A behavior programming unit of service shall be fifteen (15) minutes;
- (9) A counseling and training unit of service shall be fifteen (15) minutes;
- (10) A structured day program unit of service shall be one (1) hour;
- (11) A specialized medical equipment and supplies unit of service shall be one (1) item;
- (12) A prevocational unit of service shall be one (1) hour;
- (13) A supported employment unit of service shall be one (1) hour; and
- (14) A community residential unit of service shall be reimbursed according to the number of hours provided as follows:
 - (a) Level One (1) shall consist of at least eight (8) hours of service per day;
 - (b) Level Two (2) shall consist of at least sixteen (16) hours of service per day;
 - (c) Level Three (3) shall consist of twenty-four (24) hours of service per day.

Section 8. Audit and Reporting. (1) The department shall provide for an independent audit of the ABI Waiver Program, except as HCFA may otherwise specify for particular waivers; and

(2) The department shall maintain and make information available to the United States Department for Health and Human Services as required.

(3) A participating provider shall:

(a) Maintain fiscal and service records for a period of at least five (5) years;

(b) Provide, as requested by the department, information necessary for the effective functioning and administration of the ABI Waiver Program.

(c) Upon request, shall make available service and financial records to a representative or designee of:

1. The Commonwealth of Kentucky, Cabinet for Health Services or its designated agent;

2. The United States Department for Health and Human Services, Comptroller General;

3. The Department for Health and Human Services, Health Care Financing Administration (HCFA);

4. The General Accounting Office;

5. The Commonwealth of Kentucky, Office of the Auditor of Public Accounts; or

6. The Commonwealth of Kentucky, Office of the Attorney General.

Section 9. Appeal Rights. (1) An appeal of a negative action regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action regarding the Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

DENNIS BOYD, Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: May 7, 1999

FILED WITH LRC: May 11, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 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 June 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 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: 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).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Trish Howard or Karen Doyle

(1) Type and number of entities affected: 95 individuals with brain injuries who meet program criteria.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no public comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no public comments were received.

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

1. First year following implementation: will increase due to paperwork requirements

2. Second and subsequent years: same and are expected to increase due to training requirements and the need to verify that providers receive training.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Budget neutral.

2. Continuing costs or savings: Budget neutral.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. *Federal matching funds of 70.49% and state matching funds of 29.51%. State revenues will come from general and agency funds.

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

(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide.

(b) Kentucky: No public comments were received.

(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: The benefits expected from this administrative regulation are to provide individuals with brain injuries an alternative to nursing facility services by providing rehabilitative services so these individuals needing only existing resources can remain in the community.

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

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health or welfare of Medicaid recipients. The regulation would permit individuals with brain injuries to receive rehabilitative services so they can reenter and remain in the community. This prevents trauma from being transferred to out-of-state facilities where they would be isolated from their families.

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

(a) Necessity of proposed regulation if in conflict:

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

administrative regulation with conflicting provisions:

(10) Any additional information or comments: The department believes this administrative regulation would result in budget neutrality because expenditures will be offset by not having to place these individuals in more expensive nursing facility settings.

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et. seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et. seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation does not set minimum or uniform standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation does not set stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. No

3. State the aspect or service of local government to which this administrative regulation relates. None

4. 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 (+/-): None

Expenditures (+/-): None

Other Explanation: None

CABINET FOR FAMILIES AND CHILDREN Department for Community Based Services Division of Policy Development (New Administrative Regulation)

922 KAR 7:061. Repeal of 922 KAR 7:060.

RELATES TO: KRS 194B.050(1)

STATUTORY AUTHORITY: KRS 194B.050(1), 1998 Ky. Acts ch. 150, sec. 1

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050(1) 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 enti-

ties is transferred to the Justice Cabinet pursuant to 1998 Ky. Acts ch. 150, Section 1.

Section 1. 922 KAR 7060, Children's residential facilities capacities, is hereby repealed.

DIETRA PARIS, Commissioner

VIOLA P. MILLER, Secretary

CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: April 30, 1999

FILED WITH LRC: May 10, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 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 June 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: None

(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

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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.

**CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(New Administrative Regulation)**

922 KAR 7:101. Repeal of 922 KAR 7:100.

RELATES TO: KRS 194B.050(1)

STATUTORY AUTHORITY: KRS 194B.050(1), 1998 Ky. Acts ch. 150, sec. 1

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050(1) 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, Section 1.

Section 1. 922 KAR 7:100, Resident liaison responsibilities, is hereby repealed.

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: April 30, 1999

FILED WITH LRC: May 10, 1999 at 2 p.m.

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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley, Director

(1) Type and number of entities affected: None

(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.

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(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.

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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: 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.

**CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(New Administrative Regulation)**

922 KAR 7:251. Repeal of 922 KAR 7:250.

RELATES TO: KRS 194B.050(1)

STATUTORY AUTHORITY: KRS 194B.050(1), 1998 Ky. Acts ch. 150, sec. 1

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050(1) 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 Edu-

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cation Collaborative for State Agency Children. The responsibility for the regulated entities is transferred to the Justice Cabinet pursuant to 1998 Ky. Acts ch. 150, Section 1.

Section 1. 922 KAR 7:250, Kentucky Education Collaborative for State Agency Children, is hereby repealed.

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: April 30, 1999

FILED WITH LRC: May 10, 1999 at 2 p.m.

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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley, Director

(1) Type and number of entities affected: None

(2) Direct and indirect cost or savings to those affected: None

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(10) Any additional information or comments: None

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of May 11, 1999

The May meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, May 11, 1999 at 10:30 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 April 13, 1999 meeting were approved.

Present were:

Members: John Arnold, Chairman; Senators Marshall Long, Joey Pendleton and Dick Roeding; Representatives Jimmy Lee, James Bruce and Woody Allen.

LRC Staff: Gregory Karambellas, Donna Little, Stephen Lynn, Susan Wunderlich, Angela Phillips, Donna Valencia, Susan Eastman, Edna Lowery, Ellen Benzing, Biff Baker.

Guests: Peggy J. William; Paula Pabon, Kentucky Legislative Ethics Commission; Ken Walker, Dennis Taulbee, Council on Post-secondary Education; Michael A. Mone', Board of Pharmacy; Dan O'Brien, Danny M. Clark, Lloyd Vest, Bill Schmidt, Board of Medical Licensure; Bill Maggard, Jr., Board of Barbering; Nancy Brinly, Mark Brengelman, Board of Physical Therapy; Dr. C.A. Nava, James J. Grawe, Board of Podiatry; Mark Mangeot, Diana K. Maxwell, Marjorie Mullen, Parker Moore, Carl Millanti, John Hornback, Millie Ellis, Katie Ashcraft, Ronald Mills, Carl Campbell, Jim Villines, Natural Resources and Environmental Protection Cabinet; David Wicker, David Waldner, Robert Nickel, Office of the Petroleum Storage Tank Environmental Assurance Fund; William M. Heffron, Rashmi Adi, Amy Barker, Sex Offender Risk Assessment Advisory Board; Brenda Priestley, Tamela Biggs, Department of Corrections; Stephanie C. Bingham, Pat Carter, Department of Criminal Justice Training; Vicki Reed, Department of Juvenile Justice; Charles Harman, Glenn Ellis, Vickie Bourne, Kevin Flanery, Transportation Cabinet; Kevin Noland, Debbie Schumacher, Department of Education; Darrell Gabhart, Jim Nelson, Department of Libraries and Archives; Kembra Taylor, Bill Ralston, Tim Chancellor, Labor Cabinet; Colleen Keefe, Department of Financial Institutions; Judith Walden, Department of Housing, Buildings and Construction; Carvon Hudson, State Fire Marshal's Office; Rosanne Barkley, Cookie Whitehouse, Thelma Cornett, Joyce Lea, Cabinet for Families and Children; Mark Cornett, Cabinet for Health Services; Bob Barnett, Kentucky Pharmacists Association; Sheila Hawkins, OP-STEAF/CPPR; David H. Breeding, Kentucky Association for Marriage and Family Therapy; Christie Floyd, SORAAB; Lisa Elder, Tim Perkins, Greg Donaldson, FMC Dialysis; Cleveland Johnson, Cleveland Johnson Cab Co. Inc.; Steven Sprowls, Dixie Cab; Donovan Fornwalt, Council for Retarded Citizens; Barbara Henchey, Mattingly Center; Jack Burch, Community Action Council; David Black, Options for Individuals; Michael A. Kein, County Clerk; Sandy Kays; Melissa Barthle; Carl Ward, Yellow Cab Newport; Janice Smith; Lisa Bozwell; Jodie Brandenburg, Valerie Clem, Kentucky River Foothills; Greg Hamlin, Sandy Valley Transportation Services; Janice Eubanks, Licking Valley CAP; Ray Young, Maysville Transit System; Johnnie Davidson, Mike Jackson, LKLP Transportation; Pam Shepherd, Federated Transportation Bluegrass; Sue Jeffers, Blue Grass Community Action Agency; Dan Turner, Kentuckiana Transportation Association; Rev. William Curry, Mainstream Transportation and KTA; Don Blevins, Bill May, Guy R. Zeigler, Harold Ritchey, Kentucky County Clerks' Association; Roger Wilson, Robert Henderson, Sue Toole, Frankie Williams, Franklyn Friday, Jefferson County Clerk's Office; Katherine Mercer, Meade County Clerk/KCCA; Linda Potter, Fayette County Clerk/KCCA; Ann B. Brown, Donna S. Schroeder, Oldham County Clerk's Office; Debbie Donnelly, Hardin County Clerk's Office; Larry Short, Mercer County Clerk; Russell E. Sanders, Mary Ann Sanders, National Fire Protection Association; Kevin Wemett, Pharmacia & UpJohn; Carol Camp, DPA; Steve Shannon, KARP, Inc.; Dennis Wagner, DOC/SARA; Kathi Marshall, Thomas A. Marshall, Attorney at Law; Dandridge Walton; John Brazel, Kentucky Chamber of Commerce; Mary S. Caldwell, Cull & Hayden; Ronnie Coleman, Johnson & Johnson; Marshall White, KMA.

The Subcommittee determined that the following administrative regulations did not comply with statutory authority:

Justice Cabinet: Department of Corrections: Office of the Secretary

501 KAR 6:190 & E. Certification procedures for mental health professionals performing sex offender risk assessments. Amy Barker, Staff Attorney, Sex Offender Risk Advisory Board; Dr. Dennis Wagner, Chief Psychologist, Sex Offender Risk Assessment Unit, Kentucky State Reformatory, and Member, Sex Offender Risk Assessment Advisory Board; Rashmi Adi, Advisory Board Member; Christine Boyd, Advisory Board Member; William Heffron, Advisory Board Member; and David Breeding, Kentucky Association for Marriage and Family Therapy, Advisory Board Member, and Chairman, Government Affairs and Regulations Committee, represented the Board.

Subcommittee staff stated that: (1) Section 6(2) of this administrative regulation provided that the Board may deny, suspend or revoke certification if an applicant or certified provider has: (a) performed risk assessments without supervision if supervision was required by this administrative regulation; or (b) failed to comply with the duties established in Section 3 of this administrative regulation; (2) Section 3 required: (a) compliance with the ethical standards of professional practice; (b) submission of the first risk assessments; and (c) completion of 8 hours continuing education; (3) because this administrative regulation stated that the Board may deny, suspend, or revoke certification, an issue was presented because: (a) the Board may also choose not to deny, suspend, or revoke certification; and (b) standards were not clearly established for the determination by the Board not to deny, suspend, or revoke; (4) this administrative regulation: (a) could be amended to establish a grace period for completion of the eight hours of continuing education; and (b) did not clearly establish disciplinary action for the failure to comply with ethical standards of practice; (5) if a person did not comply with the ethical standards of professional practice, there should be a denial, revocation, suspension, or other disciplinary action taken; and (6) otherwise, the amendment proposed by Subcommittee staff that related to other items in this administrative regulation complied with the requirements of KRS Chapter 13A.

In response to questions by Senator Long, Ms. Barker stated that: (1) KRS Chapter 202A: (a) defined qualified mental health care professionals; and (b) excluded marriage and family therapists from the definition; and (2) while attempts had been made to amend KRS Chapter 202A, the General Assembly had not changed this definition.

Subcommittee staff stated that the Board used the definition in KRS Chapter 202A to define mental health professional because that term was not defined in KRS Chapter 17.

Ms. Barker stated that, because the Board chose to use the definition of mental health professional established by KRS Chapter 202A, the Board could add marriage and family therapists to the definition.

Senator Long stated that: (1) this administrative regulation should be: (a) deferred; and (b) amended to add marriage and family therapists to the list of qualified people; and (2) many therapists already were doing this work as certified sex offender treatment providers.

Ms. Barker stated that: (1) she disagreed with Senator Long's statement; (2) the people who performed risk assessments previously: (a) reviewed amenability to treatment; and (b) did not review the risk of re-offending as a sex offender; (3) this administrative regulation required the use of certain quantified instruments that: (a) had been developed in other states; and (b) showed what should be used in a risk assessment; (4) these individuals: (a) were credentialed to provide treatment; and (b) had the ability to determine if someone was amenable to treatment; and (5) in order to make effective risk assessment, providers were required to use certain instruments that other individuals were not capable of using or rec-

Governor that the Subcommittee did not approve of this administrative regulation; (3) because the General Assembly was not in session, its ability to act was restricted; (4) while the Cabinet could implement this administrative regulation until January 2000, during the 2000 Regular Session of the General Assembly, the Cabinet would be required to propose legislation enacting this administrative regulation; (5) each citizen would have the opportunity to appear before the legislative subcommittees that would deal with the issues raised by this administrative regulation to express opposition regarding the nonemergency medical transportation system; and (6) the 138 members of the General Assembly would determine what action to take at its 2000 Regular Session.

Chairman Arnold stated that: (1) the Subcommittee members: (a) were on the citizens' side; (b) had approved a motion to find this administrative regulation deficient; and (c) were restricted from further action until the 2000 Regular Session of the General Assembly; and (2) citizens should be in constant contact with the Governor's office, the administration, and the Cabinet to lobby them to change this requirement so that citizens could keep the drivers who currently provided transportation services.

This administrative regulation was amended as follows: (1) Section 1 was amended to include definitions for "Ambulatory disoriented and Non-ambulatory" and "Supports for Community Living"; (2) a new Section 3(4) was created to establish freedom of choice for the nonambulatory or ambulatory disoriented; (3) a new Section 3(5) was created to provide evaluation of routes by the provider and broker; and (4) a new Section 3(6) was created to provide that the Transportation Cabinet resolve any disputes between eligible routes and provider choices.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Council On Postsecondary Education: Public Educational Institutions

13 KAR 2:045. Determination of residency status for admission and tuition assessment purposes. Dennis Taulbee, General Counsel, and Ken Walker, Vice President for Finance, represented the Council.

In response to questions by Senator Roeding, Mr. Taulbee stated that this administrative regulation simplified the process by which students could appeal determinations of residency status by giving more responsibility to the institutions.

This administrative regulation was amended as follows: Sections 1(3)(a), 3(1)(b), 5(2)(b), 13(3), and 13(4) were amended to comply with the drafting requirements of KRS 13A.222(4).

Board of Pharmacy

201 KAR 2:030. License transfer. Michael Moné, Executive Director, Pharmacy Board, represented the Board.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) Section 2, and 2(1) through 2(6) to comply with the drafting requirements of KRS 13A.220(4); and (3) Section 3, to comply with the incorporation by reference requirements relating to the citation of forms incorporated by reference established by KRS 13A.225(2)(b).

201 KAR 2:040. Registration of interns. Subcommittee staff stated that, while the initial staff review questioned the use of "registration" instead of "certification": (1) KRS Chapter 315 uses both terms; (2) "registration" is the clearer of the two terms; and (3) while not necessary, KRS Chapter 315 could be amended for consistency.

This administrative regulation was amended as follows: (1) the Title was amended to include "pharmacist" before "intern", to clearly show that this administrative regulation relates to pharmacist interns; (2) the RELATES TO paragraph to correct statutory citations; (3) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the function of, and necessity for, this administrative regulation; (4) Section 1 was amended to establish a definitions section to define "preceptor", a term used in this administrative regulation for the pharmacist who serves as the immediate supervisor of a pharmacist intern; (5) Sections 1, 3, and 5 to specify

required forms; (6) Sections 1 through 6 were amended to: (a) comply with the: 1. drafting requirements of KRS 13A.220(4); and 2. format requirements of KRS 13A.222(4); and (c) clearly establish requirements relating to pharmacist interns; and (7) a new Section 8 was created to incorporate by reference forms required by this administrative regulation.

201 KAR 2:050. Licenses and permits; fees. In response to a question by Representative Allen, Mr. Moné stated that: (1) this administrative regulation did not increase in fees; (2) the \$250 license reciprocity fee always included the initial licensure fee; (3) "initial licensure fee" was added to make it clear that an additional fee would not be collected; (4) Section 8: (a) reflected the amendment to KRS Chapter 315 that increased the term of an intern license from 4 to 6 years; and (b) a pharmacist intern would save the \$5 extension fee, because of the additional 2 years before expiration of the term of the license; (5) with regard to the delinquent renewal fee, as authorized by KRS Chapter 315, which permits a 30 day delinquency period, this administrative regulation would: (a) extend to entities that did not timely renew their license the 30 day delinquency period granted others, rather than automatic loss of licensure; and (b) not require them to spend funds required for: 1. application for a new license; and 2. renewal of federal licensing, that was required because federal licensure is based upon state licensure.

This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to insert "authorizes the board" to make it clear that KRS 315.191(1)(i) authorizes the Board to establish fees and penalties by administrative regulation.

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). Dr. Danny Clark, Board President, Lloyd Vest, General Counsel, and Dr. William Schmidt, Executive Director, represented the Board.

Subcommittee staff stated that: (1) the amendment before the Subcommittee, proposed by the Board after discussions with Subcommittee staff: (a) corrected statutory citations; and (b) clearly established the requirements for authorization to use a defibrillator; (2) the amendment had been prepared after discussions with Subcommittee staff, Board staff, and representatives of those who had challenged Board regulation of defibrillators; and (3) the Board: (a) believed it was not the appropriate administrative body to govern the use of defibrillators; and (b) would request that LRC refer the issues of the establishment of standards for, and the regulation of defibrillators to the appropriate interim joint committee for development of legislation to be considered by the General Assembly at its next Regular Session.

In response to a question by Representative Bruce, Subcommittee staff stated that an amendment was before the Subcommittee, that was proposed by the agency after discussions with Subcommittee staff.

In response to a question by Chairman Arnold, Dr. Clark stated that the Board supported the amendment.

Senator Roeding stated that: (1) defibrillators were being purchased by a lot of entities who needed them for safety reasons; (2) he had seen them used to save lives; (3) he was concerned that the requirements of this administrative regulation: (a) might stop people from being able to buy and use defibrillators; and (b) seemed to impose training that was not necessary, and would delay use of defibrillators; and (4) he had read the directions and other material on defibrillators, and it appeared they could be used without formal training.

Dr. Clark stated that: (1) the only thing the Board was interested in is in ensuring that people who use defibrillators have been trained in their use; and (2) even though defibrillators were supposedly fool proof, some training has been recommended for usage.

Subcommittee staff stated that: (1) this administrative regulation established the minimal training required; (2) required training was based on the course established by the American Heart Association; (3) the Louisville Firefighters and others who had been opposed to the initial Board efforts to regulated defibrillators: (a) agreed that

standards for training had to be established; and (b) approved the: 1. procedures established by the amendment to this administrative regulation; and 2. recommendation that the General Assembly enact legislation relating to the regulation of defibrillators at its next Regular Session; (4) this administrative regulation was a stop-gap measure, until the General Assembly enacts legislation; (5) American Heart Association training has been given to local government services that employ defibrillators; (6) the intention of the administrative regulation is to ensure safety of use; and (7) those who have met the minimal standards established by this administrative regulation would not be prohibited from using defibrillators.

In response to a question by Senator Roeding, Dr. Clark stated that: (1) required training consisted of a three and one-half to four hour program based on a curriculum developed by the American Heart Association; (2) while the devices themselves were relatively fool proof, failure in the use of the devices related to training or maintenance; and (3) this administrative regulation would: (a) address the training issue; (b) train people to: 1. know where the device is; 2. call 911; and, 3. because studies had shown that failures resulted from some component in the response to the victim, to train users in appropriate response.

In response to a question by Senator Roeding, Dr. Clark stated that: (1) the American Heart Association recommended four hours of training it; and (2) he agreed four hours training was the minimum required.

Senator Roeding stated that: (1) the devices should be available all over the state; (2) while he appreciated the concern of the Board that they be safely used, he did not want their use unnecessarily limited; and (3) wanted people to be informed of where training could be obtained.

Dr. Clark stated that: (1) the American Heart Association had recently developed a training module; (2) to take the training, training in CPR was required; (3) the American Heart Association was clear that while its training course on defibrillators was required, training was also required regarding the use and maintenance of the specific device.

Senator Roeding stated that the worst case would be if the device were available and nobody around had had the training.

Subcommittee staff stated that: (1) getting the training, and being authorized to use the device once the training had been completed would not be a problem; and (2) while the Board believed it should not be the administrative body governing the use of the devices, it felt it: (a) could not withdraw this administrative regulation, because of its concerns over public safety; and (b) should establish some guidelines until the General Assembly resolved the issue of regulatory authority and standards for use.

Senator Roeding stated that: (1) the directions for use of the device are simple to follow; (2) use of a battery meant there were not the problems that previously had arisen because of the electricity involved; and (3) while he recognized that CPR training was required, he wanted the devices available for as many people as possible.

Subcommittee staff stated that the Board had: (1) not withdrawn this administrative regulation because it agreed that standards had to be established until issues relating to the appropriate administrative body to govern use of the device and appropriate training had been resolved by the General Assembly; and (2) been informed by Subcommittee staff that: (a) minimal standards were required to be established until the General Assembly had resolved the issues relating to the appropriate administrative body to govern use of the device and appropriate training; and (b) until these issues were resolved by the General Assembly, the Board was the most appropriate administrative body to establish training requirements.

In response to a question by Senator Roeding relating to the CPR training requirement, Dr. Schmidt stated that: (1) CPR training was the national guideline and justified; (2) the literature showed that when the devices fail, in nine times out of ten, failure was due to a panicked individual who did not recognize that in fact an arrest has occurred; (3) someone can have agonal or dying respirations, as it were, and this could be misinterpreted as a breathing patient; (4) failure was due to failure to recognize the arrest for what it is, or failure to recognize that there are actually other causes for arrest and that this device may not benefit when someone has aspired

food; (5) he understood the genesis of the American Heart Association guidelines from such considerations; (6) with regard to businesses, public buildings, etc., most people with training were recognized in systems where there were security guards, life guards; (7) these are the individuals to train to utilize the devices, because they understand the system and are the basis of the success that had been demonstrated in literature; (8) successful use of the device will occur in industrial centers, by occupational nurses, foremen, etc., who are designated responders; (9) the literature at this point and time does not support the proposition that the devices could be placed next to the fire extinguishers in public places in the hope that an individual may have required; (10) there have not been any survivors in this particular model though there have been many survivors where people have been designated responders at health clubs, airports, jails, and malls, and he believed that that was the model the American Heart Association had adopted.

Dr. Clark stated that: (1) if a person was to resuscitate someone, not only did he have to restore the heart rhythm, he had to be able to keep them breathing to keep the heart going; (2) he may have to do chest massage or breath for the patient; (3) he should know how to do this, if he was going to use the device; and (4) while the placement of these devices in every appropriate place was required, the Board had the responsibility to ensure that there was at least a minimal amount of knowledge available to the public as to how the devices should be used.

Senator Roeding stated that he did not want a person not use the device because he was afraid he had not complied with this administrative regulation and would be sued.

Dr. Clark stated that: (1) this administrative regulation was intended to be temporary, until the General Assembly can come up with standards and designate an administrative body as the governing authority; and (2) the Board would work with the General Assembly in any way necessary to develop appropriate standards.

This administrative regulation was amended by deleting existing provisions and inserting the following: (1) the original RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the original NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the function of, and necessity for, this administrative regulation; (3) new Section 1 established definitions used in this administrative regulation; (4) new Section 2 established the training provisions; (5) new Section 3 established training standards; (6) new Section 4 established the procedures relating to medical protocols, compliance with local emergency services, training and testing, continued competency, termination of authorization to use that are required to be established by physicians who prescribe the use of defibrillators; (7) new Section 5 established the standards for the examination required; (8) new Section 6 established the written validation required; (9) new Section 7 established conditions and procedures for suspension, limitation, or revocation of authority to use defibrillators; and (10) new Section 8 established the: (a) information that a prescribing physician shall retain; and (b) requirement that lists of persons authorized to use a defibrillator shall be transmitted to the Board upon request.

The Subcommittee approved a motion to refer the issues raised by this administrative regulation to LRC for referral to the appropriate subcommittee for recommendations to the next General Assembly.

Board of Barbering

201 KAR 14:040. Inspection of shops and schools. Bill Maggard, Executive Director, represented the Board.

In response to questions by Senator Long, Mr. Maggard stated that: (1) this administrative regulation: (a) required barbers to post their pictures with their licensees; and (b) was amended to require the posting of the most recent inspection sheet from the Board, rather than a card with the Board's name, address, and phone number; and (2) the Board did receive numerous complaints from consumers.

In response to questions by Senator Pendleton, Mr. Maggard stated that the requirement to post the pictures: (1) was not changed by this administrative regulation; and (2) had existed for several years.

ommended to use.

Mr. Breeding stated that: (1) the instruments: (a) were relatively easy to use; and (b) did not exceed the training of licensed marriage and family therapists; (2) this administrative regulation required that a person who would conduct a risk assessment have completed 32 hours of training, which included training on the specific use of the instruments; (3) a person who had qualified as a licensed mental health professional would easily be able to understand how to complete the instruments; (4) KRS Chapter 17 established: (a) the Sex Offender Risk Assessment Advisory Board; (b) Megan's Law; and (c) the risk assessments; (5) KRS 17.556 included as members of the Board four mental health professionals who were licensed or certified in Kentucky under KRS Chapter 335, which included marriage and family therapists, psychologists, social workers, art therapists, pastoral counselors, and psychiatrists; (6) because marriage and family therapists are licensed or certified under KRS Chapter 335, they were qualified to be members of the Board; (7) Section 2(10) of this administrative regulation defined providers in accordance with KRS Chapter 202A, which excludes the marriage and family therapists; (8) KRS 17.564 provided that the Sex Offender Risk Assessment Advisory Board may promulgate all reasonable administrative regulations, not inconsistent with KRS Chapter 17, that were necessary to implement the risk assessment of sex offenders; (9) because marriage and family therapists were qualified to be Board members, they should be qualified to: (a) perform the risk assessments; or (b) be trained; (10) he: (a) had conducted or worked in the field of sex offender evaluations for twenty years; and (b) was a credentialed provider under the previous provisions of KRS Chapter 17 for sex offender evaluation and treatment, which included the risk of repeat offense established in KRS 532.045 and 532.050; (11) several people who had been credentialed under the previous law had not been certified by this administrative regulation, even though these individuals: (a) had the experience; and (b) could make a valuable contribution to this effort; and (12) the exclusion of these individuals by the Board was an arbitrary decision of the Board that was unconstitutional pursuant to Section 2 of the Kentucky Constitution.

Ms. Barker stated that: (1) she disagreed that Mr. Breeding was certified, because there was not an entity that certified individuals to provide risk assessments; (2) an entity did credential treatment providers pursuant to a statute that provided that mental health or corrections shall approve treatment that a court ordered for these particular offenders; (3) because Dr. Wagner had more experience with the instruments, he would discuss their usage; (4) while the range of people authorized by the General Assembly to be members of the Board included marriage and family therapists, the Board was authorized to determine who could conduct the assessments; and (5) the Board believed that KRS Chapter 202A established the list of individuals the General Assembly considered qualified to handle these mental health issues.

Senator Long stated that: (1) he wanted to know why a person who had been certified as a sex offender treatment provider was not able to do the work that the Board had required; and (2) if those individuals could perform the assessments, this administrative regulation should be amended at the next meeting to include them.

Ms. Barker stated that the Board was concerned about requiring the Board to suspend or revoke the certification of a person who did not complete the eight hours of training.

Subcommittee staff stated that: (1) staff: (a) had suggested that this administrative regulation be amended to establish a grace period for compliance with the continuing education requirement; and (b) did not have time to draft that amendment today; (2) the agency would be able to file another amended administrative regulation to make this change; (3) if this administrative regulation was found deficient, this administrative regulation would: (a) be suspended, until the Governor's determination to keep it in effect was transmitted to LRC and the Regulations Compiler; and (b) expire at the end of the next Regular Session of the General Assembly; and (4) while it did not address all issues raised by Subcommittee staff, the amendment prepared by Subcommittee staff should be approved, because the amendment was required by KRS Chapter 13A with regard to the subject matters addressed by the amendment.

Ms. Barker stated that: (1) this administrative regulation did not

affect the livelihood of professional people because the assessed individuals were indigent prisoners; (2) because there had not been a non-indigent referral made, private providers had not performed these assessments; (3) the General Assembly did not appropriate money to pay for the assessments; and (4) although a court had the ability to appoint someone for the assessment, funding for the assessment was provided by the county.

The Subcommittee unanimously approved a motion by Representative Bruce, seconded by Senator Long, to find 501 KAR 6:190, as amended, deficient.

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; (2) Section 2(1) was amended to avoid repetition of a statutory definition; (3) Section 2(11) was amended to adequately define "Risk Assessment"; (4) Section 3 was amended to clearly establish the requirements for becoming a Certified Provider or Supervised Provider; (5) Section 4 was amended to clearly establish the duties of a certified provider and supervised provider; (6) Section 5 was amended to clearly establish the application procedures; (7) Section 6(1) was amended to designate the offenses for which certification shall be denied or revoked; (8) Section 6(2) was amended to designate the offenses for which certification may be denied, suspended or revoked; (9) a new Section 8 was created for the approval of specialty training and continuing education; (10) a new Section 9 was created for the incorporation by reference of necessary assessment materials; and (11) various Sections were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

501 KAR 6:200 & E. Sex offender risk assessment procedure. Mr. Breeding stated that this administrative regulation had the same problems as 501 KAR 6:190, because: (1) Section 2(10) established the definition of "provider" as the definition of "qualified mental health professional" established by KRS 202A.011; and (2) KRS 202A.011 excluded the marriage and family therapists.

Ms. Barker stated that: (1) the Subcommittee staff suggested amendment had deleted the definition of provider from this administrative regulation; (2) this administrative regulation provided that certified provider was defined by statute; and (3) while 501 KAR 6:190 established who could be certified, this administrative regulation established the procedure for conducting the risk assessments.

The Subcommittee unanimously approved a motion by Senator Long, seconded by Representative Allen, to find 501 KAR 6:200, as amended, deficient.

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; (2) Section 2(1) was amended to avoid repetition of statutory definition; (3) Section 2(7) was amended to adequately define "Risk Assessment"; (4) Section 3 was amended to clearly establish the risk assessment procedures and format for reporting to the Court; (5) a new Section 4 was created to incorporate by reference necessary risk assessment tests; and (6) various Sections were amended to comply with the drafting requirements of KRS 13A.222(4).

Transportation Cabinet: Department of Highways: Division of Traffic: Mass Transportation

603 KAR 7:080 & E. Human service transportation delivery. (Emergency Expired December 18, 1998) Kevin Flannery, Deputy Secretary, Transportation Cabinet, and Margaret Platner represented the Cabinet. The following individuals also appeared before the Subcommittee: Lisa Elder, Tim Perkins, Greg Donaldson, FMC Dialysis; Cleveland Johnson, Cleveland Johnson Cab Co. Inc.; Steven Sprowls, Dixie Cab; Donovan Fornwalt, Council for Retarded Citizens; Barbara Henchey, Mattingly Center; Jack Burch, Community Action Council; David Black, Options for Individuals; Michael A. Kein, County Clerk; Sandy Kays; Melissa Barthle; Carl Ward, Yellow Cab Newport; Janice Smith; Lisa Bozwell; Jodie Brandenburg, Valerie Clem, Kentucky River Foothills; Greg Hamlin, Sandy Valley Transportation Services; Janice Eubanks, Licking Valley CAP; Ray Young, Maysville Transit System; Johnnie Davidson, Mike Jackson, LKLP Transportation; Pam Shepherd, Federated Transportation Bluegrass; Sue Jef-

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fers, Blue Grass Community Action Agency; Dan Turner, Kentuckiana Transportation Association; Rev. William Curry, Mainstream Transportation and KTA; and Ed Sullivan.

Subcommittee staff stated that: (1) Representative Lee had asked staff if the material requested by the Subcommittee and Subcommittee staff had been submitted; (2) the Subcommittee and Subcommittee staff had requested a copy of the contract to determine whether or not there were general requirements or procedures that had to be placed in this administrative regulation because use of a contract cannot avoid KRS Chapter 13A requirements that duties, conditions, or requirements be established by administrative regulation; (3) a copy of the contract had not been submitted; (4) while a suggested amendment that related to various items of this administrative regulation had been submitted to the Cabinet some time ago, Subcommittee staff had not received a response until shortly before the beginning of the Subcommittee meeting; (5) the response was not timely; (6) Subcommittee staff had noted several issues with the amendment proposed by the Cabinet, including: (a) an impermissible reference to definitions established in another administrative regulation, rather than a definition of the terms being established in this administrative regulation; (b) potential constitutional problems with the new Section 3(4) provisions regarding freedom of choice to nonambulatory and ambulatory disoriented individuals; and (c) new Section 3(6), which: 1. provided that the Cabinet shall resolve any disputes regarding routes and provider choices; and 2. did not provide the procedure for resolving the disputes.

Representative Lee stated that: (1) the problems summarized by Subcommittee staff should be answered by the Cabinet before the Subcommittee considered this administrative regulation; (2) this administrative regulation should be deferred until the requested information was provided to staff; (3) the contract language that was standard should be included in this administrative regulation or its reference material; (4) he had other concerns about this administrative regulation, its implementation, and the entire reorganization effort of Empower Kentucky; (5) this administrative regulation was not ready to be approved by the Subcommittee because of: (a) technical reasons; and (b) issues raised by citizens who wanted to voice their concerns about the: 1. implementation of this administrative regulation; and 2. impact this administrative regulation would have on individuals provided nonemergency medical transportation; and (6) if the Cabinet did not defer this administrative regulation, the Subcommittee had a duty to find it deficient.

Mr. Flannery stated that the Cabinet: (1) was ready to move forward with this administrative regulation; (2) did not feel a deferral was needed; (3) understood Representative Lee's concerns; (4) had worked incredibly hard and close with all the people present at the Subcommittee meeting; (5) was not able to make everybody happy; and (6) was comfortable this administrative regulation met the statutory requirements.

Subcommittee staff stated that: (1) because the information requested by the Subcommittee had not been supplied to the Subcommittee or staff, the staff was not able to determine for the Subcommittee whether this administrative regulation complied with KRS Chapter 13A; (2) the suggested amendments had been sent out some time ago by Subcommittee staff; (3) the request for the contract had been discussed before the April 13, 1999, Subcommittee meeting; and (4) while there were other issues related to this administrative regulation that members had raised, because the Cabinet had not submitted the material requested by the Subcommittee, the Subcommittee did not have the information it requested and needed to make a determination.

Representative Lee stated that: (1) if the Subcommittee found this administrative regulation deficient, the finding would ensure that the issues raised by the Subcommittee, regulated entities, and recipients of services would be reviewed by the General Assembly at its 2000 Regular Session of the General Assembly, and by the appropriate standing committee and all 138 legislators; (2) the General Assembly would decide if this was the desired method for providing transportation for nonemergency services; and (3) he moved that this administrative regulation be found deficient.

Representative Bruce stated that the Cabinet should agree to defer this administrative regulation to avoid a finding of deficiency.

Chairman Arnold stated that: (1) the Subcommittee had a right to receive requested information to enable the Subcommittee to make its determination; and (2) because the information had not been received, this administrative regulation should be found deficient.

In response to a question by Senator Pendleton, Ms. Platner stated that she believed that all requested information had been furnished to the Subcommittee.

Subcommittee staff stated that: (1) the contract had not been furnished; and (2) the response to the suggested amendments prepared by Subcommittee staff: (a) had not been received by yesterday afternoon; and (b) had not been received in sufficient time for review.

Ms. Platner stated that: (1) the Cabinet was more than happy to cooperate and furnish requested information to the Subcommittee; and (2) she would: (a) accept responsibility for the miscommunication; and (b) get the requested information to the Subcommittee and staff.

Mr. Flannery stated that the Cabinet: (1) had appeared before the Subcommittee several consecutive months regarding this administrative regulation; (2) needed to move forward with this administrative regulation either way; and (3) would attempt, during the interim, to work something out.

Senator Pendleton stated that: (1) the Cabinet needed to take a serious look at this issue because: (a) contracts had been signed; and (b) money had been spent; and (2) because the requested information had not been submitted to the Subcommittee, the Cabinet should: (a) not be pressing for the approval of this administrative regulation; and (b) wait until the information had been submitted.

Mr. Flannery stated that he had been informed that the Cabinet had supplied whatever information the Cabinet thought had been requested.

Subcommittee staff stated that the Cabinet had not provided the Subcommittee with the contract.

Representative Lee stated that the citizens who had traveled to the meeting should be given an opportunity to express themselves to the Subcommittee.

Chairman Arnold stated that the Subcommittee: (1) was working as closely as possible with these individuals; and (2) would be happy to listen to their comments.

Mr. Sullivan stated that: (1) he had been riding with All County Transportation for many years; (2) individuals should be able to stay with the companies they desire: (a) for safety reasons; and (b) because the companies know the riders' needs and schedules; (3) while he had expressed his opposition to this administrative regulation from the beginning, some people in wheelchairs were not able to express their opposition; and (4) he did not want to see individuals' rights taken away from them because the government did not understand why they wanted to stay with certain companies with which they felt safer and more secure.

Ms. Smith stated that: (1) she: (a) was from Jefferson County; and (b) wanted to give the Subcommittee an example of the problem, in which a person: 1. had a boat and an airplane; 2. was told the boat was going to be used by a different person that day; 3. had a tremendous fear of airplanes; and 4. was forced to either: a. take the airplane, which later might crash; or b. stay home; (2) the example was similar to the effect of what happened when their freedoms were taken away; (3) because the Subcommittee members were mobile, they did not: (a) face those decisions; and (b) have to depend on companies to transport them; and (4) disoriented people faced a situation worse than that because they could not communicate.

The Subcommittee unanimously approved a motion by Representative Lee, seconded by Senator Long, to find 603 KAR 7:080, as amended, deficient.

Chairman Arnold stated that: (1) the Subcommittee found this administrative regulation deficient for the reasons expressed by Mr. Sullivan; and (2) he encouraged individuals to communicate their concerns to the Governor's office to encourage them to work out the problems with the issue.

Representative Lee stated that: (1) the Subcommittee was not authorized to take action beyond finding this administrative regulation deficient; (2) the finding of deficiency told the Cabinet and the

Representative Allen stated that he did not know why the pictures were needed, since many barbers were chosen based on word of mouth recommendations.

Mr. Maggard stated that the picture identification was required to enable inspectors to identify the barbers.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 1 through 3 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 14:090. School curriculum. In response to a question by Senator Pendleton, Mr. Maggard stated that this administrative regulation: (1) did not increase the number of hours required; and (2) specified the number of hours of instruction needed for two subject areas that had been omitted from the existing administrative regulation.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Sections 1 through 20 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); and (4) Section 19 was amended to delete provisions that repeated or summarized statute, as required by KRS 13A.120(2)(e).

Board of Physical Therapy

201 KAR 22:135. Fees. Nancy Brinly, Executive Secretary, and Mark Brengelman, Assistant Attorney General, represented the Board.

In response to questions by Senator Roeding, Ms. Brinly stated that: (1) the application fee was increased: (a) from \$140 to \$170; (b) to off-set the costs of criminal background checks for applicants; (2) previously, the Board had based its determinations on answers given by the applicant to questions on the application; (3) because some applicants had lied on the applications, the Board: (a) began using CourtNet, which: 1. was a free service of the Administrative Office of the Courts; and 2. provided criminal background checks for Kentucky residents; and (b) decided to conduct criminal background checks on out-of-state residents; and (4) while the fees would be deposited into the Board's funds, the Board: (a) used that money to pay for the background checks; and (b) did not have a surplus.

In response to a question by Representative Bruce, Ms. Brinly stated that because Kentucky residents would also be paying the increased fee, the pool of money received from all applicants would cover the costs of the background checks for out-of-state residents.

In response to questions by Representative Lee, Ms. Brinly stated that the Board: (1) had a register of all the physical therapists in Kentucky; (2) did not send them each a letter explaining the increase; and (3) had their notices and administrative regulations published in the Administrative Register, to which the state association subscribed.

Representative Lee stated that: (1) he: (a) was concerned that government agencies did not communicate with licensees about the reasons for fee increases; and (b) believed if constituents understood the reasons for fee increases, some of the increases would be more acceptable; (2) while some fee increases were necessary, in general, government agencies needed to do a better job of notifying constituents of the reasons for its actions; and (3) often the public is made aware of pending government action only if the press has reported the action.

Mr. Brengelman stated that this fee: (1) was applicable to new applicants for licensure; and (2) did not affect the fees paid by currently licensed physical therapists.

Ms. Brinly stated that: (1) she had discussed the fee increase with: (a) the president of the Kentucky Physical Therapy Association; and (b) the universities, because the students would be the new applicants; and (2) health care facilities wanted the Board to conduct criminal background checks to avoid the problem that would

occur if a facility determined that it had hired a physical therapist who was a felon licensed by the Board.

Representative Lee stated that: (1) he congratulated the Board for doing a good job; and (2) because agencies did not typically do a good job of notifying affected people, he had raised the notification issue each time a fee increase had been proposed.

In response to questions by Representative Bruce, Ms. Brinly stated that the Board: (1) had included information regarding the fee increase in its newsletter; and (2) would attach a letter to the application that: (a) explained the fee increase; and (b) did not blame legislators.

Senator Roeding stated that local organizations should be contacted regarding administrative regulations that would affect the members of that organization.

In response to questions by Chairman Arnold and Representative Bruce, Ms. Brinly stated that: (1) this application fee was paid by new applicants; and (2) the fee for licensed therapists was \$100 every two years.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Section 1 was amended to: (a) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4); and (b) delete language that conflicted with KRS 327.080(1).

Board of Podiatry

201 KAR 25:031. Continuing education. Dr. C.A. Nava, Secretary, and Jim Grawe, Assistant Attorney General, represented the Board.

In response to questions by Senator Roeding, Mr. Grawe stated that, because KRS 216.610(1) required podiatrists to take a two hour HIV course each year, a podiatrist who did not take the course would: (1) still be required to take the course; and (2) be subject to discipline, including a fine up to \$500.

Senator Roeding stated that, because all medical professions are highly trained in HIV, podiatrists and other medical professionals should not be required to take, or disciplined for not taking, a continuing education course on this subject.

Subcommittee staff stated that: (1) KRS 214.610(1) required completion of the course; and (2) this administrative regulation required podiatrists to submit evidence that the course had been completed.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 1 through 3 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Natural Resources And Environmental Protection Cabinet: Department for Environmental Protection: Division of Air Quality: General Administrative Procedures

401 KAR 50:010. Definitions and abbreviations of terms used in 401 KAR Chapter 50. John Hornback, Director, Division for Air Quality, represented the Division.

In response to a question by Chairman Arnold, Mr. Hornback stated that: (1) "fugitive emissions" were emissions that could not be reasonably captured and controlled from an air pollution source; (2) in September 1994, the Cabinet had: (a) amended the definition of fugitive emissions as used in the permitting program to comply with a federal government request; and (b) not amended the definition for the air pollution control program; and (3) this administrative regulation, and 401 KAR 59:001, 401 KAR 61:001, 401 KAR 63:001, and 401 KAR 65:001 were amended to conform to the definition used in the permitting program.

This administrative regulation was amended as follows: (1) Sections 1 through 3 were amended to comply with KRS 13A.222(4)(e); and (2) the TITLE, NECESSITY, FUNCTION AND CONFORMITY

paragraph and Sections 1 through 3 were amended to comply with the drafting requirements of KRS 13A.222(4).

New Source Standards

401 KAR 59:001. Definitions and abbreviations of terms used in 401 KAR Chapter 59. This administrative regulation was amended as follows: (1) Sections 1 and 2 were amended to comply with KRS 13A.222(4)(e); and (2) the TITLE, NECESSITY, FUNCTION AND CONFORMITY paragraph and Sections 1 through 3 were amended to comply with the drafting requirements of KRS 13A.222(4).

Existing Source Standards

401 KAR 61:001. Definitions and abbreviations of terms used in 401 KAR Chapter 61. This administrative regulation was amended as follows: (1) Sections 1 and 2 were amended to comply with KRS 13A.222(4)(e); and (2) the TITLE, NECESSITY, FUNCTION AND CONFORMITY paragraph and Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

General Standards of Performance

401 KAR 63:001. Definitions and abbreviations of terms used in 401 KAR Chapter 63. This administrative regulation was amended as follows: (1) Sections 1 and 2 were amended to comply with KRS 13A.222(4)(e); and (2) the TITLE, NECESSITY, FUNCTION AND CONFORMITY paragraph and Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

Mobile Source-related Emissions

401 KAR 65:001. Definitions and abbreviations of terms used in 401 KAR Chapter 65. This administrative regulation was amended as follows: (1) Section 1 was amended to comply with 13A.222(4)(e); and (2) the TITLE, NECESSITY, FUNCTION AND CONFORMITY paragraph and Section 1 were amended to comply with the drafting requirements of KRS 13A.222(4).

Chemical Accident Prevention

401 KAR 68:010. General provisions. John Hornback, Director, Division of Air Quality, represented the Division.

In response to a question by Senator Roeding, Mr. Hornback stated that: (1) this administrative regulation adopted the existing federal regulations that governed the accidental release of compounds that were considered to be hazardous to local communities; and (2) while the Department hoped the requirements had been streamlined as much as possible, the Department was subject to the existing federal requirements.

This administrative regulation was amended as follows: Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

401 KAR 68:020. Hazard assessment. This administrative regulation was amended as follows: Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

401 KAR 68:048. Program 2 prevention program. In response to a question by Senator Roeding, Mr. Hornback stated that the definition of "major source" established in this administrative regulation: (1) applied to the level of stringency that applied to the operation in various categories of the air pollution rules; and (2) was: (a) not based on the number of emissions; and (b) based on the amount of listed compounds a facility had in storage or possession.

This administrative regulation was amended as follows: Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

401 KAR 68:065. Program 3 prevention program. This administrative regulation was amended as follows: Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

401 KAR 68:090. Emergency response. This administrative regulation was amended as follows: Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

401 KAR 68:100. Regulated substances for accidental release prevention. This administrative regulation was amended as follows: Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

401 KAR 68:150. Risk management plan. This administrative regulation was amended as follows: Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

401 KAR 68:200. Other requirements. This administrative regulation was amended as follows: Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4).

Department for Surface Mining Reclamation and Enforcement: General Provisions

405 KAR 7:097. Reclamation in lieu of cash payment of civil penalties. Carl Campbell, Commissioner; Ron Mills, Counsel; and Jim Villines, Branch Manager, represented the Department.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph and Section 6(3) was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to indicate that this administrative regulation was submitted for federal approval as required by 30 CFR 917.16(c)(3); and (3) Sections 1, 2, 3, 5, 6, and 8 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Office of the Petroleum Storage Tank Environmental Assurance Fund

415 KAR 1:090. Ranking system. Robert E. Nickel, Executive Director, David Waldner, Principal Assistant, and David Wicker, Staff Attorney, represented the Office.

In response to a question by Senator Roeding, Mr. Nickel stated that: (1) these administrative regulations were amended: (a) in response to House Bill 282, which had been enacted during the 1998 Regular Session of the General Assembly; and (b) to improve the process of removing tanks from the ground and cleaning up contamination.

Representative Lee stated that, when House Bill 282 is fully implemented, the administrative regulations would: (1) simplify the process; (2) provide checks and balances to protect against fraud; and (3) assure the public that the money paid to clean up tank sites was well-spent to pay providers for services rendered.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the TITLE, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1 through 7 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 7 was amended to: (a) establish the requirements for determining whether a class of claims shall not be reimbursed; and (b) require the Office to issue a public notice of the decision to suspend reimbursement of a class of claims.

415 KAR 1:100. Third-party claims. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) the TITLE, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1 through 3 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

415 KAR 1:114. Contractor certification. In response to a question by Representative Bruce, Mr. Nickel stated that: (1) certification required completion of a three-hour examination, which tested the applicant's ability to: (a) recognize contamination after a tank had been removed; and (b) oversee the removal of contaminated soil or groundwater; and (2) 415 KAR 1:110 established a range of costs for which the Office would reimburse contractors.

In response to questions by Senator Roeding, Mr. Wicker stated that: (1) in order to be reimbursed, tank removal had to be performed by an entity licensed by the State Fire Marshal's office; (2) there were ample numbers of entities currently licensed for removal; and (3) in order to qualify for fund reimbursement, an owner was prohibited from: (a) using a non-certified person or company to remove the tanks; and (b) having the soil tested later by a certified person.

Mr. Waldner stated that this administrative regulation: (1) did not require that a Fund-certified contractor: (a) take samples; or (b) be present during removal; and (2) required a Fund-certified person be in responsible charge of managing the corrective action once it was determined that corrective action was necessary.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNC-

TION, AND CONFORMITY paragraph, and Sections 1 through 9 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 delete definitions of "certified contractor" and "company," as required by KRS 13A.222(4)(e).

415 KAR 1:130. Small owners tank removal account. In response to a question by Representative Allen, Mr. Nickel stated that old tanks might leak petroleum products into the soil and groundwater.

In response to a question by Representative Allen, Mr. Waldner stated that soil vapor extraction: (1) was a remediation system used by some small owners; (2) addressed contamination in the soil through a process that: (a) moved air through the soil; and (b) picked up and discharged contaminants into the air; and (3) might be a better remediation method for some owners because: (a) the tanks were not removed; and (b) there was minimal disturbance to the surface.

In response to questions by Representative Allen, Mr. Wicker stated that: (1) groundwater contamination was the primary reason for removal of contaminated soil because, in rural states like Kentucky, gasoline contamination posed a real problem for people who used groundwater wells; and (2) there was a major push during the 1980s to clean up these tanks because of the groundwater contamination.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the TITLE, the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and Sections 1 through 7 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 3(2) was amended to delete provisions that repeated or summarized KRS 224.60-130(j), as required by KRS 13A.120(2)(e).

415 KAR 1:135. Financial audits. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); (3) Section 1 was amended to clarify that an entity shall be subject to financial audit if it is an entity described in KRS 224.60-130(2)(k); and (4) Sections 3(3)(c) and 4 were amended to delete provisions that repeated or summarized applicable statutes, as required by KRS 13A.120(2)(e).

415 KAR 1:140. Laboratory certification. Subcommittee staff stated that: (1) the dates established in this administrative regulation differed from the dates established by KRS 224.60-130(2)(a), which required: (a) laboratory certification criteria to be established by January 1, 1999; and (b) owners and operators to have samples tested in certified laboratories after April 1, 1999; (2) this administrative regulation: (a) was filed on January 8, 1999; and (b) established October 1, 1999 as the date after which samples shall be tested in certified laboratories; (3) if this administrative regulation became effective in July, 1999, the date of October 1, 1999, would: (a) provide a period of approximately three months for laboratories to be certified; and (b) be in substantial compliance with the statutory timetable.

In response to questions by Representative Lee, Mr. Nickels stated that: (1) he was confident that in-state laboratories would be certified by October 1, 1999, because the certification criteria had been developed; (2) a large number of out-of-state laboratories were currently certified; (3) the certification program would not be implemented until this administrative regulation became effective; (4) the American Association for Laboratory Accreditation would operate the program; and (5) assurance auditors were currently in the field observing tank removals.

In response to a question by Senator Roeding, Mr. Wicker stated that while the agency had not established a fee for certification, there would be costs to a laboratory for: (1) document preparation; and (2) possible work stoppage during a visit by the accrediting body.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph, and

Sections 1 through 6 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Justice Cabinet: Department of Corrections: Office of the Secretary

501 KAR 6:090. Frankfort Career Development Center. Tamela Biggs, Staff Attorney, represented the Department.

This administrative regulation was amended as follows: FCDC 13-01-02 and FCDC 13-09-01 were amended to comply with the drafting requirements of KRS 13A.222(4).

501 KAR 6:110. Roederer Correctional Complex. In response to questions by Senator Roeding, Ms. Biggs stated that the policy and procedures officer at each institution: (1) submitted proposed changes to the Department; and (2) met with the warden to disseminate the proposed policies to the appropriate people at each institution prior to the implementation of the changes.

This administrative regulation was amended as follows: RCC 01-10-01 was amended to comply with the drafting requirements of KRS 13A.222(4).

501 KAR 6:140. Bell County Forestry Camp. This administrative regulation was amended as follows: (1) BCFC 08-03-01 was amended to provide a method for an inmate to report a fire; (2) BCFC 16-01-01 was amended to clarify that a skirt not be shorter than two inches above the knee; and (3) BCFC 12-06-01 was amended to comply with the drafting requirements of KRS 13A.222(4).

501 KAR 6:210 & E. Sex offender community notification. Amy Barker, Staff Attorney, Sex Offender Risk Advisory Board; Dr. Dennis Wagner, Chief Psychologist, Sex Offender Risk Assessment Unit, Kentucky State Reformatory, and Member, Sex Offender Risk Assessment Advisory Board; Rashmi Adi, Advisory Board Member; Christine Boyd, Advisory Board Member; William Heffron, Advisory Board Member; and David Breeding, Kentucky Association for Marriage and Family Therapy, Advisory Board Member, and Chairman, Government Affairs and Regulations Committee, represented the Board.

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; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the function of, and necessity for, this administrative regulation; (3) the Definitions Section was amended to refer to statutory definitions; (4) Section 3 was amended to clearly establish the: (a) method for an individual, agency, organization, or group to receive notification of the release of an offender; and (b) sheriff's notification procedure; and (5) Section 3(6) was amended to provide that a sheriff may provide a photo or fingerprints of a sex offender to a victim or group entitled to notification under KRS 17.572.

Department of Criminal Justice Training: General Training Provisions

503 KAR 3:040. Telecommunications academy trainee requirements; misconduct; penalties; discipline procedures. Stephanie Bingham, General Counsel, and Pat Carter, Section Supervisor, represented the Department.

In response to questions by Senator Roeding, Ms. Bingham stated that the cost of uniforms was: (1) paid for by either the: (a) individual; or (b) agency; and (2) designed to be clothing that could be worn outside of training, including: (a) dark pants or skirts; (b) a white shirt or blouse; and (c) dark shoes.

Ms. Carter stated that while she was aware of one instance in which an agency had declined to pay for the uniform, agencies generally routinely paid for the uniforms required for police officers.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; (2) Section 1 was amended to establish the uniform requirements; (3) Section 2 was amended to include the criteria for removal of an unqualified trainee; (4) Section 4 was amended to provide for confidentiality of trainee records, unless required by law; (5) Section 6 was amended to establish the grooming requirements of a trainee; (6) Section 6(9) was amended to clearly establish the reasons for granting an excused absence; (7) Section 9 was amended to clarify

the burden of proof for disciplining a student; (8) a new Section 17 was created to incorporate by reference the "Notice of Appeal" form; and (9) various sections were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

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. Charlie Harman, General Counsel, represented the Department.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the function of, and necessity for, this administrative regulation; and (3) various sections were amended to comply with the drafting amendments of KRS 13A.222(4).

Department of Highways: Division of Traffic: Right-of-Way

603 KAR 4:035. Logo signs; placement along fully-controlled and partially controlled access highways. In response to questions by Senator Roeding, Mr. Harman stated that the logo sign fees: (1) had not been changed; and (2) were: (a) based on the price of the signs; and (b) not based on the highway designation.

This administrative regulation was amended as follows: (1) Sections 1(3) and 1(11) were amended to delete statutory definitions; (2) Section 1 was amended to alphabetize the definitions section; and (3) various sections were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

603 KAR 4:045. Cultural and recreational supplemental guide signs. In response to questions by Senator Roeding, Mr. Harman stated that: (1) an encroachment permit was a permit granted by the Cabinet to put a sign in a specific location; and (2) several different places qualified for this type of signage.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs were amended to correct statutory citations; (2) Sections 1(3) and 1(7) were amended to cross-reference statutory definitions; (3) Section 1 was amended to alphabetize the definitions section; (4) Section 11 was amended to incorporate by reference necessary forms and materials; and (5) various sections were amended to comply with the drafting requirements of KRS 13A.222(4).

603 KAR 4:055. Scenic highways and byways. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; (2) Section 2 was amended to create a new process for the de-designation of a scenic highway or byway; and (3) Section 3 was amended to comply with the formatting requirements of Incorporating by Reference material.

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. Kevin Noland, General Counsel, and Debbie Schumacher, Director, Division of Extended Learning, represented the Department.

This administrative regulation was amended as follows: the TITLE was amended to comply with KRS 13A.310(3)(a)1.

Office of Learning Programs Development: Office of Instruction

704 KAR 3:410. Preschool education program for four (4) year old children. In response to questions by Senator Roeding, Ms. Schumacher stated that all students were required to complete a comprehensive school health medical examination prior to enrollment in school.

Mr. Noland stated that this examination was performed by the student's physician or the health department.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph and Section 5(2)(a) were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 9 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); (3) Section 3 was

amended to delete provisions that repeated or summarized KRS 157.3175(4), as required by KRS 13A.120(2)(e); and (4) Section 8(2) was amended to cross-reference applicable administrative regulations.

704 KAR 3:420. Preschool associate teachers. In response to questions by Senator Roeding, Mr. Noland stated that: (1) this administrative regulation: (a) gave flexibility to the districts; and (b) established duties and requirements for preschool associate teachers who had been deleted from 704 KAR 3:410; (2) preschool associate teachers were authorized to: (a) teach in a preschool classroom; and (b) do anything a certified teacher could do, except that a certified teacher was required to: 1. supervise the preschool associate teacher; and 2. approve the curriculum; and (3) because of the input received from superintendents, local preschool programs, and others over the last two years, no one had expressed opposition to this administrative regulation at the two public hearings.

This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

Exceptional and Handicapped Programs

707 KAR 1:150. Preschool education program for children with disabilities. In response to questions by Senator Roeding, Mr. Noland stated that: (1) Section 2(1) of this administrative regulation: (a) required a local school district to make available a free appropriate preschool education and related services to all eligible children with disabilities; and (b) was required by federal law; and (2) funds had been appropriated by the state for preschool education for students with disabilities.

In response to questions by Senator Roeding, Ms. Schumacher stated that: (1) Section 2(4) of this administrative regulation stated that state funding shall be: (a) provided to local school districts for serving eligible children; and (b) based upon the funding allocation procedures established by 702 KAR 3:250; (2) 702 KAR 3:250 established the grant allocation system for the state preschool program, which was: (a) approved by the State Board every April; (b) based on the actual enrollment of students; and (c) similar to the SEEK school formula.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 2(3)(a) were amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 6 and 8 through 11 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Department of Financial Institutions: Mortgage Loan Companies and Mortgage Loan Brokers

808 KAR 12:011. Repeal of 808 KAR 12:010. Colleen Keefe, Counsel, represented the Department.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (2) Section 1 was amended to specify the TITLE of the repealed administrative regulation.

Department of Housing, Buildings and Construction: Standards of Safety

815 KAR 10:051. Repeal of 815 KAR 10:050. Judith Walden, General Counsel, represented the Department.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct a statutory citation; and (2) Section 1 was amended to correct the TITLE of the repealed administrative regulation.

815 KAR 10:060. Kentucky standards of safety. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (2) Sections 1 through 9 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 3 was amended to: (a) specify the ap-

plicable fire prevention, life safety, and building code standards; and (b) move language from Section 9 to Section 3, in order to comply with the requirements for incorporation by reference established by KRS 13A.2251.

Division of Plumbing

815 KAR 20:030. License application; qualifications for examination, examination requirements, expiration, renewal, revival or reinstatement of licenses. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Sections 1 through 7 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); (4) Section 1 was amended to specify the name of the application form; (5) Section 2 was amended to specify the name of the list of the required materials; (6) Section 4 was amended to delete provisions that repeated or summarized KRS 318.054, as required by KRS 13A.120(2)(e); and (7) a new Section was created to incorporate by reference the required materials.

Cabinet For Families And Children: Department for Community Based Services: Division of Policy Development: Public Assistance

904 KAR 2:006 & E. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP). Joyce Lea and Rosanne Barkley, Internal Policy Analyst, represented the Department.

In response to questions by Chairman Arnold, Ms. Barkley stated that the Cabinet: (1) wanted to amend this administrative regulation to remove the reference to legal guardian from the list of caretaker relatives in Section 10 of this administrative regulation; and (2) recently had been issued federal regulations that: (a) related to the Department's TANF block grants; (b) had been published April 12; (c) prohibited a non-relative from being a caretaker relative for a child receiving TANF benefits; and (d) required the adult receiving TANF benefits to be related to the child.

In response to a question by Senator Long, Ms. Barkley stated that a person not related to a child, by blood or marriage, was not eligible to receive TANF benefits.

In response to a question by Chairman Arnold, Ms. Barkley stated that: (1) a person could apply for TANF benefits if the person: (a) was: 1. related to the child; and 2. the child's guardian; and (b) applied to the Department for Community-Based Services; (2) the guardianship did not have to be court-appointed; and (3) the Department had an office in each county.

This administrative regulation was amended as follows: Section 10 was amended to delete language that granted eligibility to a legal guardian who was not related to the child.

904 KAR 2:017. Kentucky Works supportive services. Daniel Turner stated that because he was not aware of this administrative regulation until today, he wanted this administrative regulation deferred to give his organization, the Kentuckiana Transportation Association, an opportunity to review its provisions.

Subcommittee staff stated that: (1) members of the public could request to have their names placed on a list of people to be informed by written notice each time an agency intended to promulgate an administrative regulation; (2) two public hearings had been held on this administrative regulation; and (3) if a citizen contacted a Subcommittee member or staff person about an issue in sufficient time, the member or staff would: (a) research the issue; and (b) transmit his concerns to the agency and Subcommittee.

This administrative regulation was amended as follows: Sections 12(2)(h) and 13(2) were amended to specify that a K-TAP applicants or recipients shall be advised of the work incentive bonuses and educational bonus: (1) at the time of application; (2) at each recertification; and (3) through periodic mailings that remind them of available incentives.

904 KAR 2:500. Family Alternatives Diversion (FAD). This administrative regulation was amended as follows: (1) Section 2(1)(b) was amended to cross-reference an applicable administrative regulation; and (2) Sections 2, 3, and 5 were amended to clearly establish applicable requirements.

The Subcommittee determined that the following administrative regulations complied with statutory requirements:

Kentucky Legislative Ethics Commission

2 KAR 2:031. Repeal of 2 KAR 2:030. Peggy Williams, Principal Assistant, and Paula Pabon, Legal Counsel, represented the Commission.

Justice Cabinet: Department of Corrections: Office of the Secretary

501 KAR 6:020. Corrections policies and procedures. Tamela Biggs, Staff Attorney, represented the Department.

501 KAR 6:181. Repeal of 501 KAR 6:180, infectious diseases.

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 2:307. Hazardous materials. Kembra Taylor, General Counsel; Tim Chancellor, Health Standards Specialist; and Bill Ralston, Safety Standards Specialist, represented the Department.

803 KAR 2:309. General environmental controls.

803 KAR 2:310. Medical services and first aid.

803 KAR 2:311. Fire protection.

803 KAR 2:313. Materials handling and storage.

803 KAR 2:317. Special industries.

803 KAR 2:320 & E. Air contaminants.

803 KAR 2:402. General safety and health provisions.

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

803 KAR 2:405. Fire protection and prevention.

803 KAR 2:420. Blasting and use of explosives.

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

803 KAR 2:500 & E. Maritime employment.

Cabinet For Families And Children: Department for Community Based Services: Division of Policy Development: Public Assistance

904 KAR 2:016. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP). Joyce Lea and Rosanne Barkley, Internal Policy Analyst, represented the Department.

904 KAR 2:370 & E. Technical requirements for Kentucky Works. (Emergency Expired 4/19/99)

904 KAR 2:510. Relocation Assistance Program. (Deferred from March)

The Subcommittee and promulgating administrative bodies agreed to defer consideration of the following administrative regulations to the May 11, 1999 meeting of the Subcommittee:

Department For Local Government: Office of the Governor: Development Finance

109 KAR 9:010. Area Development Fund.

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.

Division of Occupations and Professions: Directory of Registered Athlete Agents

200 KAR 30:010E. Definitions.

200 KAR 30:020E. Complaint review

200 KAR 30:030E. Requirements for registration.

200 KAR 30:040E. Fees.

200 KAR 30:050E. Reinstatement.

200 KAR 30:060E. Annual contact report.

200 KAR 30:070E. Records retention.

Board of Medical Licensure

201 KAR 9:084. Fee schedule.

201 KAR 9:175. Physician assistants; certification and supervi-

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sion.

201 KAR 9:310. Continuing medical education.

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 20:420 & 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 Certification of Fee-Based Pastoral Counselors

201 KAR 38:010E. Definitions.

201 KAR 38:020E. Application.

201 KAR 38:030E. Equivalent course of study.

201 KAR 38:040E. Fees.

201 KAR 38:050E. Travel expenses of board members.

201 KAR 38:060E. Code of ethics.

Natural Resources And Environmental Protection Cabinet: Department for Environmental Protection: Division of Air Quality: Hazardous Pollutants

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

401 KAR 57:019. Repeal of 401 KAR 57:005, 57:015, 57:021, 57:025, 57:030, 57:035, 57:040, 57:045, 57:050, 57:055, 57:130, 57:270, 57:300, 59:450, 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, 60:160, 60:170, 60:180, 60:190, 60:250, 60:260, 60:330, 60:340, 60:370, 60:380, 60:390, 60:400, 60:420, 60:440, 60:450, 60:460, 60:470, 60:480, 60:490, 60:500, 60:540, 60:560, 60:580, 60:590, 60:600, 60:620, 60:630, 60:640, 60:680, 60:700, 60:730, 60:750, 63:070, 63:100, 63:101, 63:104, 63:110, 63:160, 63:190, 63:300, 63:320, 63:340, 63:360, 63:400, 63:420, 63:460, 63:520, 63:541, 63:560, 63:640, 63:680, 63:701, 63:920, 63:940, and 63:960.

New Source Performance Standards

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

General Standards of Performance

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

Department for Surface Mining Reclamation and Enforcement: Bond and Insurance Requirements

405 KAR 10:010E. General requirements for performance bond and liability insurance.

Office of the Petroleum Storage Tank Environmental Assurance Fund

415 KAR 1:120. Hearings.

Justice Cabinet: Abuse Investigations

500 KAR 13:010E. Appeals hearings for substantiated abuse investigations.

Department of State Police: Sexual Assault Nurse Examiner Medical Protocol

502 KAR 12:010. Sexual assault nurse examiner medical protocol.

Department of Criminal Justice Training: Kentucky Law Enforcement Council

503 KAR 1:140E. Peace officer professional standards.

Transportation Cabinet: Department of Vehicle Regulation: Division of Vehicle Enforcement: Division of Motor Carriers

601 KAR 1:040E. Application for operating authority and regis-

tration of motor carriers.

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. Jim Nelson, Commissioner, and Darrell Gaphart, Branch Manager, represented the Department.

Subcommittee staff stated that: (1) at its April 13, 1999, meeting, the Subcommittee approved a motion requesting the Governor to revoke this emergency administrative regulation; and (2) the Subcommittee: (a) had not received the Governor's response; and (b) was not authorized to take additional action until the ordinary administrative regulation was before the Subcommittee.

Representative Bruce stated that, because the county clerks and bankers were on opposite sides of this issue, he wanted the Department to work to resolve those differences.

Mr. Nelson stated that the Department: (1) had been meeting with all of the parties; and (2) would appreciate any assistance that could be provided.

Without objection, this administrative regulation was deferred.

Kentucky Board of Tax Appeals: Tax Appeals

802 KAR 1:010. Rules of practice and procedure.

Department of Insurance: Health Insurance Contracts

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

Cabinet For Health Services: Department for Public Health: Kentucky Board of Family Health Care Providers

902 KAR 22:040. Charitable health care providers.

Cabinet for Families and Children: Department for Community Based Services: Division of Policy Development: Day Care

905 KAR 2:090. Child care facility licensure.

Cabinet For Health Services: Medicaid Services

907 KAR 1:002. Definitions.

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.

907 KAR 1:780. Converted dual-licensed hospital-based nursing facility beds.

Payment and Services

907 KAR 3:090E. Acquired brain injury services.

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

908 KAR 1:310. Certification standards and administrative procedures for driving under the influence programs.

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.

Division of Mental Health: Institutional Care

908 KAR 3:160E. Policies and procedures of Kentucky Correctional Psychiatric Center.

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:

Justice Cabinet: Department of Juvenile Justice: Child Welfare
505 KAR 1:040. Policies and procedures manual.

The Subcommittee adjourned at 1:10 p.m. until June 8, 1999,
at 10:30 a.m. in Room 149 of the Capitol Annex.

VOLUME 25, NUMBER 12 – JUNE 1, 1999

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE Meeting of April 21, 1999

The following administrative regulations were available for consideration by the Interim Joint Committee on Health and Welfare during its meeting of April 21, 1999, having been referred to the Committee on March 22, 1999, pursuant to KRS 13A.290(6):

201 KAR 20:370
900 KAR 1:041
902 KAR 20:016
907 KAR 1:755 & E
908 KAR 3:025

A motion to approve the administrative regulations was made by Senator Buford, seconded by Representative Damron, and approved by voice vote.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the April 21, 1999, meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT Meeting of April 28, 1999

The following administrative regulation was available for consideration by the Interim Joint Committee on State Government and was approved during its meeting of April 28, 1999, having been referred to the Committee in April, 1998, pursuant to KRS 13A.290(6):

202 KAR 3:010

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 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 April 28, 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 May 4, 1999

The following administrative regulations were available for consideration by the Interim Joint Committee on Transportation during its meeting of May 4, 1999, having been referred to the Committee on April 19, 1999, pursuant to KRS 13A.290(6):

600 KAR 6:010
600 KAR 6:065
600 KAR 6:070
601 KAR 1:005
601 KAR 1:025
603 KAR 4:050

The following administrative regulations were found to be defi-

cient 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:

603 KAR 4:050 - Following a brief discussion, the Transportation Cabinet requested that the Committee defer administrative regulation 603 KAR 4:050 until its next meeting, to give the Cabinet ample time to address several Committee concerns.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the May 4, 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 May 3, 1999

The following administrative regulations were available for consideration by the Interim Joint Committee on Education during its meeting of May 3, 1999, having been referred to the Committee on April 19, 1999, pursuant to KRS 13A.290(6):

704 KAR 20:082
704 KAR 20:084
703 KAR 5:050

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 May 3, 1999, meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

EDUCATION ASSESSMENT AND ACCOUNTABILITY REVIEW SUBCOMMITTEE Meeting of May 6, 1999

The Education Assessment and Accountability Review Subcommittee met on Thursday, May 6, 1999 and submits this report:

The Subcommittee determined that the following administrative regulations complied with statutory requirements:

703 KAR 5:040 – Statewide Assessment and Accountability Program; Relating Accountability Index to School Classification. Mrs. Helen Mountjoy, Chair, Kentucky Board of Education, Dr. Richard M. Jaeger, Member, National Technical Advisory Panel on Assessment and Accountability, and Kentucky Department of Education staff, Dr. Wilmer S. Cody, Commissioner of Education, Mr. Gene Wilhoit, Deputy Commissioner, Learning Support Services, and Mr. Kevin Noland, Associate Commissioner of the Office of Legal Services, represented the Kentucky Board of Education. The administrative regulation defines the characteristics of the different types of schools for statewide assessment and accountability purposes.

703 KAR 5:060 – Interim Accountability Model. Mr. Noland summarized the regulation and the changes that had been made after the public hearing. This administrative regulation establishes procedures for determining successful schools, school rewards, and classifications of schools applied as school performance judgments. After the hearing, the proposed regulation was amended to establish the nonacademic index calculations, establish how scores from alternate portfolios shall be included in the academic indices, describe how schools not conforming to the standard grade configuration shall be handled in the accountability process, establish how the accountability index shall be calculated for schools having more than one accountability level, and how to handle school service area reconfigurations. Mr. Noland submitted the attached letter requesting approval of technical amendments, which the subcommittee accepted.

Mr. Noland and the other representatives responded to the members' questions about the design of the interim accountability model. Dr. Jaeger discussed the use of a regression model for a two year period and explained that it will be developed from statewide data from all the schools. Senator Tim Shaugnessy expressed concern that the model is difficult to understand and needs to be communicated clearly to the public.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates L - 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 L - 18

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 L - 33

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:			907 KAR 1:755E	2100	2-18-98
			Withdrawn		9-1-98
12 KAR 4:170E	2326	4-7-98	907 KAR 3:030E	1639	12-19-97
Expired		10-18-98	Expired		7-21-98
31 KAR 4:120E	2575	4-22-98	908 KAR 2:210E	2352	4-6-98
Expired		11-18-98	Expired		10-18-98
200 KAR 15:010E	2327	4-7-98	ORDINARY ADMINISTRATIVE REGULATIONS:		
Expired		10-18-98	202 KAR 3:010	2782	(See Volume 25)
302 KAR 20:040E	2330	4-3-98	202 KAR 3:030	2783	(See Volume 25)
Replaced		10-16-98	600 KAR 6:050		
401 KAR 5:002E	2576	4-17-98	Amended	2760	(See Volume 25)
Replaced		11-18-98	600 KAR 6:060		
401 KAR 5:009E	2588	4-17-98	Amended	2762	(See Volume 25)
Expired		11-18-98	600 KAR 6:080		
601 KAR 2:020E	1863	2-13-98	Amended	2765	(See Volume 25)
Replaced		9-1-98	601 KAR 2:020	2784	(See Volume 25)
803 KAR 6:010E	2333	3-20-98	810 KAR 1:001		
Expired		10-18-98	Amended	2445	(See Volume 25)
806 KAR 17:141E	2601	4-15-98	810 KAR 1:009		
Expired		11-18-98	Amended	2447	10-12-98
806 KAR 17:150E	2602	4-15-98	810 KAR 1:015		
Expired		11-18-98	Amended	2450	(See Volume 25)
905 KAR 2:160E	2605	4-20-98	810 KAR 1:016		
Replaced		11-18-98	Amended	2452	(See Volume 25)
907 KAR 1:006E	2337	4-6-98	811 KAR 1:090		
Replaced		9-16-98	Amended	2454	(See Volume 25)
907 KAR 1:011E	2339	4-6-98	811 KAR 1:215		
Replaced		9-16-98	Amended	2456	10-12-98
907 KAR 1:022E	2080	2-18-98	902 KAR 50:031		
Expired		10-18-98	Amended	1573	
907 KAR 1:026E	2612	4-24-98	Withdrawn		1-29-99
Replaced		11-18-98	902 KAR 50:032		
907 KAR 1:560E	2093	2-18-98	Amended	1575	
Expired		10-18-98	Withdrawn		1-29-99
907 KAR 1:563E	2097	2-18-98	902 KAR 55:033		
Expired		10-18-98	Amended	1578	
907 KAR 1:605E	2344	4-6-98	Withdrawn		1-29-99
Replaced		9-16-98	907 KAR 1:595	2788	(See Volume 25)
907 KAR 1:626E	2614	4-24-98	907 KAR 3:030	2790	(See Volume 25)
Replaced		11-18-98	908 KAR 1:311	2484	
907 KAR 1:640E	2346	4-6-98	908 KAR 1:370	2485	(See Volume 25)
Replaced		9-16-98	*Statement of Consideration Not Filed by Deadline		
907 KAR 1:645E	2350	4-6-98			
Replaced		9-16-98			

VOLUME 25

Regulation Number	25 Ky.R Page No.	Effective Date	Regulation Number	25 Ky.R. Page No.	Effective Date
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 1:070E	1017	10-15-98
			Expired		4-20-99
			20 KAR 1:080E	1018	10-15-98
			Expired		4-20-99
			30 KAR 4:010E	539	7-15-98
			Replaced	1869	2-18-99
12 KAR 4:170E	2813	4-22-99	31 KAR 4:130E	36	5-20-98
20 KAR 1:040E	1015	10-15-98	Expired		12-18-98
Expired		4-20-99			

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Regulation Number	25 Ky.R Page No.	Effective Date	Regulation Number	25 Ky.R. Page No.	Effective Date
40 KAR 2:070E	540	7-15-98	501 KAR 1:050E	229	7-14-98
Replaced	1581	1-19-99	Replaced	1037	11-20-98
40 KAR 2:075E	541	7-15-98	501 KAR 2:070E	230	7-14-98
Replaced	1582	1-19-99	Replaced	1355	12-17-98
40 KAR 2:076E	543	7-15-98	501 KAR 6:020E	231	7-14-98
Replaced	1584	1-19-99	Replaced	1355	12-17-98
40 KAR 6:010E	543	7-15-98	Resubmitted	2819	5-14-99
Replaced	1265	1-19-99	501 KAR 6:190E	1564	12-4-98
103 KAR 44:060E	546	8-7-98	501 KAR 6:200E	1567	12-4-98
Expired		2-18-99	501 KAR 6:210E	1568	12-4-98
105 KAR 1:170E	222	7-14-98	501 KAR 6:999E	2821	5-14-99
Replaced	589	11-20-98	501 KAR 14:010E	233	7-14-98
105 KAR 1:205E	1561	12-1-98	Replaced	1038	11-20-98
Replaced	2227	5-19-99	502 KAR 31:020E	234	7-14-98
105 KAR 1:230E	223	7-14-98	Expired		1-18-99
Replaced	1351	11-24-98	503 KAR 1:140E	1570	11-30-98
109 KAR 2:020E	2814	4-19-99	601 KAR 1:040E	1573	12-14-98
109 KAR 15:020E	2816	4-19-99	603 KAR 7:080E	37	5-15-98
200 KAR 5:021E	548	7-17-98	Expired		12-18-98
Replaced	903	2-18-99	702 KAR 7:125E	555	8-6-98
200 KAR 6:060E	225	7-15-98	Replaced	1597	1-19-99
Replaced	946	12-17-98	704 KAR 3:480E	1021	10-14-98
200 KAR 21:010E	2116	2-12-99	Replaced	2150	3-1-99
200 KAR 22:005E	549	7-17-98	704 KAR 20:720E	558	7-15-98
Expired		2-18-99	Replaced	1602	1-19-99
200 KAR 30:010E	2311	2-26-99	705 KAR 4:240E	559	8-6-98
200 KAR 30:020E	2312	2-26-99	Replaced	1284	1-19-99
200 KAR 30:030E	2313	2-26-99	725 KAR 1:070E	1832	1-6-99
200 KAR 30:040E	2314	2-26-99	735 KAR 2:010E	236	6-30-98
200 KAR 30:050E	2315	2-26-99	Replaced	1357	12-3-98
200 KAR 30:060E	2316	2-26-99	735 KAR 2:020E	238	6-30-98
200 KAR 30:070E	2316	2-26-99	Replaced	1358	12-3-98
201 KAR 2:020E	2818	4-22-99	735 KAR 2:030E	239	6-30-98
201 KAR 9:330E	1338	11-12-98	Replaced	1359	12-3-98
201 KAR 9:335E	1339	11-12-98	735 KAR 2:040E	240	6-30-98
201 KAR 9:340E	1340	11-12-98	Replaced	1360	12-3-98
201 KAR 20:420E	1829	1-4-99	735 KAR 2:050E	241	6-30-98
201 KAR 20:430E	1830	1-4-99	Replaced	1361	12-3-98
201 KAR 20:440E	1830	1-4-99	735 KAR 2:060E	243	6-30-98
201 KAR 38:010E	2317	3-4-99	Expired		1-18-99
201 KAR 38:020E	2318	3-4-99	750 KAR 1:010E	1022	9-23-98
201 KAR 38:030E	2319	3-4-99	Replaced	2369	4-5-99
201 KAR 38:040E	2320	3-4-99	750 KAR 2:010E	244	7-1-98
201 KAR 38:050E	2321	3-4-99	Expired		1-18-99
201 KAR 38:060E	2322	3-4-99	787 KAR 1:200E	245	6-30-98
301 KAR 2:181E	551	7-16-98	Replaced	914	12-17-98
Replaced	1271	1-19-99	803 KAR 2:306E	246	7-2-98
301 KAR 2:221E	1341	10-22-98	Expired		1-18-99
Replaced	2137	3-10-99	803 KAR 2:307E	249	7-2-98
301 KAR 2:222E	1343	10-22-98	Expired		1-18-99
Replaced	2138	3-10-99	803 KAR 2:308E	251	7-2-98
301 KAR 2:223E	1347	10-22-98	Expired		1-18-99
Replaced	1700	3-10-98	803 KAR 2:311E	253	7-2-98
301 KAR 2:225E	552	8-10-98	Expired		1-18-99
Replaced	1095	1-19-99	803 KAR 2:316E	255	7-2-98
301 KAR 2:226E	1019	9-23-98	Expired		1-18-99
Replaced	1746	3-10-99	803 KAR 2:317E	256	7-2-98
301 KAR 6:005E	554	7-16-98	Expired		1-18-99
Replaced	1272	1-19-99	803 KAR 2:320E	258	7-13-98
405 KAR 10:010E	1562	11-24-98	Withdrawn		1-15-99
415 KAR 1:080E	2529	4-12-99	Resubmitted	1835	1-15-99
500 KAR 13:010E	1831	12-30-98	803 KAR 2:403E	264	7-2-98
500 KAR 13:020E	2534	4-5-99	Expired		1-18-99
501 KAR 1:030E	226	7-14-98	803 KAR 2:404E	265	7-2-98
Replaced	1352	12-17-98	Expired		1-18-99

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Regulation Number	25 Ky.R. Page No.	Effective Date	Regulation Number	25 Ky.R. Page No.	Effective Date
803 KAR 2:418E	269	7-2-98	9 KAR 1:010		
Expired		1-18-99	Amended	883	1-19-99
803 KAR 2:425E	271	7-2-98	9 KAR 1:015		
Withdrawn		1-15-99	Amended	883	
Resubmitted	1840	1-15-99	As Amended	1577	1-19-99
803 KAR 2:500E	1841	1-15-99	9 KAR 1:030		
803 KAR 25:175E	1349	10-28-98	Amended	884	
Replaced	2371	4-14-99	As Amended	1577	1-19-99
806 KAR 15:040E	560	7-21-98	9 KAR 1:035		
Expired		2-18-99	Repealed	1259	1-19-99
806 KAR 17:066E	2323	3-12-99	9 KAR 1:036	1259	1-19-99
806 KAR 17:160E	272	6-19-98	9 KAR 1:040		
Replaced	1363	12-17-98	Amended	1086	
806 KAR 17:170E	564	8-6-98	As Amended	1579	1-19-99
Expired		2-18-99	9 KAR 1:050		
806 KAR 17:180E	275	6-19-98	Amended	887	
Expired		1-18-99	As Amended	1580	1-19-99
806 KAR 17:190E	277	7-2-98	11 KAR 3:100		
Expired		1-18-99	Amended	375	
806 KAR 17:200E	278	7-2-98	As Amended	798	10-1-98
Expired		1-18-99	11 KAR 4:050		
806 KAR 17:210E	280	7-2-98	Amended	385	
Expired		1-18-99	As Amended	806	10-1-98
806 KAR 17:220E	281	7-2-98	11 KAR 4:070	450	
Replaced	1363	12-17-98	As Amended	808	10-1-98
900 KAR 6:050E	2536	3-26-99	11 KAR 5:001		
904 KAR 2:006E	775	9-14-98	Amended	390	
904 KAR 2:018E	42	5-15-98	As Amended	809	10-1-98
Expired		12-18-98	Amended	2920	
904 KAR 2:116E	782	9-15-98	11 KAR 5:130		
Expired		3-20-99	Amended	888	12-3-98
904 KAR 2:370E	786	9-14-98	Amended	2922	
904 KAR 2:380E	44	6-15-98	11 KAR 8:030		
Expired		12-18-98	Amended	890	
904 KAR 2:490E	283	6-22-98	Amended	1398	1-19-99
Expired		1-18-99	11 KAR 12:010		
907 KAR 1:013E	1025	9-29-98	Amended	392	
Expired		4-20-99	As Amended	810	10-1-98
Resubmitted	2822	4-21-99	11 KAR 12:040		
907 KAR 1:025E	285	6-30-98	Amended	393	
Withdrawn		1-15-99	As Amended	811	10-1-98
Resubmitted	1844	1-15-99	11 KAR 12:060		
907 KAR 1:635E	790	9-1-98	Amended	395	
Replaced	2173	3-17-99	As Amended	812	
907 KAR 1:755E	793	9-1-98	Reprint	991	10-1-98
Expired		3-20-99	11 KAR 12:070		
907 KAR 3:065E	48	5-15-98	Amended	397	
Expired		12-18-98	As Amended	812	10-1-98
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	
908 KAR 3:160E	2353	3-9-99	As Amended	813	10-1-98
921 KAR 2:015E	1862	1-14-99	11 KAR 14:030	454	
			As Amended	814	10-1-98
			11 KAR 14:040	456	
			As Amended	814	10-1-98
			11 KAR 14:050	457	
			As Amended	815	10-1-98
			11 KAR 14:060	459	
			As Amended	815	10-1-98
			11 KAR 14:070	460	
			As Amended	815	10-1-98
			11 KAR 14:080	462	
			As Amended	815	10-1-98
			11 KAR 15:010	464	
			As Amended	816	10-1-98
ORDINARY ADMINISTRATIVE REGULATIONS:					
2 KAR 2:010					
Amended	1425				
As Amended	1868	2-18-99			
2 KAR 2:020					
Amended	1426				
As Amended	1868	2-18-99			
2 KAR 3:031	2476				
2 KAR 2:040					
Amended	1427				
As Amended	1868	2-18-99			

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Regulation Number	25 Ky.R Page No.	Effective Date	Regulation Number	25 Ky.R. Page No.	Effective Date
11 KAR 15:020	465		30 KAR 4:010	1259	
As Amended	817	10-1-98	As Amended	1869	2-18-99
11 KAR 15:030	467		31 KAR 4:120	1260	1-19-99
As Amended	817	10-1-98	31 KAR 4:130	1261	1-19-99
11 KAR 15:040	468		32 KAR 2:050		
As Amended	818	10-1-98	Amended	1092	
Amended	2923		As Amended	1581	1-19-99
11 KAR 15:050	470		32 KAR 2:210		
As Amended	818	10-1-98	Amended	1680	
11 KAR 15:060	472		As Amended	2125	3-19-99
As Amended	819	10-1-98	40 KAR 2:070		
11 KAR 15:070	474		Amended	1093	
As Amended	819	10-1-98	As Amended	1581	1-19-99
12 KAR 1:115			40 KAR 2:075	1263	
Amended	1943		As Amended	1582	1-19-99
As Amended	2355	4-14-99	40 KAR 2:076	1265	
12 KAR 2:031			As Amended	1584	1-19-99
Amended	892		40 KAR 6:010	1265	1-19-99
As Amended	2355	4-14-99	101 KAR 1:325		
12 KAR 2:041			Amended	398	10-12-98
Amended	1087		103 KAR 1:050	2687	
As Amended	2355	4-14-99	103 KAR 7:010		
12 KAR 2:046			Repealed	677	10-22-98
Amended	893		103 KAR 7:011	677	10-22-98
As Amended	2356	4-14-99	103 KAR 7:020		
12 KAR 2:051			Repealed	677	10-22-98
Amended	894		103 KAR 20:020	2226	
As Amended	2357	4-14-99	Expired*		4-15-99
12 KAR 2:056			103 KAR 44:060	1743	
Amended	894		As Amended	2126	2-25-99
Withdrawn		3-9-99	105 KAR 1:170		
12 KAR 2:061			Amended	589	11-20-98
Amended	895		105 KAR 1:205	2227	5-19-99
As Amended	2357	4-14-99	105 KAR 1:230		
12 KAR 2:066			Amended	901	
Amended	897		As Amended	1351	11-24-98
As Amended	2358	4-14-99	109 KAR 9:010		
12 KAR 3:012			Amended	2182	
Amended	1088		109 KAR 13:010		
As Amended	2359	4-14-99	Amended	2184	
12 KAR 3:017			As Amended	2545	
Amended	1090		200 KAR 5:021		
As Amended	2361	4-14-99	Amended	903	2-18-99
12 KAR 3:022			200 KAR 5:340	2709	
Amended	898		200 KAR 6:060	946	12-17-98
As Amended	2362	4-14-99	200 KAR 7:010		
12 KAR 3:027			Repealed	139	9-8-98
Amended	899		200 KAR 7:011	139	9-8-98
As Amended	2363	4-14-99	200 KAR 15:010		
12 KAR 3:037			Amended	400	10-22-98
Amended	900		200 KAR 21:010		
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12 KAR 3:042			201 KAR 21:030		
Amended	1091		Amended	2649	
As Amended	2364	4-14-99	201 KAR 2:010		
13 KAR 2:020			Amended	2925	
Amended	1428		201 KAR 2:015		
Amended	1899		Amended	904	
As Amended	2118	3-1-99	Died		11-11-98
13 KAR 2:045			201 KAR 2:030		
Amended	2177		Amended	906	
Amended	2577		Died		11-11-98
As Amended	2827		Amended	2185	
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Amended	1903				
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Died		11-11-98	201 KAR 14:040		
Amended	2187		Amended	2428	
As Amended	2832		As Amended	2836	
201 KAR 2:050			201 KAR 14:055		
Amended	908		Amended	2429	
Died		11-11-98	Withdrawn		5-6-99
Amended	2188		201 KAR 14:090		
As Amended	2834		Amended	2430	
201 KAR 2:095			As Amended	2837	
Amended	2926		201 KAR 14:180	1482	2-12-99
201 KAR 2:165			201 KAR 15:030		
Amended	1944		Amended	592	
As Amended	2545	5-19-99	As Amended	1030	11-13-98
201 KAR 2:185			201 KAR 18:010		
Amended	1945		Amended	2928	
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201 KAR 6:010			Amended	2929	
Repealed	1268	1-19-99	201 KAR 18:071	2983	
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201 KAR 6:020	678		Amended	2930	
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201 KAR 6:040	680		201 KAR 18:110		
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201 KAR 6:050	681		201 KAR 18:120		
As Amended	1585	1-19-99	Amended	2932	
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As Amended	1585	1-19-99	Amended	592	
201 KAR 6:070	682		As Amended	1030	11-18-98
As Amended	1586	1-19-99	201 KAR 20:090		
201 KAR 6:080	685		Repealed	1031	11-18-98
As Amended	1587	1-19-99	201 KAR 20:091	689	
201 KAR 6:090	686		As Amended	1031	11-18-98
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201 KAR 8:140			Amended	594	
Amended	590		As Amended	1031	11-18-98
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201 KAR 8:440	475		Amended	596	
As Amended	819	9-16-98	As Amended	1032	11-18-98
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Amended	2927		Amended	597	
201 KAR 9:084			As Amended	1033	11-18-98
Amended	2422		201 KAR 20:370		
201 KAR 9:175			Amended	598	
Amended	2423		As Amended	1034	11-18-98
201 KAR 9:310			Amended	1945	4-21-99
Amended	2427		201 KAR 20:400		
201 KAR 9:320	687		Amended	2189	
As Amended	2834		As Amended	2546	5-19-99
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201 KAR 9:335	2230		201 KAR 20:430	2233	
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Amended	1433		201 KAR 25:031		
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201 KAR 11:230			As Amended	2838	
Amended	1681	4-14-99	201 KAR 26:121		
201 KAR 11:400			Amended	403	
Amended	1683		As Amended	820	9-16-98
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As Amended	823	9-16-98	301 KAR 2:178		
201 KAR 26:180			Amended	2655	
Amended	407		301 KAR 2:179	486	
As Amended	823	9-16-98	As Amended	835	10-16-98
201 KAR 26:215			Amended	2661	
Amended	408	9-16-98	301 KAR 2:181	1271	1-19-99
201 KAR 34:030	476		301 KAR 2:182	2984	
As Amended	824	10-12-98	301 KAR 2:221		
201 KAR 34:040	476		Amended	1695	
As Amended	826	10-12-98	As Amended	2137	3-10-99
201 KAR 35:030	947		301 KAR 2:222		
As Amended	2128	3-17-99	Amended	1697	
201 KAR 35:040	949		As Amended	2138	3-10-99
As Amended	2131	3-17-99	301 KAR 2:223		
201 KAR 36:020	480		Amended	1700	3-10-99
As Amended	828	9-16-98	301 KAR 2:225		
201 KAR 36:030	481		Amended	1095	1-19-99
As Amended	829	9-16-98	301 KAR 2:226	1746	3-10-99
201 KAR 36:040	483		301 KAR 2:251		
As Amended	831	9-16-98	Amended	1435	2-10-99
201 KAR 36:050	485		301 KAR 5:020		
As Amended	832	9-16-98	Amended	600	
202 KAR 3:010			As Amended	1035	11-18-98
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202 KAR 3:020			Amended	602	
Amended	2933		As Amended	1036	11-18-98
202 KAR 3:030			301 KAR 6:005	1272	1-19-99
Amended	584		301 KAR 6:050		
As Amended	834	10-12-98	Repealed	2035	4-14-99
202 KAR 5:010	1269		301 KAR 6:051	2035	4-14-99
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301 KAR 1:058			302 KAR 20:040		
Amended	1684	3-10-99	Amended	415	10-16-98
301 KAR 1:090			302 KAR 20:051	488	
Amended	409		Withdrawn		10-9-98
As Amended	834	10-16-98	307 KAR 6:010	2035	3-19-99
301 KAR 1:140			401 KAR 5:002	690	11-18-98
Amended	1686	3-10-99	401 KAR 5:009	701	
301 KAR 1:155			Amended	1061	11-19-98
Amended	410		401 KAR 47:110		
As Amended	834	10-16-98	Amended	2433	
301 KAR 1:201			401 KAR 48:320	2476	
Amended	411	10-16-98	401 KAR 50:010		
301 KAR 2:020			Amended	1437	
Repealed		4-6-95	As Amended	2839	
301 KAR 2:049			401 KAR 51:001		
Amended	1688		Amended	1442	4-14-99
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Amended	2651		401 KAR 51:100	2712	
301 KAR 2:111			401 KAR 51:110	2713	
Amended	2934		401 KAR 51:120	2717	
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Amended	1690		Amended	2582	
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301 KAR 2:142			Amended	2584	
Amended	1692		401 KAR 59:001		
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301 KAR 2:144			As Amended	2844	
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301 KAR 2:172					
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401 KAR 63:001			As Amended	2863	
Amended	1454		415 KAR 1:100		
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401 KAR 63:002	2046		As Amended	2865	
Amended	2591		415 KAR 1:110		
401 KAR 63:021			Amended	1114	
Amended	603	1-19-99	Amended	1919	
401 KAR 63:022			As Amended	2552	5-19-99
Repealed	711	1-19-99	415 KAR 1:114		
401 KAR 63:024	711	1-19-99	Amended	1119	
401 KAR 63:105	1483		As Amended	2866	
As Amended	2367	4-14-99	415 KAR 1:116	1272	
401 KAR 65:001			Amended	1925	
Amended	1458		As Amended	2558	5-19-99
As Amended	2855		415 KAR 1:120		
401 KAR 68:010	1747		Amended	1122	
Amended	2400		415 KAR 1:130		
As Amended	2857		Amended	1128	
401 KAR 68:020	1748		As Amended	2868	
Amended	2401		415 KAR 1:135	1274	
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401 KAR 68:048	1750		415 KAR 1:140	2052	
Amended	2402		As Amended	2871	
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401 KAR 68:065	1751		Amended	2938	
Amended	2404		418 KAR 1:030		
As Amended	2859		Amended	2940	
401 KAR 68:090	1753		418 KAR 1:040		
Amended	2405		Amended	2942	
As Amended	2859		418 KAR 1:050		
401 KAR 68:100	1754		Amended	2944	
Amended	2407		418 KAR 1:060		
As Amended	2859		Amended	2946	
401 KAR 68:150	1756		418 KAR 1:070		
Amended	2408		Amended	2948	
As Amended	2860		500 KAR 11:001		
401 KAR 68:200	1757		Recodified as 820 KAR 1:001		2-23-99
Amended	2409		500 KAR 11:010		
As Amended	2860		Recodified as 820 KAR 1:010		2-23-99
402 KAR 3:020	1759		500 KAR 11:015		
Amended	2411	5-19-99	Recodified as 820 KAR 1:015		2-23-99
402 KAR 3:030	1761	5-19-99	500 KAR 11:020		
405 KAR 7:097	2048		Recodified as 820 KAR 1:020		2-23-99
Amended	2594		500 KAR 11:025		
As Amended	2861		Recodified as 820 KAR 1:025		2-23-99
405 KAR 10:010			500 KAR 11:030		
Amended	2935		Recodified as 820 KAR 1:030		2-23-99
415 KAR 1:050			500 KAR 11:040		
Amended	1097		Recodified as 820 KAR 1:040		2-23-99
As Amended	2547	5-19-99	500 KAR 11:050		
415 KAR 1:060			Recodified as 820 KAR 1:050		2-23-99
Amended	1099		500 KAR 11:060		
Amended	1906		Recodified as 820 KAR 1:060		2-23-99
As Amended	2548	5-19-99	500 KAR 11:070		
415 KAR 1:070			Recodified as 820 KAR 1:070		2-23-99
Amended	1102		500 KAR 11:080		
Amended	1909		Recodified as 820 KAR 1:080		2-23-99
As Amended	2550	5-19-99	500 KAR 11:100		
415 KAR 1:080			Recodified as 820 KAR 1:100		2-23-99
Amended	1104		500 KAR 11:110		
Amended	1912		Recodified as 820 KAR 1:110		2-23-99
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			Recodified as 820 KAR 1:120		2-23-99

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501 KAR 1:050			As Amended	1872	2-18-99
Amended	610		505 KAR 1:040		
As Amended	1037	11-20-98	Amended	909	
501 KAR 2:070	713		As Amended	1872	2-18-99
As Amended	1355	12-17-98	505 KAR 1:050	1486	
501 KAR 6:020			As Amended	1874	2-18-99
Amended	611		505 KAR 1:060	1488	
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Amended	1461	2-18-99	505 KAR 1:070	1490	
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Amended	2435		505 KAR 1:080	2985	
501 KAR 6:040			600 KAR 3:030	2235	
Amended	125	10-12-98	Amended	2598	
Amended	2669		As Amended	2881	
501 KAR 6:060			600 KAR 5:010		
Amended	2670		Amended	615	
501 KAR 6:070			As Amended	1038	11-20-98
Amended	2950		600 KAR 6:010		
501 KAR 6:090			Amended	1952	
Amended	2437		As Amended	2559	5-4-99
501 KAR 6:110			600 KAR 6:050		
Amended	126	10-12-98	As Amended	836	10-6-98
Amended	2438		600 KAR 6:060		
501 KAR 6:120			As Amended	837	10-6-98
Amended	2672		600 KAR 6:065	2067	
501 KAR 6:140			Amended	2412	
Amended	1948	4-14-99	As Amended	2560	5-4-99
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501 KAR 6:170			Amended	1954	
Amended	1950	4-14-99	Amended	2413	
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501 KAR 6:200	2057		As Amended	839	10-6-98
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501 KAR 6:210	2058		Amended	2190	
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Amended	1463	2-18-99	Amended	2194	5-4-99
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Repealed	490	10-12-98	Amended	418	
501 KAR 8:011	490	10-12-98	Amended	871	
501 KAR 14:010	713		As Amended	1877	
As Amended	1038	11-20-98	As Amended	2367	4-14-99
502 KAR 12:010	2479		601 KAR 1:140		
502 KAR 31:020	1276		Amended	420	
As Amended	1590	1-19-99	As Amended	1039	11-20-98
503 KAR 1:060			601 KAR 1:145		
Amended	613		Amended	422	
As Amended	1870	2-18-99	Amended	873	
503 KAR 1:080			As Amended	1040	11-20-98
Amended	614		601 KAR 1:200		
As Amended	1871	2-18-99	Amended	1704	
503 KAR 1:100			As Amended	2140	3-2-99
Amended	1951		601 KAR 1:201	1762	
Withdrawn		4-12-99	As Amended	2146	3-2-99
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Amended	1130		Amended	875	
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603 KAR 4:035			As Amended	2569	5-3-99
Amended	2195		704 KAR 20:084		
As Amended	2882		Amended	2205	5-3-99
603 KAR 4:045	2237		704 KAR 20:305		
Amended	2599		Amended	429	
As Amended	2886		As Amended	841	10-1-98
603 KAR 4:050	1765		704 KAR 20:460		
Amended	2419		Amended	1144	
As Amended	2568		As Amended	1601	1-19-99
603 KAR 4:055	1767		704 KAR 20:470		
Amended	2420		Amended	2953	
As Amended	2888		704 KAR 20:690		
603 KAR 7:080	1492		Amended	129	9-3-98
As Amended	2889		704 KAR 20:700		
701 KAR 5:020			Amended	910	
Repealed	1279	1-19-99	As Amended	1357	12-3-98
701 KAR 5:021	1279	1-19-99	704 KAR 20:710		
701 KAR 5:120	1279	1-19-99	Amended	619	
702 KAR 3:060			As Amended	1046	11-5-98
Amended	617		704 KAR 20:720	1283	
As Amended	1045	11-5-98	As Amended	1602	1-19-99
702 KAR 3:110			705 KAR 4:240	1284	1-19-99
Amended	618	11-5-98	707 KAR 1:150		
702 KAR 4:150			Amended	2207	
Repealed	1281	1-19-99	As Amended	2897	
702 KAR 4:151	1281	1-19-99	707 KAR 1:270	1771	
702 KAR 6:100	1768		As Amended	2153	3-1-99
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702 KAR 7:065			Amended	2955	
Amended	127		735 KAR 1:010		
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703 KAR 5:010	1281	1-19-99	As Amended	1358	12-3-98
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704 KAR 3:410			As Amended	2369	4-5-99
Amended	2200		750 KAR 2:010		
As Amended	2893		Amended	912	
704 KAR 3:420	2244		As Amended	1878	2-4-99
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As Amended	2150	3-1-99	772 KAR 1:020	141	9-3-98
704 KAR 7:070			772 KAR 1:030	142	9-3-98
Amended	1143	1-19-99	772 KAR 1:040	142	9-3-98
704 KAR 10:050			772 KAR 1:050	144	9-3-98
Repealed	1282	1-19-99	772 KAR 1:060	145	9-3-98
704 KAR 10:051	1282	1-19-99	772 KAR 1:070	146	9-3-98
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As Amended	2151	3-1-99	As Amended	844	10-1-98
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781 KAR 1:061			Amended	1927	
As Amended	566	9-3-98	As Amended	2153	3-19-99
781 KAR 1:070			803 KAR 25:026		
Amended	913		Amended	1176	
As Amended	1362	12-3-98	Amended	1667	
782 KAR 1:030			As Amended	1879	2-18-99
Amended	133		803 KAR 25:089		
As Amended	847	10-1-98	Amended	915	
782 KAR 1:040			As Amended	1362	11-18-98
Amended	136		803 KAR 25:170		
Withdrawn		8-31-98	Amended	1180	
785 KAR 1:010			As Amended	1883	2-18-99
Amended	2673		803 KAR 25:175		
787 KAR 1:200			Amended	1962	
Amended	914	12-17-98	As Amended	2371	4-14-99
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As Amended	147		Amended	1285	
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Amended	850		As Amended	1884	2-18-99
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Amended	880		Amended	1467	
803 KAR 2:306			Withdrawn		3-3-99
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803 KAR 2:307			Repealed	716	11-13-98
Amended	1153	1-19-99	804 KAR 4:195	716	11-13-98
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803 KAR 2:308			Amended	2675	
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803 KAR 2:310			Repealed	852	10-12-98
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803 KAR 2:311			As Amended	852	10-12-98
Amended	1158	1-19-99	806 KAR 9:240		
Amended	2447		Repealed	1048	11-20-98
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Amended	2457		As Amended	1363	12-17-98
803 KAR 2:403			806 KAR 17:170	1775	
Amended	1168	1-19-99	As Amended	2156	3-19-99
Amended	2458		806 KAR 17:180	961	
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808 KAR 1:031	1289	1-19-99	820 KAR 1:010		
808 KAR 1:060			Recodified from 500 KAR 11:010		2-23-99
Amended	1182	1-19-99	820 KAR 1:015		
808 KAR 1:070			Recodified from 500 KAR 11:015		2-23-99
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808 KAR 3:050			Recodified from 500 KAR 11:020		2-23-99
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808 KAR 6:005			Recodified from 500 KAR 11:025		2-23-99
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808 KAR 6:006	1290	1-19-99	Recodified from 500 KAR 11:030		2-23-99
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