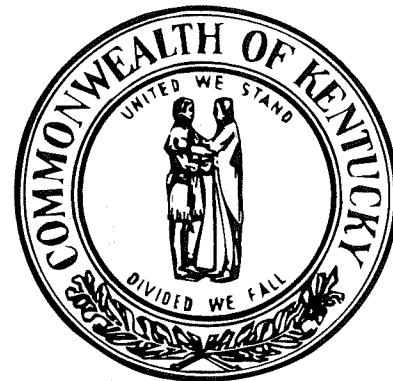


ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 26, NUMBER 5
MONDAY, NOVEMBER 1, 1999

ARRS - November Agenda	933
Regulation Review Procedure	936

REPRINT: (None)

NOTICES OF INTENT:

Board of Pharmacy	937
Board of Dentistry	937
Board of Marriage and Family Therapists	941
Board of Alcohol and Drug Counselors	941
Department of Fish and Wildlife Resources	942
NREPC - Air Quality	945
Justice Cabinet - Corrections	947
Transportation Cabinet	951
Department of Education	952
Cabinet for Health Services	953
Cabinet for Families and Children	954

EMERGENCIES:

Cabinet for Health Services	958
Cabinet for Families and Children	964

AS AMENDED:

Kentucky State Treasurer's Office	987
Revenue Cabinet	990
Department of Local Government	991
Finance and Administration Cabinet	993
Board of Veterinary Examiners	996
NREPC - Air Quality	998
Department of Education	1000
Education Professional Standards Board	1001
Labor Cabinet	1004
Department of Financial Institutions	1008
Cabinet for Health Services	1009
Cabinet for Families and Children	1017

AMENDED AFTER HEARING:

Department of Insurance	1019
-------------------------------	------

**PROPOSED AMENDMENTS RECEIVED THROUGH NOON,
OCTOBER 15, 1999:**

Personnel Board	1021
Board of Pharmacy	1023
Board of Speech-Language Pathology and Audiology	1024
Department of Fish and Wildlife Resources	1028
Justice Cabinet - Corrections	1031
Transportation Cabinet	1032
Education Professional Standards Board	1035
Department of Housing, Buildings and Construction	1046

**NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH
NOON, OCTOBER 15, 1999:**

Justice Cabinet - Corrections	1053
Department of Education	1054
Cabinet for Health Services	1055

October 12, 1999 Minutes of the ARRS	1058
Other Committee Reports	1063

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates	E - 2
KRS Index	E - 12
Subject Index	E - 18

MEETING NOTICE

The Administrative Regulation Review Subcommittee is **tentatively** scheduled to meet on November 9, 1999, at 10:30 a.m. in Room 149 of the Capitol Annex. See **tentative agenda** on pages 933-935 of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 1999 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE**.

HOW TO CITE: Cite all material in the **ADMINISTRATIVE REGISTER OF KENTUCKY** by Volume number and Page number. Example: Volume 26, Kentucky Register, page 318 (short form: 26 Ky.R. 318).

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

ADMINISTRATIVE REGISTER OF KENTUCKY

(ISSN 0096-1493)

c 1999 Legislative Research Commission, All Rights Reserved

The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: \$48 (plus 6% Kentucky sales tax) per year for 12 issues, beginning in July and ending with the June issue of the subsequent year. Second class postage paid at Frankfort, Kentucky. POSTMASTER: Send address changes to Administrative Register of Kentucky, Room 64, State Capitol, Frankfort, Kentucky 40601.

KENTUCKY LEGISLATIVE RESEARCH COMMISSION

Chairmen

Senator Larry Saunders
Senate President

Representative Jody Richards
House Speaker

Senate and House Members

Senator Joey Pendleton
President Pro Tem

Representative Larry Clark
Speaker Pro Tem

Senator David K. Karem
Majority Floor Leader

Representative Gregory D. Stumbo
Majority Floor Leader

Senator Davie Williams
Minority Floor Leader

Representative Danny R. Ford
Minority Floor Leader

Senator Gary Johnson
Majority Caucus Chairman

Representative Jim Callahan
Majority Caucus Chairman

Senator Charlie Borders
Minority Caucus Chairman

Representative Jeffrey Hoover
Minority Caucus Chairman

Senator Walter Blevins
Majority Whip

Representative Joe Barrows
Majority Whip

Senator Elizabeth Tori
Minority Whip

Representative Woody Allen
Minority Whip

Robert Sherman, Director

Samuel L. Hensley, Assistant Director for Education and Information

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Members

Representative John A. Arnold, Jr., Chairman
Senator Marshall Long
Senator Joey Pendleton
Senator Richard L. "Dick" Roeding
Representative Woody Allen
Representative Jim Bruce
Representative Jimmie Lee

Staff

Ellen Benzing
Donna Little
Edna Lowery
Stephen Lynn
Dave Nicholas
Angela Phillips
Donna Valencia
Susan Wunderlich

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA – November 9, 1999 at 10:30 a.m. in Room 149, Capitol Annex**

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Kentucky Loan Program

11 KAR 3:100. Administrative wage garnishment.

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

Travel Expense and Reimbursement

200 KAR 2:006 & E. Employees' reimbursement for travel.

BOARDS

Board of Pharmacy

201 KAR 2:020 & E. Examinations. (Deferred from October)
201 KAR 2:095. Dispensing responsibilities. (Deferred from September)

Board of Licensure for Nursing Home Administrators

201 KAR 6:020. Other requirements for licensure.
201 KAR 6:060. Fees.

Board of Medical Licensure

201 KAR 9:175. Physician assistants; certification and supervision. (Deferred from June)
201 KAR 9:310. Continuing medical education. (Deferred from June)

Board of Speech-Language Pathology and Audiology

201 KAR 17:011. Requirements for interim licensure.
201 KAR 17:013. Repeal of 201 KAR 17:010, 201 KAR 17:080, and 201 KAR 17:091.
201 KAR 17:015. Board members, expenses.
201 KAR 17:025. Requirements for an interim license as a speech-language pathology assistant.
201 KAR 17:027. Supervision requirements for a speech-language pathology assistant.
201 KAR 17:041. Professional code of ethics.
201 KAR 17:070. Complaint procedure.
201 KAR 17:090. Continuing education requirements.

KENTUCKY LOTTERY CORPORATION

Corporation

202 KAR 3:020. Procurement procedures. (Deferred from July)

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

Game

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

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

Water Quality (Deferred from October)

401 KAR 5:002. Definitions for 401 KAR Chapter 5. (Amended After Hearing)
401 KAR 5:026. Designation of uses of surface waters. (Amended After Hearing)
401 KAR 5:029. General provisions. (Amended After Hearing)
401 KAR 5:030. Antidegradation policy implementation methodology. (Amended After Hearing)
401 KAR 5:031. Surface water standards. (Amended After Hearing)

**JUSTICE CABINET
Department of Corrections
Division of Local Facilities**

Jail Standards for Full-Service Facilities (Deferred from August)

501 KAR 3:010. Definitions.
501 KAR 3:040. Personnel.
501 KAR 3:060. Security; control.
501 KAR 3:070. Safety; emergency procedures.
501 KAR 3:110. Classification.
501 KAR 3:120. Admission; release.
501 KAR 3:140. Inmate rights.

Division of Adult Institutions

Office of the Secretary

501 KAR 6:030. Kentucky State Reformatory.
501 KAR 6:040. Kentucky State Penitentiary.
501 KAR 6:060. Northpoint Training Center.
501 KAR 6:170. Green River Correctional Complex.

Division of Local Facilities

Restricted Custody Center (Deferred from August)

501 KAR 7:010. Definitions.
501 KAR 7:020. Administration; management.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

501 KAR 7:040. Personnel.
501 KAR 7:050. Physical plant.
501 KAR 7:060. Security; control.
501 KAR 7:080. Sanitation; hygiene.
501 KAR 7:120. Admission; release.
501 KAR 7:140. Inmate rights.

Direct Supervision for Full-Service Jails (Deferred from August)

501 KAR 10:010. Definitions.
501 KAR 10:040. Personnel.
501 KAR 10:060. Security; control.
501 KAR 10:070. Safety; emergency procedures.
501 KAR 10:110. Classification.
501 KAR 10:120. Admission; release.
501 KAR 10:140. Inmate rights.

Department of State Police

Sex Offender Registration System

502 KAR 31:020 & E. Sex offender registration system. (Deferred from September)

Kentucky Law Enforcement Council

503 KAR 1:110E. Department of Criminal Justice Training basic training: graduation requirements; records. (Deferred from October)

Department of Criminal Justice Training

General Training Provision

503 KAR 3:010. Basic law enforcement training course recruit conduct requirements; procedures and penalties.

Law Enforcement Foundation Program Fund

503 KAR 5:090E. Participation: requirements; application; withdrawal. (Deferred from October)

Department of Juvenile Justice

Child Welfare

505 KAR 1:040. Policy and procedures manual.

EDUCATION, ARTS, AND HUMANITIES CABINET

Education Professional Standards Board

704 KAR 20:210 & E. Substitute teachers and emergency school personnel.

Department for Libraries and Archives

Division of Field Services

Libraries

725 KAR 2:060. Certification of public librarians.
725 KAR 2:070. Certification renewal of public librarians.

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Board of Regents (Deferred from September)

739 KAR 1:010E. Acquisition and disbursement of funds, accounting system - records and annual report.
739 KAR 1:020E. Delegation of financial management responsibility.
739 KAR 1:030E. Annual audit.
739 KAR 1:040E. Purchase - inventories - sale of surplus property procedures.
739 KAR 1:050E. Affiliated corporations.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Insurance

Agents, Consultants, Solicitors and Adjusters

806 KAR 9:190. Disclosure requirements for financial institution authorized to engage in insurance agency activities. (Amended After Hearing)

Health Insurance Contracts (Deferral Requested)

806 KAR 17:066 & E. Medicare supplement insurance policies. (Not Amended After Hearing))
806 KAR 17:205E. High-cost condition codes and severity questionnaire. (Deferred from September)

Department of Financial Institutions

Administration

808 KAR 1:140. Bank annual assessment fee.

Securities

808 KAR 10:260. Examination requirement for individuals advising the public on securities, broker-dealers, and agents.

Department of Housing, Buildings and Construction

Office of State Fire Marshal

Electrical Inspectors

815 KAR 35:015E. Certification of electrical inspectors. (Deferred from October)

Department of Charitable Gaming

Charitable Gaming

820 KAR 1:015. Permanent licensure. (Deferred from August)

CABINET FOR HEALTH SERVICES

Department for Public Health

Health Services and Facilities

902 KAR 20:240. Comprehensive physical rehabilitation hospital services. (Deferred from July) (Deferred from September)
902 KAR 20:275. Mobile health services. (Amended After Hearing)

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

Division of Adult and Child Health

Controlled Substances

- 902 KAR 55:020E. Schedule II substances.
- 902 KAR 55:025E. Schedule III substances.
- 902 KAR 55:030. Schedule IV substances.
- 902 KAR 55:045. Exempt prescription products.
- 902 KAR 55:090. Exempt anabolic steroid products.

Department for Medicaid Services

Division of Member and Provider Services

Medicaid Services

- 907 KAR 1:011E. Technical eligibility requirements. (Deferred from September)
- 907 KAR 1:013E. Payments for hospital inpatient services. (Deferred from October)
- 907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services. (Deferred from October)
- 907 KAR 1:060. Medical transportation. (Public Hearing)
- 907 KAR 1:061. Payments for medical transportation. (Public Hearing)
- 907 KAR 1:155E. Payments for supports for community living services for individuals with mental retardation or developmental disabilities. (Deferred from September)
- 907 KAR 1:640E. Income standards for Medicaid. (Deferred from September)
- 907 KAR 1:675. Program integrity.

Kentucky Children's Health Insurance Program

- 907 KAR 4:020E. Kentucky Children's Health Insurance Program Title XXI of the Social Security Act. (Deferred from September)

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 1998)
- 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 1998)
- 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 1998)

CABINET FOR FAMILIES AND CHILDREN

Department for Community Based Services

Family Support

Child Support

- 921 KAR 1:380. Child Support Program application process.

Energy Assistance Program/Weatherization

- 921 KAR 4:120E. Summer Cooling Program.

Protection and Permanency

Day Care

- 922 KAR 2:090E. Child care facility licensure.

OTHER BUSINESS

1.

Cabinet for Health Services - On-site Sewage Disposal Systems

- 902 KAR 10:081. Construction standards for components of on-site sewage disposal systems.
- 902 KAR 10:085. Kentucky on-site sewage disposal systems.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999
ADMINISTRATIVE REGULATION REVIEW PROCEDURE
(See KRS Chapter 13A for specific provisions)

Notice of Intent

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

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

Filing and Publication

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

Public Hearing

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

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

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

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

Review Procedure

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

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

BOARD OF PHARMACY

October 6, 1999

- (1) **201 KAR 2:030.** License transfer.
- (2) The Kentucky Board of Pharmacy intends to amend an administrative regulation, 201 KAR 2:030 relating to the method by which a pharmacist may obtain a license in the Commonwealth through license transfer.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 29, 1999 at 11:20 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 November 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: Mr. Michael A. Moné, Executive Director, Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601, (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 methods by which a pharmacist may obtain licensure by license transfer is found at KRS 315.210 and 315.191(1)(a).
- (b) The amendment to the administrative regulation that the Board of Pharmacy intends to promulgate will clarify its requirement of active practice in another jurisdiction as a condition precedent to license transfer.
- (c) The necessity, function, and conformity of the proposed amendment to the administrative regulation is as follows: KRS 315.210 authorizes the Board of Pharmacy to promulgate administrative regulations to establish the method by which a pharmacist may obtain a license to practice the profession of pharmacy in the Commonwealth through an exchange of a license from another jurisdiction.
- (d) The benefit expected from the amendment to the administrative regulation is a greater degree of certainty that applicants for license transfer will have practiced a minimum of 1500 hours in the jurisdiction from which the pharmacist intends to transfer the license.
- (e) The amendment to the administrative regulation will be implemented as follows: The board proposes to require the license transfer applicant to have actively worked as a pharmacist for not less than 1500 hours during the year preceding license transfer.
- (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 November 19, 1999.

KENTUCKY BOARD OF DENTISTRY

September 11, 1999

- (1) **201 KAR 8:006.** Advertising. This proposed amended administrative regulation establishes the manner in which a dentist may advertise.
- (2) The Kentucky Board of Dentistry 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 November 24, 1999, at 3 p.m., at the board office, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to November 24, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223-3822, Phone: (502) 423-0573, Fax: (502) 423-1239.
- (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 Gary Munsie 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 advertising is KRS 313.220(4) which mandates that the board regulate the practice of dentistry, which is further defined in KRS 313.010(2) to include advertising to perform dentistry.
- (b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will establish the manner in which a dentist may advertise.
- (c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish the manner in which a dentist may advertise.
- (d) The benefit expected from this amended administrative regulation is that the public will be protected from false, misleading, or deceptive advertising.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

tive advertising.

(e) The regulation will be implemented by the board and board staff who are charged with overseeing the regulation of the practice of dentistry.

September 11, 1999

(1) **201 KAR 8:130.** X-rays by dental assistants. This proposed amended administrative regulation establishes the requirements for unlicensed dental assistants to take radiographs.

(2) The Kentucky Board of Dentistry 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 November 24, 1999, at 3 p.m., at the board office, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to November 24, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223-3822, Phone: (502) 423-0573, Fax: (502) 423-1239.

(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 Gary Munsie 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 advertising is KRS 313.220(4) which mandates that the board regulate the practice of dentistry, including the use of dental auxiliary personnel (also known in the profession as dental assistants).

(b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will establish the requirements for unlicensed dental assistants to take radiographs.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish the requirements for unlicensed dental assistants to take radiographs.

(d) The benefit expected from this amended administrative regulation is that the public will be protected by requiring unlicensed dental assistants to have minimal training to take radiographs.

(e) The regulation will be implemented by the board and board staff who are charged with overseeing the regulation of the practice of dentistry.

September 11, 1999

(1) **201 KAR 8:220.** Clinical examination. This proposed amended administrative regulation establishes the requirements for the clinical examination for licensure as a dentist.

(2) The Kentucky Board of Dentistry 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 November 24, 1999, at 3 p.m., at the board office, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to November 24, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223-3822, Phone: (502) 423-0573, Fax: (502) 423-1239.

(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 Gary Munsie 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 advertising is KRS 313.220(4) which mandates that the board regulate the practice of dentistry, and KRS 313.050 which mandates a clinical examination.

(b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will establish the requirements for the clinical examination for licensure as a dentist.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish the requirements for the clinical examination for licensure as a dentist.

(d) The benefit expected from this amended administrative regulation is that the broadening of clinical examination requirements of the board.

(e) The regulation will be implemented by the board and board staff who are charged with overseeing the regulation of the practice of dentistry and licensure of dentists.

September 11, 1999

(1) **201 KAR 8:277.** Written and clinical application grade requirements. This proposed amended administrative regulation establishes the requirements for the clinical examination for licensure as a dentist.

(2) The Kentucky Board of Dentistry intends to promulgate the administrative regulation cited above.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

(3) A public hearing to receive oral and written comments on the notice of intent has been scheduled for November 24, 1999, at 3 p.m., at the board office, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223.

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to November 24, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223-3822, Phone: (502) 423-0573, Fax: (502) 423-1239.

(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 Gary Munsie 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 advertising is KRS 313.220(4) which mandates that the board regulate the practice of dentistry, and KRS 313.050 which mandates a clinical examination.

(b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will establish the requirements for the clinical examination for licensure as a dentist.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will establish the requirements for the clinical examination for licensure as a dentist.

(d) The benefit expected from this amended administrative regulation is that the broadening of clinical examination requirements of the board.

(e) The regulation will be implemented by the board and board staff who are charged with overseeing the regulation of the practice of dentistry and licensure of dentists.

September 11, 1999

(1) **201 KAR 8:286.** Repeal of 201 KAR 8:285, Hygienists' continuing education points for license renewal. This proposed amended administrative regulation repeals the separate regulation for dental hygienists' continuing education points for license renewal which is now contained in 201 KAR 8:140 for dentists and dental hygienists.

(2) The Kentucky Board of Dentistry 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 November 24, 1999, at 3 p.m., at the board office, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223.

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to November 24, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223-3822, Phone: (502) 423-0573, Fax: (502) 423-1239.

(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 Gary Munsie 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 advertising is KRS 313.220(4) which mandates that the board regulate the practice of dentistry, and KRS 313.305 which mandates continuing education be completed by dental hygienists as a condition of renewal of licensure.

(b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will repeal the separate regulation for dental hygienists' continuing education points for license renewal which is now contained in 201 KAR 8:140 for dentists and dental hygienists.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will repeal an out-of-date and otherwise duplicative regulation.

(d) The benefit expected from this amended administrative regulation is that the licensees of the board will have to comply with a single uniform regulation on continuing dental education and continuing dental hygiene education.

(e) The regulation will be implemented by the board and board staff who are charged with overseeing the regulation of the practice of dentistry and licensure of dentists and hygienists.

September 11, 1999

(1) **201 KAR 8:301.** Repeal of 201 KAR 8:300, County registration; hygienists. This proposed amended administrative regulation repeals the regulation requiring the registration of dental hygienists' licenses since the statute requiring that act, KRS 313.307, was repealed.

(2) The Kentucky Board of Dentistry 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 November 24, 1999, at 3 p.m., at the board office, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223.

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to November 24, 1999, the public hearing will be canceled.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223-3822, Phone: (502) 423-0573, Fax: (502) 423-1239.

(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 Gary Munsie 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 dental hygienists is KRS 313.260 which mandates that the board regulate the practice of dental hygiene.

(b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will repeal the separate regulation for dental hygienists that required registration of their licenses with the county clerk.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will repeal an out-of-date and otherwise duplicative regulation.

(d) The benefit expected from this amended administrative regulation is that the licensees of the board will not have to comply with a regulation based on a repealed statute.

(e) The regulation will be implemented by the board and board staff who are charged with overseeing the regulation of the practice of dentistry and practice of dental hygiene.

September 11, 1999

(1) **201 KAR 8:381.** Repeal of 201 KAR 8:380, Repayment contract; scholarship. This proposed amended administrative regulation repeals the regulation regarding the repayment of rural dental scholarships since the statutes providing for rural dental scholarships, KRS 211.440 and 211.450, were repealed.

(2) The Kentucky Board of Dentistry 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 November 24, 1999, at 3 p.m., at the board office, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223.

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to November 24, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223-3822, Phone: (502) 423-0573, Fax: (502) 423-1239.

(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 Gary Munsie at the address above.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the repayment of rural dental scholarships since the statutes providing for rural dental scholarships, KRS 211.440 and 211.450, were repealed, is KRS 313.220(4) which mandates that the board regulate the practice of dentistry in Kentucky.

(b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will repeal the regulation regarding the repayment of rural dental scholarships since the statutes providing for rural dental scholarships, KRS 211.440 and 211.450, were repealed.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will repeal an out-of-date regulation.

(d) The benefit expected from this amended administrative regulation is that the licensees of the board will not have to comply with a regulation based on a repealed statute.

(e) The regulation will be implemented by the board and board staff who are charged with overseeing the regulation of the practice of dentistry.

September 11, 1999

(1) **201 KAR 8:390.** General anesthesia, deep sedation, and conscious sedation by dentists. This proposed amended administrative regulation amends the regulation governing various anesthesia procedures by dentists.

(2) The Kentucky Board of Dentistry 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 November 24, 1999, at 3 p.m., at the board office, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223.

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to November 24, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223-3822, Phone: (502) 423-0573, Fax: (502) 423-1239.

(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.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

- (b) Persons who wish to file this request may obtain a request form from Gary Munsie at the address above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to the regulation governing various anesthesia procedures by dentists is KRS 313.220(4) which mandates that the board regulate the practice of dentistry.
- (b) The administrative regulation the Kentucky Board of Dentistry intends to promulgate will amend the regulation governing various anesthesia procedures by dentists.
- (c) The necessity and function of the proposed administrative regulation is as follows: This regulation will amend the regulation governing various anesthesia procedures by dentists.
- (d) The benefit expected from this amended administrative regulation is that the licensees of the board will have clearer requirements for administering various anesthesia procedures.
- (e) The regulation will be implemented by the board and board staff who are charged with overseeing the regulation of the practice of dentistry.

BOARD OF LICENSURE FOR MARRIAGE AND FAMILY THERAPISTS

September 17, 1999

- (1) **201 KAR 32:030. Fees.**
- (2) The Kentucky Board of Licensure for Marriage and Family Therapists 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 November 30, 1999 at 10 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.
- (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 November 30, 1999 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.
- (b) On a request for 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 an administrative body.
- (b) Persons who wish to file this request may obtain a request form from Nancy Black at the Division of Occupations and Professions at the address above.
- (7) Information relating to the proposed regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to the fees is KRS 335.330, 335.320(4), and 335.340(1), (3).
- (b) The administrative regulation the Board of Licensure for Marriage and Family Therapists intends to promulgate will establish licensure fees for marriage and family therapists and marriage and family therapist associates.
- (c) The necessity and function of the proposed administrative regulation is to establish the fees for licensure and renewal for marriage and family therapists as provided for in KRS 335.330. Additional provisions are set forth to establish a late renewal fee, a waiver of the renewal fee, and a fee for marriage and family therapist associates.
- (d) The benefit expected from this administrative regulation is increased clarity of the regulations and statutes pertaining to the Board of Licensure for Marriage and Family Therapists.
- (e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the definitions as outlined in the regulation.

KENTUCKY BOARD OF CERTIFICATION OF ALCOHOL AND DRUG COUNSELORS

October 12, 1999

- (1) **201 KAR 35:050. Curriculum of study.**
- (2) The Kentucky Board of Certification of Alcohol and Drug Counselors intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 29, 1999, at 10 a.m., at the Division of Occupations and Professions, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 - 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 - 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to November 29, 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 1360, Frankfort, Kentucky 40602-0456, Phone (502) 564-3296, FAX (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.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

- (a) The statutory authority for the promulgation of an administrative regulation relating curriculum of study is KRS 309.0813(1) and 309.083(5).
- (b) The administrative regulation that the Kentucky Board of Certification of Alcohol and Drug Counselors intends to promulgate will be a new regulation that will not amend an existing regulation. It will detail the classes that an applicant for must complete to be certified under KRS Chapter 309.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 309.083(5) provides that an applicant must have completed 270 classroom hours of board-approved curriculum to be eligible for certification. This regulation identifies the areas of study that will satisfy the requirement.
- (d) The benefit expected from this administrative regulation is that applicants will be able to identify and focus their classroom activities on study that will promote their professional competence.
- (e) This administrative regulation will be implemented as follows: Applicants for certification will be required to comply with this administrative regulation, and the Kentucky Board of Certification of Alcohol and Drug Counselors will enforce the administrative regulation.

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

October 15, 1999

- (1) **301 KAR 1:012**, Boating, swimming and water-skiing.
- (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 November 22, 1999 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 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 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 November 22, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400; FAX (502) 564-6508.
- (b) 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 13A.350 and 150.025.
 - (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 1:012 as follows: It will prohibit camping on certain department-owned or controlled property except as allowed by sign.
 - (c) The necessity and function of the proposed administrative regulation is to establish activities permitted on department-owned or controlled property.
 - (d) The benefits expected from the administrative regulation are: Better use of public property.
 - (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.

October 15, 1999

- (1) **301 KAR 1:075**, Gigging, grabbling, snagging, tickling and noodling.
- (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 November 22, 1999 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 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 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 November 22, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400; FAX (502) 564-6508.
- (b) 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 150.170, 150.175, 150.360, 150.440, 150.445, and 150.470.
 - (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 1:075 as follows: It will increase the season open to tickling and noodling.
 - (c) The necessity and function of the proposed administrative regulation is to establish the legal season for tickling and noodling.
 - (d) The benefits expected from the administrative regulation are: Increased angler opportunity for tickling and noodling.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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

October 15, 1999

- (1) **301 KAR 1:130.** Live bait for personal use.
- (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 November 22, 1999 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 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 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 November 22, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400; FAX (502) 564-6508.
- (b) 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 13A.350 and 150.025.
- (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 1:130 as follows: It will allow the use of cast nets on the following tributaries off of the Cumberland River: Crocus Creek (no closer than 50 yards from the mouth of the creek) and Marrowbone Creek.
- (c) The necessity and function of the proposed administrative regulation is to establish the permissible taking of bait for personal use.
- (d) The benefits expected from the administrative regulation are: Increased opportunities for anglers utilizing bait for personal use.
- (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.

October 15, 1999

- (1) **301 KAR 1:201.** Fishing limits.
- (2) The Department of Fish and Wildlife Resources intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 22, 1999 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 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 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 November 22, 1999 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400 or FAX (502) 564-6508.
- (b) In a request for a public hearing, a person shall state:
 1. "I agree to attend the public hearing"; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the department at the address listed above.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1) and 150.470.
- (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 1:201 as follows: It will establish an 18-inch size limit on smallmouth bass on Lake Cumberland and Laurel Lake.
- (c) The necessity and function of the proposed administrative regulation is to establish size, daily and possession limits for fishing.
- (d) The benefits expected from the administrative regulation are best management of the state's waters for recreational fishing.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the department's Division of Law Enforcement.

October 15, 1999

- (1) **301 KAR 2:081.** Pet and propagation permits.
- (2) The Department of Fish and Wildlife Resources intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 29, 1999 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 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 5 persons, or an administrative body, or an association having at least 5 members; and
 2. Minimums 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 November 29, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.
- (b) In a request for a public hearing, a person shall state:
 1. "I agree to attend the public hearing"; or

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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 150.170 and 150.180.

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:081 as follows: It will remove a definition of "wildlife" that is in conflict with current statutes, redefine wildlife which may or may not be held in captivity and establish holding specifications for confined native wildlife.

(c) The necessity and function of the proposed administrative regulation is to control the taking and holding of live of native wildlife.

(d) The benefits expected from the administrative regulation are protection of wildlife populations from over exploitation and assuring that wildlife is held under adequate conditions.

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

October 15, 1999

(1) **301 KAR 2:082.** Importing and holding exotic wildlife.

(2) The Department of Fish and Wildlife Resources intends to amend the above 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 November 29 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 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 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 is not received from the required number of people at least 10 days prior to November 29, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation an administrative regulation governing importing and holding wildlife is KRS 150.180(6) and 150.280.

(b) The administrative regulation will amend an existing administrative regulation. It will allow the importation and holding of exotic wildlife, except for certain species that could be injurious to native ecosystems and bring the current regulation in compliance with statute.

(c) The necessity and function of the proposed administrative regulation is to establish the procedure for obtaining a transportation permit for exotic wildlife and to prohibit the importation of certain species.

(d) The benefits expected from the administrative regulation are protection of native ecosystems from exotic species, and assisting local governments in the elimination of potential nuisances.

(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.

October 15, 1999

(1) **301 KAR 2:083.** Holding live cervids.

(2) The Department of Fish and Wildlife Resources intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 29, 1999 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 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 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 is not received from the required number of people at least 10 days prior to November 29, 1999, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation governing this subject is KRS 150.180.

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It is a new regulation that will establish the standards for holding members of the Cervidae family.

(c) The necessity and function of the proposed administrative regulation is to promote and maintain healthy native populations of wildlife.

(d) The benefit expected from the administrative regulation is the maintenance of healthy wildlife populations through the prevention of disease transmission and escaped exotic wildlife.

(e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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

October 15, 1999

- (1) **301 KAR 2:251**. Hunting and trapping seasons and limits for furbearers and small game.
- (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 November 22, 1999 at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, 5 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 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 November 22, 1999, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer Fetter Fields, Public Affairs/Policy, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400; FAX (502) 564-6508.
- (b) 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 13A.350 and 150.025.
 - (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 1:130 as follows: It will increase the falconry hunting season by setting a new ending date of March 30th.
 - (c) The necessity and function of the proposed administrative regulation is to establish the permissible season for hunting by falconry.
 - (d) The benefits expected from the administrative regulation are: Increased opportunities for those hunting by falconry.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the department's Division of Law Enforcement.

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

October 13, 1999

- (1) **401 KAR 50:039**, Repeal of 401 KAR 50:037. The subject matter of this administrative regulation is the repeal of 401 KAR 50:037, Emissions fee. This administrative regulation is no longer needed because it was replaced by 401 KAR 50:038, Air emissions fee, made effective April 12, 1995. The repealed administrative regulation will not be replaced by a new administrative regulation.
- (2) The Division for Air Quality 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 November 22, 1999, at 10 a.m. (Eastern Time), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if it is requested at least 10 calendar days prior to November 22, 1999, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members, provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to November 22, 1999, the public hearing will be canceled.
- (c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.
- (d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.
- (5)(a) Persons wishing to request a public hearing should mail or FAX this information to Millie Ellis, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3787. The phone number is (502) 573-3382, extension 338.
- (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 may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Division for Air Quality at the address listed above.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of this administrative regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 224.20-120.
 - (b) The administrative regulation that the Division for Air Quality intends to promulgate will repeal an existing regulation, 401 KAR 50:037, Emissions fee.
 - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. 401 KAR 50:037 will not be replaced by a new administrative regulation because emission fees are provided for in 401 KAR 50:038, that was made effective April 12, 1995.
 - (d) The expected benefit from this administrative regulation is that upon adoption 401 KAR 50:039 will repeal an expired administrative regulation.
 - (e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, the Regulations Compiler shall delete 401 KAR 50:039 and 401 KAR 50:037 from the Kentucky Administrative Regulations Service, as re-

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

quired by KRS 13A.310(3)(b).

October 13, 1999

(1) **401 KAR 51:056**, Repeal of 401 KAR 51:055. The subject matter of this administrative regulation is the repeal of 401 KAR 51:055, Emissions trading. It is being repealed because emissions trading is determined by source-specific revisions to Kentucky's State Implementation Plan (SIP), and, therefore, this administrative regulation was not approvable by the U.S. EPA. This administrative regulation is no longer needed and will not be replaced by a new administrative regulation.

(2) The Division for Air Quality 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 November 22, 1999, at 10 a.m. (Eastern Time), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

(4)(a) The public hearing will be held if it is requested at least 10 calendar days prior to November 22, 1999, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members, provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree to be present at the public hearing.

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

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing should mail or FAX this information to Millie Ellis, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3787. The phone number is (502) 573-3382, extension 338.

(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 may file a request to be informed by the administrative body.

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

(7) Information relating to the proposed administrative regulation.

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

(b) The administrative regulation that the Division for Air Quality intends to promulgate will repeal an existing regulation, 401 KAR 51:055, Emissions trading.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. 401 KAR 51:055 will not be replaced by a new administrative regulation because the requirements and provisions for emissions trading are determined by source-specific SIP revisions.

(d) The expected benefit from this administrative regulation is that upon adoption 401 KAR 51:055 will be repealed.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, the Regulations Compiler shall delete 401 KAR 51:056 and 401 KAR 51:055 from the Kentucky Administrative Regulations Service, as required by KRS 13A.310(3)(b).

October 13, 1999

(1) **401 KAR 59:311**, Repeal of 401 KAR 59:310. The subject matter of this administrative regulation is the repeal of 401 KAR 59:310, New nonmetallic mineral processing plants. The repealed administrative regulation will be replaced by a new administrative regulation, 401 KAR 60:670.

(2) The Division for Air Quality 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 November 22, 1999, at 10 a.m. (Eastern Time), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

(4)(a) The public hearing will be held if it is requested at least 10 calendar days prior to November 22, 1999, in writing, by 5 persons, or by an administrative body, or by an association having at least 5 members, provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree to be present at the public hearing.

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

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing should mail or FAX this information to Millie Ellis, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3787. The phone number is (502) 573-3382, extension 338.

(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 may file a request to be informed by the administrative body.

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

(7) Information relating to the proposed administrative regulation.

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

(b) The administrative regulation that the Division for Air Quality intends to promulgate will repeal an existing regulation, 401 KAR 59:310, New nonmetallic mineral processing plants.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. 401 KAR 59:310 will be replaced by a new administrative regulation, 401 KAR 60:670. The new administrative regulation will adopt the current federal new source performance standards in 40 CFR 60.670 to 60.676 (Subpart OOO), and will prescribe alternate compliance standards for an affected facility which is enclosed in a building that cannot be safely entered by inspectors.

(d) The expected benefit from this administrative regulation is that upon adoption 401 KAR 59:310 will be repealed and replaced by a new administrative regulation that is approvable by the U.S. EPA. The cabinet will then be granted delegation of authority for this source category.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, the Regulation Compiler shall delete 401 KAR 59:310 and 401 KAR 59:311 from the Kentucky Administrative Regulations Service, as required by KRS 13A.310(b). Owners and operators of sources subject to the standards and substitutions in 401 KAR 59:310 shall comply with 401 KAR 60:670 as part of the existing regulatory program.

October 13, 1999

(1) **401 KAR 60:670**, Standards of performance for nonmetallic mineral processing plants. The subject matter of this administrative regulation is the adoption of the federal new source performance standards (NSPS) for nonmetallic mineral processing plants, 40 CFR 60.670 to 60.676 (Subpart OOO), as published in the *Code of Federal Regulations*, July 1, 1998. Alternate compliance standards will also be provided for affected facilities which are enclosed in a building that cannot be safely entered by division inspection staff. This administrative regulation replaces 401 KAR 59:310 which is being repealed.

(2) The Division for Air Quality intends to promulgate a new administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 22, 1999, at 10 a.m. (Eastern Time), in the Conference Room of the Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky.

(4)(a) The public hearing will be held if it is requested at least 10 calendar days prior to November 22, 1999, in writing, by 5 persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of 5 persons, or 1 person representing an administrative body or association, agree to be present at the public hearing.

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

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least 10 calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing should mail or FAX this information to Millie Ellis, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601. The FAX number is (502) 573-3787. The phone number is (502) 573-3382, extension 338.

(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 may file a request to be informed by the administrative body.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 42 USC 7411.

(b) The new administrative regulation that the Division for Air Quality intends to promulgate will adopt 40 CFR 60.670 to 60.676 (Subpart OOO), as published in the *Code of Federal Regulations*, July 1, 1998. Alternative provisions for visible emissions and fugitive emission opacity will also be included in the new administrative regulation. Similar alternate provisions currently exist in 401 KAR 59:310, Section 2; however, the existing provisions are not approvable by the U.S. EPA. The cabinet intends to repeal 401 KAR 59:310 and replace it with this new administrative regulation.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation will adopt the federal NSPS and add alternative compliance standards that are approved by the U.S. EPA. The new administrative regulation will then be consistent with the federal NSPS, and the cabinet will be able to receive delegation of authority for this source category.

(d) The expected benefit from the new administrative regulation is that upon its adoption the standards and requirements for these sources will be current and approvable by the U.S. EPA, so that the cabinet will be granted delegation of authority for this source category.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, sources subject to 40 CFR 60.670 to 60.676 (Subpart OOO), shall comply with the provisions of 401 KAR 60:670 as part of the existing regulatory program.

JUSTICE CABINET Department of Corrections

October 13, 1999

(1) **501 KAR 6:050**, Luther Luckett 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 November 22, 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 November 22, 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

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

of Corrections, Tamela Biggs, Staff Attorney, Office of General Counsel, Room 200, State Office Building, Frankfort, Kentucky 40601, Phone (502) 564-2024, FAX (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 6:050, as follows:

1. Duty Officer Responsibilities (LLCC 01-12-01) shall be amended to reflect changes of personnel titles and reporting procedure.
2. Smoking: LLCC Facility (LLCC 01-13-01) shall be amended to reflected operational standards.
3. Fiscal Management: Agency Funds (LLCC 02-01-03) shall be amended to reflect changes in state agency accounting programs.
4. Fiscal Management: Insurance (LLCC 02-01-04) shall be amended to clarify the physical plan certificate.
5. Canteen Purchase Durable Items (LLCC 02-05-05) shall be established to clarify vendor orders.
6. Inmate Control of Personal Funds (LLCC 02-06-01) shall be established to relocate (LLCC 20-05-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers. No changes were made in the text.
7. Storage and Deposition of Monies Received on Weekends, Holidays and Between 4 p.m. and 8 a.m. Weekdays (LLCC 02-06-02) shall be amended to relocate (LLCC 20-05-02) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers. No changes were made in the text.
8. Offender Records (LLCC 06-01-01) shall be amended to clarify open records, access staff to records and LRC language requirements and to relocate from (LLCC 08-01-01) so LLCC chapters coincide with the Department of Corrections chapter numbers.
9. Storage of Void Disciplinary Records (LLCC 06-04-01) shall be amended to clarify language and to relocate from (LLCC 08-04-01) so LLCC chapters coincide with the Department of Corrections chapter numbers.
10. Psychological and Psychiatric Reports (LLCC 06-05-01) shall be amended to delete repetitive statute language and to relocate from (LLCC 08-05-01) so LLCC chapters coincide with the Department of Corrections chapter numbers.
11. Special Management Inmates (LLCC 10-01-01) shall be amended to comply with the American Correctional Standards language and to relocate from (LLCC 12-01-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
12. Dining Room Guidelines (LLCC 11-01-01) shall be amended to clarify language and to relocate from (LLCC 13-01-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
13. Food Service Meals (LLCC 11-04-01) shall be amended to clarify language and to relocate from (LLCC 13-04-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
14. Food Service: Menu, Nutrition and Special Diets (LLCC 11-04-02) shall be amended to clarify language and to relocate from (LLCC 13-04-02) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
15. Medical Screening of Food Handlers (LLCC 11-05-02) shall be amended to clarify the Food Service Manager's responsibilities and to relocate from (LLCC 13-05-02) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
16. Food Services: Inspections and Sanitation (LLCC 11-06-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 13-06-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
17. Food Services: Purchasing and Farm Products (LLCC 11-07-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 13-07-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
18. OJT Food Service Training Placement (LLCC 11-08-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 13-08-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
19. Sanitation, Living Condition Standards and Clothing Issues (LLCC 12-01-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 14-01-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
20. Health Maintenance Services: Sick Call and Pill Call (LLCC 13-01-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 15-01-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
21. Medical Services Co-Pay (LLCC 13-01-02) shall be established to reflect the operational standards.
22. Medication Receipt Storage, Dispensing, and Administration (LLCC 13-03-03) shall be totally revised to reflect the current operational standards, to comply with LRC language requirements and to relocate from (LLCC 15-03-03) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
23. Inmate-Self Administration of Medication (LLCC 13-03-04) shall be amended to comply with LRC language requirements and to relocate from (LLCC 15-03-04) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
24. Use of Psychotropic Medications (LLCC 13-03-05) shall be amended to clarify language and to relocate from (LLCC 15-03-05) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
25. Licensure and Training Standards (LLCC 13-05-02) shall be amended to comply with LRC language requirements and to relocate from (LLCC 15-05-02) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
26. Mental Health Services (LLCC 13-06-01) shall be established to reflect the operational standards.
27. Specialized Health Services (LLCC 13-06-02) shall be amended to reflect operational standards and to relocate from (LLCC 15-06-02) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
28. Emergency Medical Dental Care and Mental Health Services (LLCC 13-06-03) shall be amended to reflect operational standards and to relocate from (LLCC 15-06-03) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
29. First Aid and CPR Training Program (LLCC 13-06-04) shall be amended to comply with the American Correctional Association's Standards and to relocate from (LLCC 15-06-04) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
30. Health Records (LLCC 13-07-01) shall be amended to comply with the American Correctional Associations Standards and to relocate from (LLCC 15-07-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
31. Special Diets (LLCC 13-08-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 15-08-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
32. Inmate Medical Screenings and Health Evaluations (LLCC 13-10-01) shall be amended to reflect operational standards and to relocate from (LLCC 15-10-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.
33. Informed Consent (LLCC 13-14-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 15-14-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

34. Medical Restraints (LLCC 13-15-01) shall be amended to reflect operational standards and to relocate from (LLCC 15-15-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

35. Health Education and Special Health Programs (LLCC 13-16-01) shall be amended to comply with American Correctional Association Standards and to relocate from (LLCC 15-16-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

36. Serious and Infectious Diseases (LLCC 13-17-01) shall be amended to clarify language and to relocate from (LLCC 15-17-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

37. Inmate Rights and Responsibilities (LLCC 14-01-01) shall be amended to reflect operational standards and to relocate from (LLCC 16-01-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

38. Inmate Legal Services (LLCC 14-03-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 16-03-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

39. Institutional Inspections (LLCC 14-05-01) shall be deleted to avoid repetition of statute language and CPP 9.10.

40. Rules and Regulations of the Unit (LLCC 15-01-04) shall be amended to comply with LRC language requirements and to relocate from (LLCC 11-09-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

41. Inmate Dress and Access Areas (LLCC 15-01-05) shall be amended to comply with LRC language requirements and to relocate from (LLCC 11-13-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

42. Searches and Control of Excess Property (LLCC 15-01-08) shall be amended to clarify language and moved from (LLCC 11-19-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

43. Pharmacy Procedure (LLCC 15-03-01) shall be deleted in the interest of clarity and ease of reference. It is combined into LLCC 13-03-03.

44. Pharmacy Personnel (LLCC 15-03-02) shall be deleted in the interest of clarity and ease of reference. It is combined into LLCC 13-03-02.

45. Distribution, Procurement and Control (LLCC 15-03-03) shall be deleted in the interest of clarity and ease of reference. It is combined into LLCC 13-03-03.

46. Suicide Intervention and Prevention Training (LLCC 15-06-05) shall be deleted to comply with American Correctional Association Standards.

47. Inmate Correspondence (LLCC 16-01-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 18-01-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

48. Inmate Privileged or Legal Mail (LLCC 16-01-02) shall be amended to clarify language and to relocate from (LLCC 18-01-02) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

49. Inmate Packages (LLCC 16-01-03) shall be amended to comply with LRC language requirements and to relocate from (LLCC 18-01-03) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

50. Inmate Visiting (LLCC 16-02-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 18-02-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

51. Modification of Visitation Privileges (LLCC 16-02-03) shall be amended to comply with LRC language requirements and to relocate from (LLCC 18-02-03) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

52. Meritorious Visitation Program (LLCC 16-02-04) shall be amended to comply with LRC language requirements and to relocate from (LLCC 18-02-04) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

53. Entry and Identification of Visitors for Inmate Visitation (LLCC 16-03-01) shall be amended to reflect operational procedures and to relocate from (LLCC 18-03-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

54. Parole Hearings: Media and Visitors (LLCC 16-03-04) shall be amended to comply with LRC language requirements and to relocate from (LLCC 18-03-04) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

55. Personal Property Control (LLCC 17-04-01) shall be amended to reflect operational procedures and to relocate from (LLCC 20-01-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

56. Theft of Inmate Personal Property (LLCC 17-04-02) shall be amended to reflect operational procedures and to relocate from (LLCC 20-05-03) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

57. Procedure for Sending Appliances to Outside Dealers for Repair (LLCC 17-05-01) shall be amended to comply with LRC language requirements and to relocate from (LLCC 20-06-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

58. On The Job Training and Job Assignments (LLCC 19-01-01) shall be amended to clarify definitions, LRC language requirements and to relocate from (LLCC 22-01-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

59. Education Programs (LLCC 20-01-01) shall be established to comply with a new program Kentucky Community and Technical College System (KCTCS).

60. Inmate Canteen (LLCC 20-04-02) shall be deleted due to repeating the language of the statute and Department of Corrections Policy and Procedure CPP 2.11.

61. Religious Services (LLCC 23-01-01) shall be amended to comply with the American Correctional Association Standards, LRC language requirements, inclusion of obligatory prayer and to relocate from (LLCC 26-01-01) so LLCC chapter numbers coincide with the Department of Corrections chapter numbers.

62. Prayer (LLCC 26-01-02) shall be deleted as inclusion of obligatory prayer is included in LLCC 23-01-01.

(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 Luther Lockett 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.

October 13, 1999

(1) **501 KAR 6:170**, Green River Correctional Complex.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 22,

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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 November 22, 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, Phone (502) 564-2024, FAX (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 6:170, as follows:

1. Staff Meetings, Purpose and Requirements (GRCC 01-03-01) shall be established to provide a written plan for use by staff regarding written procedures necessary for conducting staff meetings.

2. Institutional Tours of GRCC (GRCC 01-07-01) shall be established to provide the proper procedure for allowing tours of the institution.

3. Duty Officer Responsibilities (GRCC 01-09-01) shall be established to provide a written plan for the GRCC Duty Officer.

4. Public Information and Media Communication (GRCC 01-12-01) shall be established to provide a written procedure in regards to releasing information about the institution and inmates.

5. Fiscal Management Organization (GRCC 02-01-01) shall be established to provide a written procedure for the organization of GRCC's Fiscal Management.

6. Fiscal Management Accounting Procedures (GRCC 02-01-02) shall be established to provide a written procedure for the accounting practices used at GRCC.

7. Fiscal Management Agency Funds (GRCC 02-01-03) shall be established to provide a written procedure for using agency funds at GRCC.

8. Fiscal Management Insurance (GRCC 02-01-04) shall be established to provide a written procedure for comprehensive insurance coverage at GRCC.

9. Fiscal Management: Budget (GRCC 02-02-01) shall be established to provide a written procedure defining the GRCC budget process and control at GRCC.

10. Fiscal Management: Audits (GRCC 02-03-01) shall be established to provide a written procedure to assure accountability and compliance with state and agency regulations.

11. Purchase and Supply Requisitions (GRCC 02-04-01) shall be established to provide a written procedure to assure accountability for all purchases made by GRCC.

12. Warehouse Operation (GRCC 02-05-01) shall be established to provide a written procedure to ensure that a warehouse operation shall be accountable, secure, and maintained in a safe acceptable manner.

13. Inmate Canteen Committee (GRCC 02-06-02) shall be established to provide a written procedure for matters regarding the Inmate Canteen at GRCC.

14. Inventory Control (GRCC 02-08-01) shall be established to provide a written procedure to maintain control of property, guard against loss and enable management to assign equipment to the appropriate location at GRCC.

15. General Guidelines for GRCC Employees (GRCC 03-01-01) shall be established to provide employees with rules of employee behavior and a code of conduct.

16. Essential Personnel During Inclement Weather or Emergency Conditions (GRCC 03-02-01) shall be established to designate essential personnel in the event of inclement weather conditions or other emergencies.

17. Employee Recognition Program (GRCC 03-03-01) shall be established to recognize and reward employees who have demonstrated outstanding contributions and performance as well as a positive image at GRCC.

18. Employee Grievance and EEO Complaint Procedure (GRCC 03-04-01) shall be established to guide staff regarding employee grievances and EEO complaints.

19. Drug Free Work Place (GRCC 03-05-01) shall be issued in compliance with the Anti-Drug Abuse Act and to make certain that all staff members are in an absolute sober condition.

20. Organization of Payroll and Personnel Records (GRCC 03-06-01) shall be added to establish responsibility for the payroll functions and personnel records at GRCC.

21. Personnel Staffing Review (GRCC 03-07-01) shall be established to insure an appropriate number of trained staff are assigned to all working areas of GRCC.

22. Personnel Registers (GRCC 03-08-01) shall be established to provide a written plan for the GRCC Personnel Officer in using the Personnel Registers.

23. Selection and Promotion of Employees (GRCC 03-09-01) shall be established to ensure that GRCC adopts fair and impartial policies in reference to the selection and promotion of its employees.

24. Medical Examination for New Employees (GRCC 03-10-01) shall be established to ensure that staff members which handle food or comes into direct daily contact with inmates are of good health.

25. Kentucky Employee Assistance Program (GRCC 03-11-01) shall be established to provide information to all employees regarding KEAP.

26. Contract Personnel and Volunteers (GRCC 03-12-01) shall be established to ensure confidentiality of information by consultants, contract personnel and volunteers, also to specify their roles at GRCC.

27. Employee Evaluations (GRCC 03-13-01) shall be established to provide for a written performance review for all assigned full-time employees.

28. Student Placement Program (GRCC 03-14-01) shall be issued to establish a procedure for students to gain valuable on-site experience.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

29. Documentation Requirement Guidelines (GRCC 03-15-01) shall be added to establish guidelines to monitor employee time and attendance.
30. New Employee Orientation (GRCC 03-16-01) shall be established to insure that all new employees reporting for employment at GRCC receive orientation.
31. Resignation, Transfer or Termination Clearance Procedure (GRCC 03-17-01) shall be established to ensure the return of all state property and to assist staff leaving the employment of GRCC.
32. Employee Training and Staff Development (GRCC 04-01-01) shall be established to provide a written procedure to ensure proper training of staff.
33. Information System (GRCC 05-01-01) shall be established to provide a written procedure for an organized system of information storage, retrieval, and review for research and decision-making.
34. Outside Consultation and Research (GRCC 05-02-01) shall be established to provide a written procedure to facilitate the exchange of information and coordinate planning with outside resources.
35. Offender Records (GRCC 06-01-01) shall be established to provide a written procedure to provide the necessary information for programs, evaluation, custody functions, and legal documentation.
36. Storage of Expunged Records (GRCC 06-02-01) shall be established to provide a written procedure to provide a confidential file of expunged records for litigation purposes.
37. Maintenance Requests (GRCC 07-01-01) shall be established to provide a written procedure to ensure that all maintenance request are accounted for and processed appropriately.
38. Preventive Maintenance Program (GRCC 07-02-01) shall be established to provide a written procedure for preventive maintenance of the physical plant to include provisions for emergency repairs or replacement in life-threatening situations.
39. Mechanical Equipment Repair and Control of Hazardous Energy (GRCC 07-03-01) shall be established to provide a written procedure outlining minimum requirements for the protection of employees and prevention of equipment damage during the servicing or repair of mechanical equipment.
40. Religious Programs (GRCC 23-01-01) shall be established to provide a written procedure for all inmates to have access to religious services, instruction and counseling on a voluntary basis.
- (c) The necessity and function of the proposed administrative regulation in as follows:
1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.
 2. This administrative regulation updates operating procedures at the Green River Correctional Complex to comply with KRS Chapter 13A and to reflect current operating procedures.
- (d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.
- (e) This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.

TRANSPORTATION CABINET

October 15, 1999

- (1) **603 KAR 2:015**, Prequalification for construction; certificate of eligibility; and contract claims dispute.
- (2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation regarding the eligibility of bidders for construction contracts, a method for which determination shall be made, and hearing procedures for contract claims dispute.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 22, 1999, 1 p.m., local prevailing time, 10th Floor, General Counsel Conference Room, 501 High Street, 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 November 22, 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 KRS 176.140.
- (b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend an existing regulation. It will establish procedures to be followed for administrative claims process and hearing procedures.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 176.140 authorizes the Transportation Cabinet to determine the eligibility of bidders for construction contracts with the cabinet, provide a method by which the determination is made, and establish hearing procedures for a contract claims dispute and denial, revocation, or limitation of certification.
- (d) The benefits expected from the administrative regulation are to provide more effective claims processing on construction projects.
- (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.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

October 15, 1999

(1) **603 KAR 5:045** relating to the requirement that commercial vehicles stop at weigh stations.

(2) The Kentucky Transportation Cabinet intends to promulgate a new administrative regulation setting forth which commercial vehicles are required to stop at an open weigh station. The cabinet further intends to establish when a commercial vehicle can be driven past a weigh station without stopping. This will include the test/pilot programs currently underway using electronic transponders which allow some commercial motor vehicles to bypass a weigh station without stopping.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 22, 1999, at 2 p.m., local prevailing time, 10th Floor, General Counsel Conference Room, 501 High Street, 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 November 22, 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 commercial vehicles stopping at weigh stations is KRS 189.223, 189.227, and 281.600.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will be a new administrative regulation, 603 KAR 5:045. It will establish which commercial vehicles are required to stop at weigh stations.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 189.227 authorizes the Transportation Cabinet to establish administrative regulations allowing peace officers to weigh or measure trucks and to establish who owns the truck. In addition, the federal motor carrier safety regulations which are adopted in 601 KAR 1:005 and authorized by KRS 281.600 require the Transportation Cabinet to inspect commercial motor vehicles for safety purposes.

(d) The benefits expected from the administrative regulation are a clear understanding between the Transportation Cabinet and the motor carrier industry of the vehicles which are required to stop at weigh stations.

(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.

BOARD OF EDUCATION

October 8, 1999

(1) **702 KAR 7:065**. Designation of agent to manage high school interscholastic athletics.

(2) The Kentucky Board of Education 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 November 29, 1999, 10 a.m. in the State Board Room, 1st Floor, Capital Plaza, 500 Mero Street, 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 as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to November 29, 1999, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to: Mr. Kevin Noland, General Counsel, Office of Legal Services, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority is KRS 156.070(2).

(b) The administrative regulation that the Kentucky Board of Education intends to amend is 702 KAR 7:065.

(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 156.070 which requires the Kentucky Board of Education to manage and control the common schools, including interscholastic athletics in the schools, and authorizes the Kentucky Board of Education to designate an agency to manage athletics. This administrative regulation designates an agent for high school athletics; establishes the financial planning and review processes for the agent; and incorporates by reference the bylaws, procedures and rules of the agent.

(d) The benefits expected from this administrative regulation amendment are an updating of the bylaws and due process procedures of the Kentucky High School Athletic Association, as reviewed and approved by the Kentucky Board of Education.

(e) The administrative regulation will be implemented as follows: The Kentucky Board of Education will continue to monitor the Kentucky

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

High School Athletic Association to ensure compliance with the regulation, as proposed to be amended, and the member schools of KHSAA will be provided with the amended KHSAA handbook, including the constitution, bylaws, and due process procedures.

CABINET FOR HEALTH SERVICES Department for Public Health

October 15, 1999

- (1) **902 KAR 4:040**, Special Supplemental Nutrition 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 November 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 November 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: Kevin Devlin, 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 is 7 CFR part 246, 42 USC 1786, KRS Chapter 13B, 194A.030, 194A.050(2), 211.090 and 211.180.
 - (b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 4:040, Special Supplemental Nutrition Program for Women, Infants and Children, relating to participant eligibility criteria, criteria to be an authorized WIC vendor, add participant sanctions, revise Section 9 in keeping with the amended federal regulations 7 CFR part 246.
 - (c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth uniform requirements to be in compliance with amended federal regulations 7 CFR part 246, entitled Special Supplemental Nutrition Program for Women, Infants and Children (WIC).
 - (d) The benefits expected from administrative regulation are to conform to amended federal regulation 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.

Department for Medicaid Services

October 15, 1999

- (1) **907 KAR 1:671**, Conditions of Medicaid provider participation; withholding overpayments, appeals process, and sanctions.
- (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 November 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 November 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: Kevin Devlin, 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.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

(a) The statutory authority for the promulgation of an administrative regulation relating to conditions of Medicaid provider participation; withholding overpayments, appeals process, and sanctions are KRS 13B.170, 194A.050, 205.520, 205.560, and 205.6318 and 42 USC 1396a.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate, at the request of the Administrative Regulation Review Subcommittee, will amend 907 KAR 1:671, Conditions of Medicaid provider participation; withholding overpayments, appeals process, and sanctions. The department will amend Sections 1(35)(l) and 9(2)(a) to delete language that violates KRS 13A.120(2).

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the provisions relating to Medicaid provider participation.

(d) The benefits expected from administrative regulation are: Remove language that violates the provisions of KRS 13A.120(2).

(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.

October 15, 1999

(1) **907 KAR 1:999**, Repeal of 907 KAR 1:002.

(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 November 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 November 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: Kevin Devlin, 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 to repeal 907 KAR 1:002 is KRS 194A.030 and 194A.050.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will not amend an existing administrative regulation. It will repeal 907 KAR 1:002, Definitions.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation acts to repeal 907 KAR 1:002, Definitions, because the definitions are established in separate administrative regulations throughout 907 KAR Chapter 1 and KRS 13A.222(4)(e) prohibits the promulgation of a definitions administrative regulation if the definitions are established in separate administrative regulations.

(d) The benefits expected from administrative regulation are: To bring The Department for Medicaid Services into compliance with KRS 13A.222(4)(e).

(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**

October 1, 1999

(1) **921 KAR 2:006**. Technical requirements for the Kentucky Transitional Assistance Program (K-TAP).

(2) Cabinet for Families and Children, Department for Community-Based Services intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 30, 1999, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

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

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

2. A minimum of 5 persons, or 1 person representing the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to November 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, Regulations Coordinator, Office of the General Counsel, Cabinet for Families and Children, 275 East Main Street, 4th Floor 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

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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 921 KAR 2:006, Technical requirements for the Kentucky Transitional Assistance Program (K-TAP) is KRS 194B.050(1), 205.010, 205.200(2), (3), EO 98-731 and 42 USC 601 et seq.

(b) The administrative regulation that the Department for Community-Based Services intends to promulgate will amend 921 KAR 2:006, Technical requirements for the Kentucky Transitional Assistance Program (K-TAP) to:

1. Add the federal requirement of an appropriate domestic violence service plan, designed to lead safely to work, for a K-TAP recipient who is a victim of domestic violence and require redetermination of this plan every 6 months.

2. Remove the provision of not counting toward the 60 month lifetime limitation a month or months of assistance if the benefit group contains an adult who is battered or subjected to extreme cruelty and add these months after expiration of the 60 month time limitation as an extension of the time limit.

3. Revise the definition of Kentucky Works to include former K-TAP recipients with job retention services.

4. Remove the requirement for a K-TAP adult to assure a non school age child has current immunizations.

5. Add as another exemption to the 60 month time limitation an adult with insufficient employment who has complied with all program requirements including participation in Kentucky Works.

6. Allow "other relative" as well as grandparent an exception to the time limitation in Section 19(3)(d).

7. Add Kentucky Works components pursuant to 921 KAR 2:370 to the list of activities listed in the definition of "work" in Section 1.

8. Remove criteria for qualifying parent in Section 9(2) that conflicts with the definition of "qualifying parent" and "prior labor market attachment" in Section 1.

9. In section 11 change the word "paternity" to "relationship" in the administrative establishment of relationship when establishing relationship for K-TAP eligibility. Add the form VS-8 "Declaration of Paternity" to the list of legal documents as evidence allowed to establish relationship. Amend forms to reflect changes in the child support program.

10. Add additional items in Section 16(2) for clarification of criteria for the K-TAP applicant's or recipient's cooperation in establishing, modifying or enforcing a child support order.

11. Require married teen parents to comply with school attendance requirements in the same manner as a single minor teenage parent.

12. Add a definition for "assistance" and "employed".

13. Amend forms as a result of the reorganization of the Cabinet for Families and Children.

14. Make technical changes as required by KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: The Cabinet for Families and Children has the responsibility under the provisions of KRS Chapter 205 to administer public assistance program. KRS 205.200(2) requires that the conditions of eligibility to receive money grants from be prescribed by administrative regulations.

(d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will comply with federal requirements found in 45 CFR Parts 260 through 265 and avoid the possible loss of federal funds.

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

October 1, 1999

(1) **921 KAR 2:016.** Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP).

(2) Cabinet for Families and Children, Department for Community-Based Services intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 30, 1999, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

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

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

2. A minimum of 5 persons, or 1 person representing the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to November 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, Regulations Coordinator, Office of the General Counsel, Cabinet for Families and Children, 275 East Main Street, 4th Floor 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 921 KAR 2:016, Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP) is KRS 194B.050(1), 205.010, 205.200(2), (3), EO 98-731 and 42 USC 601 et seq.

(b) The administrative regulation that the Department for Community-Based Services intends to promulgate will amend 921 KAR 2:016,

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP) to:

1. Revise the definition of "Kentucky Works" to include former K-TAP recipients with job retention services.
2. Add a definition for "assistance" and "employed".
3. Increase the standard of need for 1 person, as required by KRS 205.2001.
4. Allow for up to \$50 a month matching for an Individual Development Account and require penalties for nonqualified withdrawals.
5. Amend the definition of "work expense standard deduction" in Section 1.
6. Amend forms as a result of the reorganization of the Cabinet for Families and Children.
7. Make technical changes as required by KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: The Cabinet for Families and Children has the responsibility under the provisions of KRS Chapter 205 to administer public assistance program. KRS 205.200(2) requires that the conditions of eligibility to receive money grants be prescribed by administrative regulations.

(d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will comply with federal requirements found in 45 CFR Parts 260 through 265 and avoid the possible loss of federal funds.

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

October 1, 1999

(1) **921 KAR 2:017**. Kentucky supportive services.

(2) Cabinet for Families and Children, Department for Community-Based Services intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 30, 1999, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

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

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

2. A minimum of 5 persons, or 1 person representing the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to November 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, Regulations Coordinator, Office of the General Counsel, Cabinet for Families and Children, 275 East Main Street, 4th Floor 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 921 KAR 2:017, Kentucky supportive services is KRS 194B.050(1), 205.010, 205.200(2), (3), 205.2003, EO 98-731 and 42 USC 601 et seq.

(b) The administrative regulation that the Department for Community-Based Services intends to promulgate will amend 921 KAR 2:017 Kentucky supportive services to:

1. Amend the definition of "transitional extension" to include an income limit, as required by federal regulations, at or below 200 percent of federal poverty level, and extend the length of eligibility from 3 months to 12 months.

2. Amend the definition of "Kentucky Works" to comply with 921 KAR 2:370, to include post K-TAP recipients.

3. Allow eligibility for the \$500 work incentive bonus for a post K-TAP recipient to include a K-TAP recipient who is discontinued with wages instead of due to wages, in Section 12(2).

4. Remove the requirement of the K-TAP recipient having to request the \$250 job retention bonus.

5. Allow an exception to the at or below 200% income limit for a post K-TAP recipient eligible for the work incentive bonus during the transitional extension period.

6. Allow housing assistance for an employed former K-TAP recipient.

7. Allow a bonus for a K-TAP recipient who is making satisfactory progress in a GED class.

8. Add a definition for "assistance" and "employed".

9. Amend Section 3 to comply with the definition of "work expense standard deduction" as defined in 921 KAR 2:016, Section 1.

10. Amend forms as a result of the reorganization of the Cabinet for Families and Children.

11. Make technical changes as required by KRS Chapter 13A.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: The Cabinet for Families and Children has the responsibility under the provisions of KRS Chapter 205 to administer public assistance programs. KRS 205.200(2) requires that the conditions of eligibility to receive money grants be prescribed by administrative 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.

(d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will comply with federal requirements found in 45 CFR Parts 260 through 265 and avoid the possible loss of federal funds and provide for supportive services for K-TAP recipients and post K-TAP recipients.

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

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

October 1, 1999

- (1) **921 KAR 2:370.** Technical requirements for Kentucky Works.
- (2) Cabinet for Families and Children, Department for Community-Based Services intends to amend the administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for November 30, 1999, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or 1 person representing the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to November 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, Regulations Coordinator, Office of the General Counsel, Cabinet for Families and Children, 275 East Main Street, 4th Floor 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 921 KAR 2:370, Technical requirements for Kentucky Works is KRS 194B.050(1), 205.010, 205.200(2), (3), 205.2003, EO 98-731 and 42 USC 601 et seq.
- (b) The administrative regulation that the Department for Community-Based Services intends to promulgate will amend 921 KAR 2:370, Technical requirements for Kentucky Works to:
 1. Amend the definition of "Kentucky Works" to include post K-TAP recipients.
 2. Add definitions for "assistance"; "employed"; "affordable child care arrangements"; "appropriate child care"; "reasonable distance"; and "unsuitability of informal child care".
 3. Correct the name of the form KW-202.
 4. Make corrections to Section 2(2)(c) regarding vocational education.
 5. Amend forms as a result of the reorganization of the Cabinet for Families and Children.
 6. Make technical changes as required by KRS Chapter 13A.
- (c) The necessity, function and conformity of the proposed administrative regulation is as follows: The Cabinet for Families and Children has the responsibility under the provisions of KRS Chapter 205 to administer public assistance programs. KRS 205.200(2) requires that the conditions of eligibility to receive money grants be prescribed by administrative 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.
- (d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will comply with federal requirements found in 45 CFR Parts 260 through 265 to avoid the possible loss of federal funds and provide for supportive services for K-TAP recipients and post K-TAP recipients.
- (e) The administrative regulation will be implemented as follows: The Cabinet for Families and Children, the Department for Community-Based Services will be responsible for implementing the administrative regulation.

EMERGENCY ADMINISTRATIVE REGULATIONS FILED AS OF NOON, OCTOBER 15, 1999

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

STATEMENT OF EMERGENCY
902 KAR 4:040E

The WIC Program federal regulations and the Child Nutrition Act have been amended. The administrative regulation currently in effect no longer parallels the eligibility requirements for participants, the sanctions for participants, participant access determinations, or the sanctions for vendors. An ordinary administrative regulation will not suffice because; the Court of Appeals has recently rendered the current administrative regulation as deficient; by federal regulation the civil money penalty portion of the vendor sanctions must be implemented no later than October 1, 1999, and the current vendor agreement with authorized groceries expires September 30, 1999. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

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

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

902 KAR 4:040E. Special Supplemental Food Program for Women, Infants and Children (WIC).

RELATES TO: KRS 194A.050 [194:050], 211.180, 7 CFR Part 246

STATUTORY AUTHORITY: KRS Chapter 13B, 194A.030, 194A.050(1) [194:050(1)], 211.090, 211.180, 7 CFR Part 246, 42 USC 1786, EO 96-862

EFFECTIVE: September 30, 1999

NECESSITY, FUNCTION, AND CONFORMITY: 42 USC sec. 1786, the "Child Nutrition Act of 1966," as amended and 7 CFR Part 246, authorizes grants for the Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC). The Cabinet for Health Services is authorized by KRS 194A.050 to adopt such rules and administrative regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for proper administration of the cabinet and its programs. The function of this administrative regulation is to set out the application and participation process for the Kentucky Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC) for women, infants, children, vendors, and to include the sanction, and hearing process. [Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.]

Section 1. Definitions. (1) "Cabinet" means Cabinet for Health Services.

(2) "Certifying professional authority" means only the persons authorized to determine eligibility and certify persons for the WIC Program: physicians, nutritionists (bachelor's degree), certified nutritionist (master's degree and certification by State Board of Certification and Licensure) dietitians, (RD/LD), nurses (RN, LPN, ARNP) and physician's assistants (certified by the National Committee on Certification of Physician's Assistants or certified by the state medical certifying authority).

(3) "Compliance buy" means a covert, on-site investigation in which representatives of the WIC Program pose as participants, involving the transaction of one (1) or more food instruments and do not reveal their identity during the visit.

(4) "Contract price" means the price for WIC food item(s) negotiated between the state agency and the vendor.

(5) "Food package" means for the purpose of participant access

determination, three (3) food instruments issued to a participant, valid for the same time period.

(6) "High risk vendor" means a vendor identified as having a high probability of violating WIC Program requirements.

(7) "Inventory audit" means a review of food invoices or other proofs of purchase to determine whether a vendor has purchased sufficient quantities of authorized supplemental food to provide to participants the quantities specified on food instruments redeemed by the vendor during a given period of time.

(8) "Investigation" means a method used by the state agency to determine if violations of the WIC Program are occurring.

(9) [(7)] "Local agency" means for purposes of a fair hearing, any applying or participating WIC agency.

(10) [(6)] "Person" means for purposes of a fair hearing, any applicant or participant in the WIC Program.

(11) "Positive compliance buy" means a compliance buy in which a violation of the WIC Program has occurred.

(12) "Routine monitoring" means overt, on-site monitoring during which representatives of the WIC Program identify themselves to vendor personnel.

(13) [(2)] "Secretary" means Secretary for the Cabinet for Health Services.

(14) "Shelf price" means the price on the vendor's display case, the shelf or the food items.

(15) [(3)] "State agency" means the Cabinet for Health Services or its designated representative.

(16) "Trafficking" means the redemption of a food instrument(s) for cash.

(17) [(4)] "Vendor" means a vendor of food items who applies for participation in the Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC) or who, by contract, participates in the Special Supplemental Food Program for Women, Infants and Children (WIC).

(18) "Vendor violation" means any intentional or unintentional action of a vendor, with or without management knowledge, which violates the WIC Program federal regulations or this administrative regulation.

(19) [(5)] "WIC Program" means the Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC) administered pursuant to 42 USC sec. 1786 and 7 CFR Part 246.

Section 2. The purpose of the Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC) is to provide supplemental foods and nutrition education at no cost to eligible persons and to serve as an adjunct to good health care.

Section 3. To be certified as eligible to participate in the WIC Program, a person shall:

(1) Be categorically eligible as follows:

(a) Pregnant women;

(b) Postpartum women, up to six (6) months after termination of pregnancy [including those women who miscarry, have a stillbirth or abort];

(c) Breast-feeding women, up to the infant's first birthday;

(d) Infants, birth [zero] to one (1) year of age; or

(e) Children, one (1) to five (5) years of age.

(2) Provide proof of residence and be a resident of the Commonwealth [state] of Kentucky [and the geographical area served by the agency].

(3) Provide proof of identity.

(4) Provide proof of household income and meet the [cabinet approved] income criteria.

(5) [(4)] Meet the nutritional risk criteria as outlined. The following conditions are considered the basis for certification:

(a) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, such as anemia, under-

weight, overweight, abnormal pattern of weight gain in a pregnant woman, low birth weight in an infant, or stunting in an infant or child;

(b) Other documented nutritionally related medical conditions, such as clinical signs of nutritional deficiencies, metabolic disorders, pre-eclampsia in a pregnant woman, or failure to thrive in an infant, chronic infections in any person, alcohol or drug abuse or mental retardation in women, lead poisoning, history of high-risk pregnancies or factors associated with high-risk pregnancies (such as smoking; conception before sixteen (16) months postpartum; history of low birth weight, premature births, or neonatal loss; adolescent pregnancy; or current multiple pregnancy) in pregnant women, or congenital malformations in infants born of women with alcohol or drug abuse histories or mental retardation;

(c) Dietary deficiencies that impair or endanger health, such as inadequate dietary patterns assessed by a twenty-four (24) hour dietary recall, dietary history, or food frequency checklist;

(d) Conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, such as homelessness or migrancy; [chronic infections in any person, alcohol or drug abuse or mental retardation in women, lead poisoning, history of high risk pregnancies or factors associated with high risk pregnancies (such as smoking; conception before sixteen (16) months postpartum; history of low birth weight, premature births, or neonatal loss; adolescent pregnancy; or current multiple pregnancy) in pregnant women, or congenital malformations in infants or children, or infants born of women with alcohol or drug abuse histories or mental retardation;]

(e) An infant under six (6) months of age may be determined to be at risk if the infant's mother was a WIC Program participant during pregnancy or met risk criteria outlined during pregnancy; and

(f) A participant who has previously been certified eligible for the WIC Program may be considered to be at nutritional risk in the next certification period if the certifying health [competent] professional [authority] determines there is a possibility of regression in nutritional status without the supplemental foods. Limits on regression may be set [for certain conditions, e.g., inadequate diet].

Section 4. Program benefits shall be based upon certifications established in accordance with the following time frames:

(1) Pregnant women shall be certified for the duration of their pregnancy and for up to six (6) weeks postpartum.

(2) Postpartum women shall be certified for up to six (6) months postpartum.

(3) Breast-feeding women shall be certified at intervals of approximately six (6) months and ending with the breast-fed infant's first birthday.

(4) Infants shall be certified at intervals of approximately six (6) months except infants under six (6) months of age may be certified for a period extending up to the first birthday provided the quality and accessibility of health care services are not diminished.

(5) Children shall be certified at intervals of approximately six (6) months and ending with the end of the issuance month in which a child reaches the fifth birthday. Vacancies in the program shall be filled as they occur unless maximum participation has been reached. At that time, vacancies shall be filled by a priority system based upon the nutritional risk of the patient.

Section 5. Food instruments shall be provided at the time of notification of certification. Participants shall receive the WIC Program's supplemental foods free of charge.

Section 6. Pregnant and breast-feeding women, infants and migrants shall be screened and notified of WIC Program eligibility or ineligibility within ten (10) days. [Agencies requesting to extend the processing standards to fifteen (15) days shall submit a written request justifying the need for the extension and a plan of action on how and when they shall meet the above standard.] All other persons applying for the program shall be screened and notified of program eligibility or ineligibility within twenty (20) days.

Section 7. Nutrition education shall be made available to the participant and relate in a practical manner to the nutritional needs, household situation and cultural preferences. Along with nutrition education, drug and other harmful substance abuse information will

be provided to all participants. Breast-feeding information and encouragement to breast-feed shall be provided to all pregnant women unless contraindicated.

Section 8. It is the intent of the WIC Program to limit participant abuse as much as possible.

(1) For the following suspected acts for which a complaint is received concerning a participant or the participant's parent, guardian or other authorized proxy, a written warning shall be given:

(a) Purchasing unauthorized foods.

(b) Redeeming food instruments at an unauthorized store.

(c) Attempting to sell or exchange supplemental foods or WIC food instruments with other individuals, groups or a vendor.

(d) Returning supplemental foods to a vendor for cash.

(2) For the following proven or documented acts by a participant or the participant's parents, guardian, or other authorized proxy, the following actions will be taken:

(a) Redeeming food instruments before the "first day to use" or after the "last day to use":

1. First offense: written warning.

2. Second offense: monthly pickup of food instruments.

3. Third offense: one (1) month suspension.

4. Reinstatement to bimonthly or trimonthly issuance is left to professional discretion.

(b) Redeeming food instruments which have previously been reported to the WIC agency as being lost or stolen and which have been replaced by other food instruments:

1. First offense: written warning.

2. Second offense: claim against participant for improperly receiving benefits (will be for amount of redeemed food instruments)

(c) Purchasing unauthorized foods:

1. First offense: written warning

2. Second offense: one (1) month suspension.

(d) Redeeming food instruments at an unauthorized store:

1. First offense: written warning.

2. Second offense: one(1) month suspension.

(e) Threatening physical abuse or verbal abuse of either clinic or vendor staff:

1. First offense: written warning - if possible, another person in the clinic may serve the participant.

2. Second offense: one (1) month suspension.

(f) Physical abuse of clinic or vendor staff:

1. First offense: three (3) month suspension.

2. Second offense: same as first offense.

(g) Exchanging or selling supplemental foods or WIC food instruments with other individuals, groups, or vendors:

1. First offense: three (3) month suspension.

2. Second offense: same as first offense.

(h) Simultaneous participation in more than one (1) WIC Program or participation in both the WIC Program and the Commodity Supplemental Food Program (CSFP):

1. First offense: written warning and termination from one (1) of the programs immediately. The continuing WIC agency must be chosen based upon the participant's residence/services.

2. Second offense: three (3) months suspension and claim for food instruments received.

(i) Knowingly and deliberately misrepresenting, concealing or withholding facts to obtain program benefits:

1. First offense: a claim shall be made against a participant who has received improperly issued benefits, this disqualifies the participant(s) for three (3) months.

2. Second offense: same as first offense.

The amount of the claim will be determined by the value of the food instruments redeemed. If the claim is not paid, the participant will be denied application to the WIC Program for the number of months of benefits, which were used to calculate the claim amount, not to exceed three (3) months.

(3) Participants who repeatedly abuse the WIC Program will be referred to the Office of the Inspector General for prosecution under applicable statutes.

(4) The WIC Program is covered by the Assistance Program Fraud Law (KRS 194.505). The law outlines prohibited activities which apply to recipients and vendors, as well as agency personnel.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

Section 9. [6:] (1) A person shall be informed in writing of the right to a fair hearing and the method by which a hearing may be requested at the time of:

- (a) When found ineligible;
- (b) Disqualification or suspension during a certification period; and
- (c) An action which resulted in a claim against an individual for repayment of improperly issued benefits.

(2) Persons requesting a fair hearing shall contact the appropriate WIC agency within sixty (60) days from the date of notice and a fair hearing shall be arranged. The hearing shall be held within three (3) weeks from receipt by the WIC [local] agency of the hearing request. The WIC agency shall provide the appellant with a minimum of ten (10) days advance written notice of the time and place of the hearing.

(a) The WIC agency shall provide the appellant or their representative an opportunity to:

1. Review prior to and during the hearing documents and records presented to support the decision under appeal;
2. Be assisted or represented by an attorney or other persons, if desired;
3. Bring witnesses to testify;
4. Present oral or documentary evidence and agreement supporting their position and question or refute any testimony or other evidence; and
5. Confront and cross-examine any adverse witness.

(b) The hearing officer(s) shall decide upon validity of the case based upon the record of the hearing and the relevant statutory and regulatory provisions governing the WIC Program.

(c) The basis of the decision shall be in writing and shall be the final binding decision of the WIC agency.

(d) A decision shall be reached and written notification of the decision forwarded to the person no later than forty-five (45) days from receipt of the request for hearing.

(3) A person may appeal a local hearing officer decision to the secretary within fifteen (15) days of the mailing date of the hearing decision notice pursuant to Section 15 [11] of this administrative regulation.

Section 10. [7:] (1) An appropriate number and distribution of food vendors shall be authorized in order to assure adequate participant convenience and access and to assure that state agency and local WIC agencies [officials] can effectively manage a review of the vendors [shall be authorized]. Only authorized vendors may redeem food instruments in order to provide supplemental food to participants.

(2) In order to be an authorized WIC vendor, a [an-applying] vendor shall:

(a) Provide all information, including sales volume, requested by the state agency.

(b) Stock, at all times, minimum inventory in accordance with the "Quantified Minimum Inventory Requirements" as outlined in the WIC Information Manual for Prospective Vendors, as incorporated by reference in this administrative regulation. The stock must be in the store or in the store's stockroom. Expired foods do not count towards meeting the minimum inventory requirements. Pharmacies must supply [need-to-stock] formula within forty-eight (48) hours of WIC agency request, [in accordance with the "Quantified Minimum Inventory Requirements-"]

(c) As appropriate, be in compliance with the Kentucky Retail Market Sanitation Regulations, 902 KAR 45:005, [(902 KAR 45:045)] and have a valid [Kentucky] Retail Food Establishment or Retail Food Store [Market] Permit in [under] the current owner's name.

(d) Have prices commensurate with the area's authorized WIC vendors. Prices are compared according to state agency policy as outlined in the WIC Information Manual for Prospective Vendors and the WIC Vendor Manual as incorporated by reference in this administrative regulation.

(e) Not be disqualified or withdrawn by the United States Department of Agriculture (USDA) from participation in another Food and Consumer Service (FCS) [FNS] program nor denied application to participate in the Food Stamp Program. Not having been assessed a civil money penalty by the Food Stamp Program within the last two (2) years or be currently paying a civil money penalty to the Food Stamp Program.

(f) Be requesting authorization [application] for a business whose

primary purpose is to be a retail grocery. (Does not apply to drug stores.) Direct distribution outlets and wholesale food establishments are not eligible. Retail firms whose primary business is something other than a retail grocery are not normally eligible for the program. This includes dairies, gas stations, specialty stores, liquor stores, home delivery groceries, bait shops, etc. In order for one these retail firms to be authorized, the [applicant] firm shall have a recognized grocery department in a stationary location which is a separate and distinct area and stocks staple food items in addition to WIC approved foods. Staple food items are defined as meat, poultry, fish, bread and breadstuff, cereals, vegetables, fruit, fruit and vegetable juices, dairy products and the like. Food items such as coffee, tea, cocoa, carbonated and uncarbonated drinks, condiments and spices are not considered to be staple foods. All stores shall have:

1. A separate area as defined above;
2. A stock of foods other than staple food items as defined above; and
3. Twenty (20) percent of their gross sales in nontaxable [total] food sales excluding their specialty items. (Bakery goods for bakery, produce for fruit and vegetable stands.)

Dairies and home delivery groceries shall not be approved if they operate solely as a mobile operation.

(g) Be open for business year round on a full-time basis at least eight (8) hours per day, six (6) days per week.

(h) Be accessible to monitoring by state and federal officials without prior notice.

(i) Not owing the WIC Program for unpaid claims or civil money penalties for any store owned or previously owned by the applying owner.

(j) The following consideration will be made of the business integrity and reputation of the applying vendor:

1. Criminal conviction records reflecting on the honesty or integrity of officers or managers of the applicant firm;

2. Official records of removal from other federal, state or local programs;

3. Judicial determination in civil litigation adversely reflecting on the integrity of officers or managers of the applicant firm;

4. Evidence of attempts to circumvent a period of disqualification from the WIC Program. The WIC Program shall not authorize a store that has undergone a sale or change of operation if such a transaction is from a disqualified owner, operator or manager of a store who is currently suspended, sanctioned, or disqualified from WIC or the Food Stamp Program to a relation by marriage or consanguinity within the fourth degree.

5. Evidence of prior fraudulent behavior of officers, managers or employees of the applicant firm such as trafficking; and

6. Any other evidence reflecting on the business integrity and reputation of the applicant.

(k) No contract shall be entered into with a vendor when a conflict of interest real or apparent will occur.

Section 11. [8:] (1) A vendor shall be informed in writing of the right to a fair hearing and the method by which a hearing may be requested for the following:

(a) Denial of application to participate in the program; and

(b) Disqualification or other adverse action which affects participation during the agreement performance period.

(2) Expiration of an agreement with a vendor is not subject to appeal.

(3) The WIC Program's determination of participant access is not subject to appeal.

(4) Disqualification from the WIC Program as a result of disqualification from the Food Stamp Program is not subject to appeal.

(5) A vendor shall request a fair hearing in accordance with Section 15 [11] of this administrative regulation.

Section 12. (1) [9:] For the following acts or circumstances committed by the vendor, his employee or agent, the cabinet shall impose the following state agency sanctions:

(a)1. Vendor violation: Not recording actual purchase price on WIC food instruments at the time of purchase.

2. Pattern of incidence and length of disqualification: First investigation resulting in this violation - two (2) positive compliance buys

out of three (3) shall result in a written warning. Second investigation resulting in this violation shall result in a three (3) month disqualification. Third investigation resulting in this violation shall result in a six (6) month disqualification.

(b)1. Vendor violation: Nonpayment of a claim made by a state agency.

2. Pattern of incidence and length of disqualification: First instance shall result in a three (3) month disqualification. Second instance shall result in a six (6) month disqualification. Third instance shall result in a one (1) year disqualification. The state agency sends out two (2) letters requesting repayment. The second letter shall be sent by certified mail to verify actual receipt. A telephone call shall be made to the vendor requesting payment prior to issuing the second letter.

(c)1. Vendor violation: Fails to return WIC vendor authorization stamp upon request.

2. Pattern of incidence and length of disqualification: Three (3) months shall be added to the previously established disqualification period. A telephone call shall be made to the vendor requesting return of the stamp prior to issuing the sanction.

(d) After three (3) federal fiscal years without reoccurrence of the violations listed in Section 12(1)(a)-(c), the first offense shall be removed from the vendor's record.

(2) For the following acts or circumstances committed by the vendor, his employee or agent(s), the cabinet shall impose the following mandatory sanctions:

(a)1. Vendor violation: Convicted of trafficking in food instruments or selling firearms, ammunition, explosives or controlled substances, as defined in section 102 of the Controlled Substances Act (21 USC 802), in exchange for food instruments.

2. Pattern of incidence and length of disqualification: One (1) occurrence (one (1) time) of this violation shall result in a permanent disqualification. A civil money penalty in lieu of the disqualification shall be issued only if the vendor had in effect, at the time of the violation, a policy and program in effect to prevent trafficking and the ownership of the vendor was not aware of, did not approve of, and was not involved in committing the violation.

(b)1. Vendor violation: Trafficking in food instruments or selling firearms, ammunition, explosives or controlled substances as defined in 21 USC 802, in exchange for food instruments.

2. Pattern of incidence and length of disqualification: One (1) positive compliance buy shall result in a six (6) year disqualification.

(c)1. Vendor violation: Sale of alcohol or alcoholic beverages or tobacco products in exchange for food instruments.

2. Pattern of incidence and length of disqualification: One (1) positive compliance buy shall result in a three (3) year disqualification.

(d)1. Vendor violation: Claiming reimbursement for the sale of an amount of a specific supplemental food item, which exceeds the vendor's documented inventory of that supplemental food item for a specific period of time.

2. Pattern of incidence and length of disqualification:

a. An inventory audit of a vendor's inventory records for a one (1) month period (thirty (30) days) that results in twenty-five (25) percent or more WIC sales than the documented inventory, shall result in a three (3) year disqualification; or

b. An inventory audit of a vendor's inventory records for a three (3) month period (ninety (90) days) which results in ten (10) percent or more WIC sales than the documented inventory, shall result in a three (3) year disqualification.

(e)1. Vendor violation: Charging participants more for supplemental food than non-WIC participants or charging participants more than the current shelf price or contract price.

2. Pattern of incidence and length of disqualification:

a. Two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification if the vendor has exhibited a prior pattern of overcharging based upon routine monitoring visits which have resulted in two (2) letters for price discrepancies; or

b. If the vendor has exhibited a pattern of two (2) out of four (4) quarters of low variance (redeeming food instruments at or near the same amount) in the prior federal fiscal year.

The state agency shall require any vendor who has received two (2) letters for price discrepancies during the fiscal year to receive

training provided by the state agency. A high risk vendor who exhibits a pattern of low variance shall be notified of the low variance prior to initiating a compliance buy.

c. Three (3) positive compliance buys out of three (3) shall result in a three (3) year disqualification for vendors who do not meet the conditions above.

(f)1. Vendor violation: Receiving, transacting or redeeming food instruments by an unauthorized vendor through an authorized store.

2. Pattern of incidence and length of disqualification: Two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification.

(g)1. Vendor violation: Receiving, transacting or redeeming food instruments by an unauthorized person (not a participant, proxy or undercover investigator) as found by an investigation by the Office of the Attorney General.

2. Pattern of incidence and length of disqualification: Two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification.

(h)1. Vendor violation: Charging for supplemental food not received by the participant which means charging for one (1) or more food item(s) listed on the food instrument but not purchased by the WIC participant.

2. Pattern of incidence and length of disqualification: Three (3) positive compliance buys out of three (3) shall result in a three (3) year disqualification.

(i)1. Vendor violation: Providing credit (IOUs, rain checks, due bills, store credits) or nonfood items other than cash, alcohol, tobacco, firearms, ammunition, explosives or controlled substances as defined in 21 USC 802 in exchange for food instruments.

2. Pattern of incidence and length of disqualification: Two (2) positive compliance buys out of three (3) shall result in a three (3) year disqualification.

(j)1. Vendor violation: Providing unauthorized food items in exchange for food instruments.

2. Pattern of incidence and length of disqualification: Five (5) positive compliance buys out of five (5) shall result in a one (1) year disqualification.

(k)1. Vendor violation: Charging for supplemental food provided in excess of those listed on the food instrument.

2. Pattern of incidence and length of disqualification: Five (5) positive compliance buys out of five (5) shall result in a one (1) year disqualification.

(l) A vendor who has been disqualified from the Food Stamp Program shall be disqualified from the WIC Program for the same length of time, duration, as the Food Stamp Program disqualification.

(m) A vendor who has been assessed a civil money penalty by the Food Stamp Program shall be disqualified from WIC Program for the same length of time, duration, for which the vendor would have been disqualified from the Food Stamp Program however, if the WIC Program has determined that the disqualification of the vendor would result in inadequate participant access, no penalty shall be assessed.

(n) When multiple vendor violations are found during an investigation, the length of the disqualification shall be determined by the most serious violation.

(o) When a vendor who has previously received two (2) or more of any of the mandatory sanctions listed in this section receives another sanction for any of these violations, the third sanction and all subsequent sanctions shall be doubled. A civil money penalty cannot be assessed for a third or more sanctions.

Section 13. (1) Prior to disqualifying a vendor for any violations listed in Section 12 of this administrative regulation, the WIC program shall determine if disqualification of the vendor will result in inadequate participant access. The following procedure shall be used to determine and document adequate participant access; all mileage is measured by automobile odometer.

(a) Is there another vendor less than or equal to seven (7) miles from the vendor? If yes, there is adequate participant access.

(b) If no, is there another vendor between the health department or health department service site and the vendor? If yes, is the health department or health department service site less than or

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

equal to seven (7) miles from the vendor? If yes, there is adequate participant access.

(c) Is there a geographic barrier, such as an impassable mountain, or river, between the vendor and the next accessible vendor? If yes, there is inadequate participant access.

(d) Is the vendor redeeming food instruments for formulas classified as special formulas? If yes, then is there another vendor within seven (7) miles that can obtain the formula? If yes, there is adequate participant access.

(e) If there are five (5) total food packages redeemed by the vendor in a one (1) month period, then the WIC coordinator shall be consulted to determine if special cases exist which will result in inadequate participant access.

(2) When inadequate participant access is determined, a civil money penalty shall be assessed for the violations listed in Section 12 of this administrative regulation. The civil money penalty shall be calculated in accordance with the procedures outlined in the vendor manual which is incorporated by reference.

(3) The WIC program shall negotiate installment plans for the collection of civil money penalties.

(4) If a vendor fails to pay, partially pays, or fails to timely pay a civil money penalty, the vendor shall be disqualified for the length of time corresponding to the most serious violations.

Type of Abuse	Period of Disqualification		
	1st Offense	2nd Offense	3rd Offense
1. Providing cash/credit for WIC checks (trafficking)	1 year	2 years	3 years
2. Selling nonfood items for WIC checks	6 months	1 year	18 months
3. Selling related but unauthorized foods	Written Warning	3 months	6 months
4. Charging more than the current retail market price for WIC food items	6 months	1 year	18 months
5. Charging for food not received by the WIC participant	1 year	2 years	3 years
6. Charging for food not authorized on the WIC check	6 months	1 year	18 months
7. Redeeming WIC checks outside valid period	Written Warning	3 months	6 months
8. Not recording actual purchase price on WIC checks at time of purchase	Written Warning	3 months	6 months
9. Giving due bills, IOU's or rainchecks	Written Warning	3 months	6 months
10. Suspension from Food Stamp Program	Equivalent to food stamp disqualification period (does not have to run concurrently)		
11. Nonpayment of a claim made by state agency	3 months	6 months	1 year
12. Discrimination (separate WIC lines; denying trading stamps; other customer courtesies)	Written Warning	3 months	6 months
13. Failure to allow monitoring and inspection of store premises; records and procedures or access to WIC checks	Written Warning	3 months	6 months

14. Failure to return WIC vendor authorization stamp upon request	Add 3 months to previously established disqualification period or monetary penalty in the amount of unauthorized funds received or both		
15. Requiring cash purchase to redeem WIC checks	Written Warning	3 months	6 months]

[Notice of sanction to be imposed by the cabinet and the date upon which such sanction is to commence may be hand-delivered to the vendor or mailed certified mail return receipt requested to the vendor's last known address.]

Section 14. [10:] If an agency is denied application, has participation in the program denied, or any other adverse action affecting participation is taken, then any appeal shall be in accordance with Section 15 [11] of this administrative regulation.

Section 15. [11:] (1) Any person [participant], vendor or local agency aggrieved by the [a] decision of the cabinet to impose a sanction authorized by law or this administrative regulation may file a written request for a hearing with the cabinet no later than fifteen (15) days after receipt of notice of adverse action. Upon receipt of a request for a hearing, the secretary shall appoint an impartial hearing officer to conduct the hearing. Within ten (10) days of a request for a hearing, the cabinet shall issue a notice of hearing in compliance with KRS 13B.050.

(2) The hearing conducted on the appeal shall comply with the requirements of KRS Chapter 13B, including KRS 13B.080 and 13B.090. The hearing officer may order where relevant an independent medical assessment or professional evaluation from a source mutually agreeable [satisfactory] to both [the] participant and the state agency.

(3) The hearing officer(s) shall decide [upon] the validity of the violation and sanction imposed based upon the record of the hearing and the relevant statutory and regulatory provision(s) governing the WIC Program.

(4) A recommended decision complying with KRS Chapter 13B [(10)(1)] shall be forwarded to the agency head. A decision shall be reached by the agency head and written notification of the decision forwarded to the vendor no later than sixty (60) days from the date of receipt of the written request for hearing unless the vendor waives this date in writing. The decision shall advise the appellant of the right to appeal pursuant to KRS 13B.140.

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "WIC Information Manual for Prospective Vendors" dated August, 1999; and

(b) "WIC Vendor Manual" dated August, 1999.

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

RICE C. LEACH, M.D., Commissioner

JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: September 28, 1999

FILED WITH LRC: September 30, 1999 at 3 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Fran Hawkins

(1) Type and number of entities affected: All pregnant, breastfeeding, and postpartum women, infants and children applying for and participating in the WIC Program and applying and authorized vendors are affected by this administrative regulation.

(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: Employment in Kentucky will be impacted by this regulation when a vendor commits a violation which results in a disqualification from the WIC Program.

(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: The cost of doing business in Kentucky will not be impacted by this regulation unless a vendor commits a violation which results in a disqualification from the WIC Program.

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

1. First year following implementation: The WIC Program will incur the cost of determining eligibility of participants and vendors, for conducting investigations, issuing sanctions and conducting hearings as appropriate. Since the department already incurs these costs, this is not a cost increase. The cost of these activities are 100% federally funded.

2. Second and subsequent years: The cost to the WIC Program will vary based upon the number of applicants (vendors and participants), the number of investigations and hearings. The cost of these activities are 100% federally funded

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The WIC Program will incur the cost of determining eligibility of participants and vendors, of conducting investigations, issuing sanctions and conducting hearings. The department already incurs these costs, which are 100% federally funded by the WIC Program.

2. Continuing costs or savings: The WIC program will realize the cost savings of removing vendors who are violating the administrative requirements of the program by overcharging, trafficking, etc. See the first year for the cost factors.

3. Additional factors increasing or decreasing costs: The WIC Program will experience varied costs based upon the number of applicants (participants and vendors), the number of investigations and hearings.

(b) Reporting and paperwork requirements: The WIC Program will not experience a change in reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: There will be no effect on local revenues. WIC Program revenues may increase as a result of the assessment of a civil money penalty being imposed instead of a vendor disqualification. However a portion of these revenues will be offset by the cost to the WIC Program of the vendor's violation(s).

(5) Source if revenue to be used for implementation and enforcement of administrative regulation: The administration and enforcement will be financed by 100% federal funding from the WIC Program.

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

(a) Geographical area in which administrative regulation will be implemented: The economic impact will occur to vendors who are disqualified from the WIC Program or who are assessed a civil money penalty.

(b) Kentucky: See response to 6a since the WIC Program is statewide.

(7) Assessment of alternative methods; reasons why alternatives were rejected: 7 CFR Part 246 of the federal regulations set the framework for the WIC Program operations.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Pregnant, breast-feeding and post delivery women, infants, and children up to the age of 5 who are certified for the WIC Program will receive nutritious foods and nutrition education through the WIC Program. Contracted vendors and participants will redeem the food instruments in a manner which protects program integrity.

(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: Pregnant, breast-feeding and post delivery women, infants and children up to the age of 5 who are eligible for the WIC Program may not receive nutritious foods or nutrition education through the WIC

Program. Contracted vendors and participants will not redeem the food instruments in a manner which protects program integrity. Vendors and participants who violate the WIC Program could not be removed from the WIC Program or assessed a civil money penalty.

(9) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy conflicts, overlaps, or duplicates this administrative regulation.

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied because 7 CFR Part 246 applies to all eligible participants and vendors.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 7 CFR Part 246, revised January 1, 1997; 63 FR 63969, 11/18/98, Final Rule - Implementation of WIC Mandates of PL 103-448, as Healthy Meals for Healthy Americans Act of 1994 and PL 103-227, the Pro-Children Act of 1994; and, 64 FR 13311, 03/18/99, Final Rule - WIC/Food Stamp Program (FSP) Vendor Disqualification, 42 USC 1786, revised October 1, 1998.

2. State compliance standards. The federal mandate outlines eligibility criteria for applicants, allows the state the authorization to develop criteria to limit the number of authorized vendors, establishes mandatory vendor sanctions for specific violations but allows the state the discretion to set the patterns of incidence prior to disqualification, allows the state to establish state agency sanctions for vendors, requires the state to consider participant access, requires the state to establish procedures to control participant abuse and have procedures for hearings for participants, vendors, and agencies.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate outlines eligibility criteria for applicants, allows the state the authorization to develop criteria to limit the number of authorized vendors, establishes mandatory vendor sanctions for specific violations but allows the state the discretion to set the patterns of incidence prior to disqualification, allows the state to establish state agency sanctions for vendors, requires the state to consider participant access, requires the state to establish procedures to control participant abuse and have procedures for hearings for participants, vendors, and agencies.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The federal regulations require the state establish patterns of incidences for the following sanctions: overcharging, receiving, transacting/redeeming food instruments outside of authorized channels; including unauthorized vendors or persons, charging for supplemental food not received, and unauthorized food items including charging for supplemental food provided in excess of those listed on the food instrument. In order to establish the pattern of incidence for the violations and state agency sanctions for vendors, the WIC Program met with a committee consisting of members of the vendor community, representatives of local WIC agencies, and legislators. This committee also aided in the determination of participant access procedures.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal regulations require the state establish patterns of incidences for the following sanctions: overcharging, receiving, transacting/redeeming food instruments outside of authorized channels; including unauthorized vendors or persons, charging for supplemental food not received, and unauthorized food items including charging for supplemental food provided in excess of those listed on the food instrument. In order to establish the pattern of incidence for the violations and state agency sanctions for vendors, the WIC Program met with a committee consisting of members of the vendor community, representatives of local WIC agencies, and legislators. This committee also aided in the determination of participant access procedures.

STATEMENT OF EMERGENCY
921 KAR 2:006E

The administrative regulation 921 KAR 2:006E, Technical requirements for the Kentucky Transitional Assistance Program (K-TAP), implements the technical requirements for the Kentucky Transitional Assistance Program. This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a)2 and 3 to prevent a loss of federal funds and meet a deadline established by federal law. This emergency administrative regulation is needed to comply with final federal regulations issued on April 12, 1999, effective October 1, 1999. Temporary Assistance for Needy Families (TANF) Block grant funding for public assistance benefits including supportive services received by needy Kentuckians may be jeopardized if Kentucky does not comply with federal requirements found in 45 CFR Parts 260 through 265, effective October 1, 1999. Prior to the issuance of the final federal TANF regulations, states were allowed to operate programs under a reasonable interpretation of the TANF federal statutes as a result of the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. However, this standard only applies until the effective date of the final TANF regulations which is October 1, 1999. At that time, states are required to implement changes in the programs to comply with these federal regulations. If these changes are not implemented, penalties and loss of federal funds may result. Therefore, in order to be in compliance with the federal regulations, this emergency administrative regulation must be placed in effect immediately in order to amend the requirements in 921 KAR 2:006. An ordinary administrative regulation would not allow sufficient time to meet the federally mandated changes by October 1, 1999, due to the issuance of the final regulations on April 12, 1999. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The notice of intent for the ordinary administrative regulation is being filed concurrently with this emergency administrative regulation.

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

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

921 KAR 2:006E. 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 Parts 260 through 265 [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.,

STATUTORY AUTHORITY: KRS 194B.050(1), 205.010, 205.200(2), (3), 42 USC 601 et seq., EO 98-731

EFFECTIVE: October 1, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program, the Kentucky Transitional Assistance Program, the block grant program funded pursuant to [under] 42 USC 601 et seq. KRS 205.200(2) requires that the conditions of eligibility to receive assistance [money-grants] 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) "Assistance" means the definition of "assistance" pursuant to 45 CFR 260.31.

(2) "Battered or subjected to extreme cruelty" means an individual who has been subjected to:

(a) A physical act [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 a nonconsensual sexual act or activity [acts or activities];
(e) Threat [Threats] of, or an attempt [attempts] at, physical or sexual abuse;

(f) Mental abuse; or

(g) Neglect or deprivation of medical care.

(3) [(2)] "Cabinet" means the Cabinet for Families and Children.

(4) [(3)] "Child" means an individual:

(a) Age fifteen (15) or under;

(b) Age sixteen (16), 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) Under age eighteen (18) and a high school graduate.

(5) "Concerns" means a hardship the individual shall overcome to become employed and self-sufficient.

(6) [(4)] "Domestic violence" means "battered or subjected to extreme cruelty" pursuant to [as-defined-in] subsection (2) [(1)] of this section.

(7) "Employed" means performs a physical or mental activity in exchange for direct monetary compensation.

(8) [(5)] "Kentucky Transitional Assistance Program (K-TAP)", means Kentucky's Temporary Assistance for Needy Families (TANF) [program, means-a] money payment program for a child [children] who is [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 if [when] both parents are in the home; or

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

(9) [(6)] "Kentucky Works" means a program that [which] assists a:

(a) Recipient [recipients] of K-TAP in obtaining education, training, experience and employment necessary to leave public assistance; or
(b) Former K-TAP recipient with job retention service.

(10) [(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.

(11) [(8)] "Parent" means the natural, adoptive, or adjudicated (including administrative establishment of paternity) parent of the child.

(12) [(9)] "Prior labor market attachment (PLMA)" means the parent has earned not less than \$1,000 during the twenty-four (24) months prior to the application, for K-TAP benefits based on the deprivation of unemployment.

(13) [(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 pursuant to [under] 8 USC 1101 et seq.;

(b) Granted asylum pursuant to [under] 8 USC 1158;

(c) A refugee who is admitted to the United States pursuant to [under] 8 USC 1157;

(d) Paroled into the United States pursuant to [under] 8 USC 1182(d)(5) for a period of at least one (1) year;

(e) An alien whose deportation is being withheld pursuant to [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;

(h) Battered or subjected to extreme cruelty in the United States by a:

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 a:

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 pursuant to [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 pursuant to [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.

(14) [(11)] "Qualifying parent" means the parent who meets PLMA.

(15) [(12)] "Second chance home" means an entity that:

(a) Provides a minor teenage parent a supportive and supervised living arrangement; and

(b) Requires [in-which] a minor teenage parent [is-required] to learn:

1. Parenting skills, including child development;

2. Family budgeting;

3. Health and nutrition; and

4. Other skills to promote long-term economic independence and the well-being of the child of the minor teenage parent.

(16) [(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.

(17) [(14)] "Supplemental Security Income (SSI)" means a monthly cash payment made pursuant to [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.

(18) [(15)] "Unemployed parent" (UP) case means K-TAP benefits paid to a family if [when] both parents are in the home and at least one (1) parent is unemployed.

(19) [(16)] "Work" means participation in the following:

(a) Unsubsidized employment;

(b) Subsidized employment;

(c) Work experience training;

(d) Community service [services]; or

(e) A work program [programs] established by the cabinet.

Section 2. Age and School Attendance. (1) The definition of a "child", pursuant to [as-specified-in] Section 1(4) 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) [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 shall be defined pursuant to [is-defined-in] 921 KAR 2:016, Section 1(13) [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 a month [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) A [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 cabinet [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 an individual [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 pursuant to [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 a United States citizen [citizens].

(b) A qualified alien, pursuant to [as-defined-in] Section 1(13) [(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, pursuant to [as-defined-in] Section 1(13) [(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 shall apply to this provision:

1. An alien who is admitted to the United States as a refugee pursuant to [under] 8 USC 1157;

2. An alien who is granted asylum pursuant to [under] 8 USC 1158;

3. An alien whose deportation is being withheld pursuant to:

a. 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 pursuant to [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 pursuant to [as-specified-in] Section 1(8) [(5)] of this administrative regulation.

(2) A specific deprivation factor shall be verified for a [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.

(2) Absence may be voluntary or involuntary.

(a) Voluntary absence shall include [includes]:

1. Divorce;
2. Legal separation;
3. Marriage annulment;
4. Desertion of:

a. [Ø] Thirty (30) days or more if the parent:

- (i) [The parent] Voluntarily leaves; or
- (ii) [The parent] Refuses to accept the child into his home; or
- b. [Ø] Less than thirty (30) days if:

(i) The child leaves the parent because the parent was requiring the child to live under a circumstance [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 a circumstance [circumstances] hazardous to the health or morals of the child; or

(iii) The child is voluntarily placed with a relative [relatives] following a finding by the cabinet 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; or
6. Birth out-of-wedlock.

(b) Involuntary absence shall include [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) A [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 shall exist [exists] in a case if [when] the following criteria are met:

(a) It is medically determined that one (1) parent has a physical or mental disability, illness or impairment that [which was]:

1. Was 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 study [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) 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 pursu-

ant to [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 pursuant to [as-contained-in] 42 USC 1382c or 42 USC 416 by either the:

(i) [The] Social Security Administration; or

(ii) [The] Medical review team of the Department for Community-Based Services; 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, a statement from the physician shall be [is-also] requested to indicate if incapacity existed as of application date; or

i. Is recovering from surgery, illness or injury that [which] requires a period of time for recovery, up to six (6) weeks, as specified by a physician statement. A period [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 cabinet [agency], if a determination by field staff is precluded.

(5) A factor [Factors] to be considered by the medical review team in making the medical determination shall include:

(a) The claimant's medical history and subjective complaint [complaints] regarding an alleged physical or mental disability, illness or impairment; and

(b) Competent medical testimony relevant to whether:

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) A factor [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 complaint [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 opportunity [opportunities] available in the claimant's area of residence.

(7) In determining the extent and accessibility of available employment opportunity [opportunities], the limited employment opportunity [opportunities] of an individual [individuals] with a disability shall be taken into account; and

(a) Available printed materials that provide information regarding available employment opportunity [opportunities] shall be researched;

(b) The local Department for Employment Service office shall be contacted regarding accessible employment opportunity [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) A [Each] claimant shall be provided timely and adequate notice

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

of and an opportunity for a fair hearing pursuant to ~~[as provided in]~~ 921 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 ~~if [when]~~ both parents are in the home shall be based on the determination that the qualifying parent meets the criteria of unemployment and has a PLMA, pursuant to ~~[as defined in]~~ Section 1(12) of this administrative regulation.

(2) The determination of the qualifying parent shall include the following:

(a) If the cabinet [agency] is unable to secure primary evidence of earnings to determine the [which] parent who is the qualifying parent, the cabinet [agency] shall designate the qualifying parent using the best evidence available.

(b) If both parents earned identical amounts of income, or no income, the cabinet [agency] shall designate the parent meeting the criteria of unemployment, pursuant to ~~[as specified in]~~ subsection (3) of this section.

(c) The individual earnings of both parents ~~[each parent]~~ shall be considered in determining the qualifying parent regardless of when their relationship began.

(d) The qualifying parent 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 employed:

(a) ~~[Employed]~~ Less than 100 hours in a calendar month; or

(b) In excess of ~~[Employment exceeds]~~ 100 hours in a particular month if the employment ~~[-but the work]~~ is intermittent and the excess is of a temporary nature if ~~[-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 a K-TAP applicant ~~[applicants]~~.

(4) PLMA shall be established if the parent:

(a) Attests to the amount of earnings pursuant to ~~[meeting the definition in]~~ Section 1(12) ~~[(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 full-time school attendance, as defined by the school or institution, may be substituted for \$500 of the \$1000 earnings.

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

(a) Is on strike;

(b) Is temporarily unemployed:

1. Due to weather condition ~~[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 921 KAR 2:370, Section 4(3); or

2. Subject to Kentucky Works, pursuant to ~~[as specified in]~~ 921 KAR 2:370; or

(g) Has refused a bona fide offer of employment or training for employment without good cause, pursuant to 921 KAR 2:370, Section 6(1), 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 921 KAR 2:370, Section 6(1) are met.]~~

Section 10. Living with a Specified Relative. (1) To be eligible for K-TAP a needy child shall be living in the home of a relative as follows:

(a) ~~[(1)]~~ A blood relative, including a relative of the half-blood;

(b) A ~~[(2)]~~ Any person listed in paragraph (a) of this subsection ~~[(1)]~~ of this section if the alleged father has had paternity established through the administrative determination process pursuant to ~~[as specified in]~~ Section 11 of this administrative regulation;

(c) ~~[(3)]~~ An adoptive parent, the natural and other legally adopted child and other relative of the adoptive parent;

(d) ~~[(4)]~~ A relative by marriage, even if the marriage may have terminated, providing termination occurred after the birth of the child;

1. ~~[(a)]~~ For K-TAP eligibility ~~[purposes]~~, a couple that has been considered married by a state with common-law marriage provision ~~[provisions]~~ shall be considered married;

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

(2) ~~[(5)]~~ 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; 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 visit with a friend or relative ~~[visits with friends or relatives]~~.

(3) ~~[(6)]~~ 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.

(4) ~~[(7)]~~ If a specified relative fails to notify the cabinet [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 (3) ~~[(6)]~~ of this section, the specified relative shall not be eligible for his share of K-TAP benefits during the period of the child's unreported absence of thirty (30) consecutive days or more. Ineligible benefits received by the specified relative and child during the period of the child's unreported absence of thirty (30) consecutive days or more shall be recouped pursuant to Section 10 of 921 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 ~~if [and shall be limited to situations in which]~~ the following type ~~[types]~~ of evidence is ~~[are]~~ present:

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

(b) Legal document ~~[documents]~~ such as:

1. Hospital record ~~[records]~~;

2. Juvenile court record ~~[records]~~;

3. Will ~~[Wills]~~; and

4. Other court record that ~~[records which]~~ clearly indicates ~~[indicate]~~ the relationship of the alleged parent or relative; or

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

(d) A sworn statement or affidavit of either parent acknowledging

paternity plus one (1) of the following:

1. School record [records];
2. Bible record [records];
3. Immigration record [records];
4. Naturalization record [records];
5. Church document [documents], such as baptismal certificate [certificates];
6. Passport;
7. Military record [records];
8. U.S. Census record [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 pursuant to [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:
 1. Acknowledging the erroneous information; and
 2. Containing the correct information on the actual alleged parent.
- (3) Presence of the notarized statement or affidavit pursuant to [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 receive 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 a [any] month [in which] the parent, with whom the child is living [is;] on the last day of the month, is participating in a strike; and

(2) A specified relative other than the parent shall be ineligible for benefits for a [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 921 KAR 2:370, Section 4(3).

Section 15. Kentucky Works. The technical requirements for participation in the Kentucky Works Program are pursuant to [specified-in] 921 KAR 2:370.

Section 16. Cooperation in Child Support [Enforcement] Activities.

(1) The Department for Community-Based Services shall attempt to secure parental support, and if necessary establish paternity, for a child [children] receiving assistance, pursuant to Section 1(1) of this administrative regulation, who has a parent absent from the home due to [K-TAP based on the following voluntary 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 a good cause reason, pursuant to [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 that shall include [- 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; or [and]

(d) Forwarding child support payment [payments] received to the cabinet [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 in child support activities.

(4) The applicant or recipient shall be excused from penalty for failure to cooperate with a child support activity, pursuant to subsection (2) of this section, if [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:

1. The child; or

2. [~~(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

(b) [~~(c)~~] The child was conceived as a result of incest or forcible rape and the cabinet [department] believes it would be detrimental to the child to require the applicant's or recipient's cooperation; or

(c) [~~(d)~~] Legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction and the cabinet [department] believes it would be detrimental to the child to require the applicant's or recipient's cooperation; or

(d) [~~(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 used to determine [upon which a determination of] good cause shall include [be made includes the following]:

1. Birth certificate [certificates], medical information, or law enforcement record [records] indicating that the child was conceived as a result of incest or forcible rape;

2. Court document [documents] or other record [records] indicating legal proceedings for adoption of the child by a specific family is [are] pending before a court of competent jurisdiction;

3. Record or other evidence [Records (court, medical, criminal, child protective services, social services, psychological or law enforcement)] indicating the noncustodial 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 statement [statements] from an individual [individuals], other than the applicant or recipient, with knowledge of the circumstance that provides [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 a support obligation [obligations].

(c) If [~~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 cabinet [agency] shall conduct an investigation if it is be-

lieved that:

- a. Corroborative evidence is not available; and
- b. The claim is credible without corroborative evidence.
2. If the cabinet [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 cabinet [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 shall be [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 cabinet [agency] shall:
 - (a) Document the case;
 - (b) Determine that good cause:
 1. Good cause Exists and a support activity [activities] cannot be initiated without endangering the:
 - 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 that [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 cabinet [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 921 KAR 2:016; and
 - (b) The cabinet [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 cabinet [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 a back payment [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 another [any] benefit if potential entitlement exists.

(2) Failure to apply for another benefit or comply with its requirements shall result in ineligibility for K-TAP.

(3) 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 an educational activity [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 has:

- (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 pursuant to [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 pursuant to [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 the:

(a) [The] Minor teenage parent does not have a:

1. [A] Parent, legal guardian or appropriate adult relative pursuant to [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 pursuant to [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 pursuant to [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 the cabinet determines:

(a) [The cabinet determines] Living in the place of residence maintained by the parent, legal guardian, or adult relative pursuant to [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 a circumstance changes [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 a provision [provisions] found in Section 18 of this administrative regulation, payment [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 pursuant to [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, pursuant to [as defined by] Section 1(2) of 921 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 pursuant to [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 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:

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

- (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.

(3) [(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 921 KAR 2:370, Section 2 shall count toward the sixty (60) month lifetime limit.]

(4) [(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 an approved work activity [activities], if available, pursuant to [as defined in] Section 1(19) [(16)] 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 921 KAR 2:370, Section 7, for a period of six (6) cumulative months.

(5) [(7)] Time limitations shall apply to a:

(a) Sanctioned individual pursuant to 921 KAR 2:016, Section 25; or

(b) Penalized individual pursuant to [as defined in] 921 KAR 2:016, Section 1(22).

Section 20. Receiving Assistance in Two (2) or More States. (1) K-TAP assistance shall be denied for ten (10) years to a person who has:

[(4)] 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 for:

(a) [Under] A program pursuant to [funded under]:

- 1. 42 USC 601 et seq.;
- 2. 42 USC 1396; or
- 3. 7 USC 2011 et seq.;

(b) [For] Benefits received under supplemental security income.

(2) The requirement in subsection (1) of this section shall not apply to a conviction for a month [any months] beginning after the granting of a pardon by the President of the United States with respect to the conduct that [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, that [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 a [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 pursuant to [in] Section 19 of this administrative regulation shall apply to a benefit group containing an adult who is ineligible for K-TAP pursuant to [as a result of] subsection (1) of this section.

Section 22. Denial of Assistance for a Drug Felon [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 that [which] has as an element the possession, use or distribution of a controlled substance pursuant to [as defined in] 21 USC 802(6), shall not be eligible for K-TAP benefits, except pursuant to [as provided by] KRS 205.2005.

(2) An [Each] individual applying for K-TAP benefits shall be required to state in writing whether the individual or a [any] member of the household has been convicted of a crime pursuant to [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, an appropriate services plan shall be required for the individual. The plan shall:

1. Be developed by a person trained in domestic violence;

2. Reflect the individualized assessment and a revision made by a redetermination;

3. Include appropriate referral to counseling and supportive services based on the needs and concerns identified in the individualized assessment, as determined by the cabinet;

4. Be designed to lead safely to employment; and

5. Be completed no less often than every six (6) months. [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 921 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 921 KAR 2:016, Section 1, for failure to maintain current immunizations.

Section 25. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) PA-1C Supplement D, "Qualifying Parent Eligibility, edition 5/99";

(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";

(e) PA-202TP, "Teen Parent Personal Responsibility Plan, edition 8/97";

(f) PA-219, "Kentucky Works Program Fact Sheet, edition 11/98";

(g) CS-333, "Facts About the Child Support Program, edition 4/99"; and

(h) CS-333.1, "Facts About the Right to Claim Good Cause, edition 4/99".

(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
CHARLES P. LAWRENCE, Attorney
VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: September 24, 1999

FILED WITH LRC: October 1, 1999 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley

(1) Type and number of entities affected: The affected entities are families who apply for or receive benefits under the Temporary Assistance for Needy Families (TANF) block grant money payment program called Kentucky Transitional Assistance Program (K-TAP).

In Kentucky the TANF block grant program to implement the work requirements is called Kentucky Works. As of June 1999, approximately 40,554 families in Kentucky (monthly average) receive K-TAP, including 26,377 adults and 67,067 children. Adults receiving K-TAP are required to participate in work activities.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the notice of intent.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the notice of intent.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: The individuals who are applicants or recipients of K-TAP will have no additional compliance, reporting or paperwork requirements due to the amendments to this administrative regulation.

1. First year following implementation: For K-TAP recipients, identified as being in a domestic violence situation and K-TAP or Kentucky Works requirements are waived, an appropriate domestic violence service plan will be required and developed by a person trained in domestic violence. The plan will be designed to lead safely to work. Redetermination of this plan is required every 6 months. This additional requirement will create little or no impact to the recipient except possibly an additional trip to the local Community-Based Services office, if needed.

2. Second and subsequent years: same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings to the agency:

1. First year: The breakdown of costs and savings to the agency for the first year are listed below: No fiscal impact to the agency is anticipated due to the amendments to this administrative regulation.

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: state and federal funds

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

(a) Geographical area in which administrative regulation will be implemented: To be determined after the publication of the notice of intent.

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

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the state does not want to incur a penalty; therefore, the increased hours in required participation will be met.

(8) Assessment of expected benefits:

(a) Identify effects on public welfare and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation is needed to comply with federal TANF regulations issued April 12, 1999, that are effective October 1, 1999.

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

(c) If detrimental effect would result, explain detrimental effect: TANF Block grant funding (K-TAP) for public assistance benefits (including supportive services) received by needy Kentuckians may be jeopardized if Kentucky does not comply with federal requirements found in 45 CFR Parts 260 Through 265, effective October 1, 1999. Prior to the issuance of the final federal TANF regulations, states were allowed to operate programs under a reasonable interpretation of the TANF federal statutes as a result of the passage of

the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. However, this standard only applies until the effective date of the final TANF regulations which is October 1, 1999. At that time, states are required to implement changes in the programs to comply with these federal regulations. If these changes are not implemented, penalties and loss of federal funds may result. If public assistance benefits received by needy Kentuckians are jeopardized, these individuals would lose a source of support for their family including assistance for supportive services which enables the parent to remain in the work activity.

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 CFR Parts 260 Through 265

2. State compliance standards. KRS 205.2003; 205.2005

3. Minimum or uniform standards contained in the federal mandate. federal regulations contain standards regarding the definition of "assistance" funded with TANF federal funds.

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

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

STATEMENT OF EMERGENCY 921 KAR 2:016E

The administrative regulation 921 KAR 2:016E, Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP) implements the financial requirements for the Kentucky Transitional Assistance Program. This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a)2 and 3 to prevent a loss of federal funds and meet a deadline established by federal law. This emergency administrative regulation is needed to comply with final federal regulations issued on April 12, 1999, effective October 1, 1999. Title IV-A Temporary Assistance for Needy Families (TANF) Block grant funding for public assistance benefits including supportive services received by needy Kentuckians may be jeopardized if Kentucky does not comply with federal requirements found in 45 CFR Parts 260 through 265, effective October 1, 1999. Prior to the issuance of the final federal TANF regulations, states were allowed to operate programs under a reasonable interpretation of the TANF federal statutes as a result of the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. However, this standard only applies until the effective date of the final TANF regulations which is October 1, 1999. At that time, states are required to implement changes in the programs to comply with these federal regulations. If these changes are not implemented, penalties and loss of federal funds may result. Therefore, in order to be in compliance with the federal regulations, this emergency administrative regulation must be placed in effect immediately in order to amend the requirements in 921 KAR 2:016. An ordinary administrative regulation would not allow sufficient time to meet the federally mandated changes by October 1, 1999, due to the issuance of the final regulations on April 12, 1999. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The notice of intent for the ordinary administrative regulation is being filed concurrently with this emergency administrative regulation.

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

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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

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

RELATES TO: KRS 205.200(2), 205.210(1), 205.211, 205.2001, [42—CFR—435.831;] 45 CFR Parts 260 through 265 [233; 233.20(a)(13)]; 25 USC 1408, 42 USC 602

STATUTORY AUTHORITY: KRS 194B.050(1), 205.200(2), 42 USC 601 et seq., EO 98-731

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Kentucky Transitional Assistance Program (K-TAP), the block grant program funded by 42 USC 601 et seq. This administrative regulation sets forth the standards of the need for and the amount of a Kentucky Transitional Assistance Program payment.

Section 1. Definitions. (1) "Assistance" means the definition of "assistance" pursuant to 45 CFR 260.31.

(2) "Benefit group" means a group composed of one (1) or more children and may include as specified relative a [any] person pursuant to [specified in] 921 KAR 2:006, Section 10.

(a) The benefit group shall include:

1. The dependent child;
2. The child's parent living in the home with the needy child who

is:

- a. Eligible for K-TAP; or
- b. Ineligible for K-TAP due to benefit time limitations pursuant to 921 KAR 2:006, Section 19; and
3. All eligible siblings living in the home with the needy child.

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

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

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

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

- (a) Loss or theft of the money;
- (b) The individual to whom the lump sum was designated no longer lives in the household, making the lump sum income inaccessible; or

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

(4) [(3)] "Burial space" means a space and a [certain] related service [services] used for the remains of a deceased person that may include: [-This includes:]

- (a) A grave site;
- (b) Cost [Costs] to open and close the grave;
- (c) A crypt;
- (d) A mausoleum space;
- (e) A casket;
- (f) A vault;
- (g) An urn; and
- (h) A headstone.

(5) "Cabinet" means the Cabinet for Families and Children.

(6) [(4)] "Change in circumstances" means a change in income [and] or dependent care expense affecting [expenses which affects] the ongoing K-TAP payment that [-This] shall include:

- (a) Beginning or ending employment;
- (b) Change in an employer [employers] or obtaining additional employment;
- (c) Increase or decrease in the number of work hours;
- (d) Increase or decrease in the rate of pay;
- (e) Increase or decrease in the dependent care expense due to a change in provider, number of hours of care, number of individuals for

whom care is given, or amount charged; or

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

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

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

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

(10) "Employed" means performs a physical or mental activity in exchange for direct monetary compensation.

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

(12) [(9)] "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(13) [(10)] "Full-time school attendance" means a workload of at least:

(a) The number of hours required by the individual program for participation in;

1. An adult basic education program;
2. A general educational development program; or
3. A literacy program; or

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

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

(14) [(11)] "Gross income limitation standard" means 185 percent of the assistance standard, as set forth in Section 8 of this administrative regulation.

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

(16) [(13)] "Kentucky Transitional Assistance Program (K-TAP)", Kentucky's Temporary Assistance for Needy Families (TANF) Program, means a money payment program for a child who is [children who are] deprived of parental support or care pursuant to 921 KAR 2:006, Section 1.

(17) [(14)] "Kentucky Works" means a program that [which] assists a:

(a) Recipient [recipients] of K-TAP in obtaining education, training, experience and employment necessary to leave public assistance; or

(b) Former K-TAP recipient with job retention service.

(18) [(15)] "Lump sum income" means income that does not;

1. Occur on a regular basis; or

2. [and does not] Represent accumulated monthly income received in a single sum.

(19) [(16)] "Minor" means a [any] person who is under the age of:

(a) Eighteen (18); or

(b) [under the age of] Nineteen (19) pursuant to [in accordance with] 921 KAR 2:006, Section 1.

(20) [(17)] "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.

(21) [(18)] "Part-time employment" means employment of:

(a) Less than thirty (30) hours per week;

(b) [or] 130 hours per month; or

(c) Not employed throughout the entire month.

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

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

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

(25) [(22)] "Recoupment" means recovery of an overpayment

[overpayments] of an assistance payment [payments].

(26) [(23)] "Sanctioned individual" means a [any] person who is required to be included in the benefit group but who is excluded from the benefit group due to failure to fulfill an eligibility requirement.

(27) [(24)] "Self-employment income" means income from a business enterprise if [from which no] taxes are not withheld prior to receipt of the income by the individual.

(28) [(25)] "Supplemental security income (SSI)" means a monthly cash payment [payments] made pursuant to [under the authority of]:

- (a) 42 USC 1381 to 1385 to the aged, blind and disabled;
- (b) 42 USC 1382e; or
- (c) 42 USC 1382.

(29) [(26)] "Unavailable" means that the income is not accessible to the K-TAP benefit group for use toward basic food, clothing, shelter, and utilities.

(30) [(27)] "Work expense standard deduction" means a deduction from earned income intended to cover mandatory pay check deductions, union dues, and tools [and transportation].

Section 2. Resource Limitations. (1) Real and personal property shall be considered if:

- (a) Available to the benefit group; and
- (b) Owned in whole or in part by:
 - 1. An applicant or recipient;
 - 2. A sanctioned or penalized individual; or
 - 3. The parent of a dependent child, even if the parent is not an applicant or recipient, if the dependent child is living in the home of the parent.

(2) The amount that can be reserved by each benefit group shall not be in excess of \$2,000 equity value excluding an item or [these] items [specifically] listed in subsection (3) of this section.

(3) Excluded resources. The following resources shall be excluded from consideration:

- (a) One (1) owner-occupied home;
- (b) One (1) motor vehicle;
- (c) Basic household item or items essential for day-to-day living,

including:

- 1. Furniture;
- 2. Appliances; and
- 3. Clothing;
- (d) Gift or inheritance not legally available until a later date;
- (e) Nonessential item with a value of less than fifty (50) dollars;
- (f) [All] Resources of a recipient of SSI or the state supplemental program living in the home;

(g) Equity value of all equipment, livestock or other inventory used in a farming or self-employment enterprise;

(h) Crops and animals raised for home consumption;

(i) Real property that [which] the benefit group is making a good faith effort to sell, for a period of nine (9) months or less. If excluded:

1. The benefit group shall agree to repay K-TAP benefits received beginning with the first month of the exemption.

2. An [Any] amount of K-TAP paid during a [that] period that would not have been paid if the disposal of property had occurred at the beginning of the period shall be [is] considered an overpayment.

3. The amount of the repayment shall not exceed the net proceeds of the sale.

4. If the property has not been sold within the nine (9) months, or if eligibility stops for another [any other] reason, the entire amount of assistance paid during the nine (9) month period shall be treated as an overpayment;

(j) A child's [Children's] toys and bicycle [bicycles];

(k) Household pet [pets];

(l) Resources of a child excluded from the K-TAP grant;

(m) Resources of an individual not receiving assistance but living in the home including:

- 1. The stepparent;
- 2. Parent or legal guardian of a minor parent;
- 3. The spouse of a nonresponsible specified relative; or
- 4. The spouse of a minor dependent child;
- (n) Amount of the K-TAP grant;
- (o) Proceeds (sale price less indebtedness) from the sale of a home, including initial or down payment from land contract sale, for six

(6) months if client plans to invest in another home;

(p) Funds in an individual retirement account, retirement or deferred compensation account during the period of unavailability;

(q) Excluded income, pursuant to [as specified in] Section 4 of this administrative regulation;

(r) Principal and accrued interest of an irrevocable trust during a period [periods] of unavailability;

(s) One (1) burial space per K-TAP family member;

(t) Per family member, up to \$1,500 of the total value of:

1. Prepaid burial funds; and

2. Cash surrender value of all burial insurance policies per family member;

(u) Principal of a verified loan;

(v) Up to \$12,000 to Aleutians and \$20,000 to an individual [individuals] of Japanese ancestry for payment made by the United States Government to compensate for hardship experienced during World War II;

(w) Payment made from the Agent Orange Settlement Fund issued by Aetna Life and Casualty to a veteran [veterans] or his survivor [their survivors];

(x) Earned income tax credit payment [payments] in the month of receipt and the following month;

(y) A [Any] payment received from the Radiation Exposure Compensation Trust Fund;

(z) A nonrecurring lump sum SSI retroactive payment that is made to a K-TAP recipient who is not ongoing eligible for SSI, in the month paid and the next following month; and

(aa) Up to a total of \$5,000 in individual development accounts, excluding interest accruing, pursuant to subsection (7) of this section.

(4) Disposition of resources.

(a) An applicant or recipient shall not have transferred or otherwise divested himself of property without fair compensation in order to qualify for assistance.

(b) The household's application shall be denied, or assistance discontinued if:

1. It is determined by the cabinet that the transfer was made expressly for the purpose of qualifying for assistance; and

2. The uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limit.

(c) The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer.

(d) If the amount of excess transferred resources does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

(5) Lifetime care agreement.

(a) The existence of a valid agreement between the applicant or recipient and another individual or organization that [in which] the applicant or recipient has surrendered his resources in exchange for lifetime care shall make the case ineligible.

(b) The agreement shall be considered invalid if the individual or organization with whom the agreement was made provides a written statement that the resources have been exhausted.

(6) Resources held jointly by more than one (1) person.

(a) A bank account [accounts] requiring one (1) signature for withdrawal [withdrawals].

1. Unless the other owner is a recipient of SSI, the total balance of the account shall be [is] considered available to the K-TAP applicant or recipient.

2. If the other owner receives SSI, the balance shall be [is] divided evenly by the number of owners and [only] the K-TAP applicant or recipient's share shall be [is] considered available.

(b) For a bank account that requires [accounts which require] more than one (1) signature for withdrawal [withdrawals], [determine] the K-TAP applicant or recipient's share shall be determined by obtaining a written statement from the other owners as to the division.

(c) If there is no predetermined allocation of shares from a business enterprise, the [determine] applicant or recipient's available share shall be determined by dividing the value of the business enterprise by the number of owners.

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

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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

1. A written statement regarding ownership, who may deposit and withdraw [deposits and withdraws]; and

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

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

(7)(a) To be considered an exempt resource, the individual development account shall have been established on or after May 1, 1997, funded through periodic contributions by a member of the benefit group using funds derived from earned income that [which] was earned after May 1, 1997, for a qualified purpose.

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

1. Postsecondary educational expense that [expenses which] shall include:

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

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

c. An eligible educational institution shall be an:

(i) [An] Institution pursuant to [described in] 20 USC 1088(a)(1) or 1141(a); or

(ii) [An] Area vocational education school pursuant to [as defined by] 20 USC 2471(4)(C) or (D);

2. First home purchase that [which] includes:

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

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

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

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

b. Be approved by a financial institution; and

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

4. Other purpose allowed by a federal regulation [regulations] or clarification [clarifications].

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

(d) To be considered an exempt resource, an individual development account shall be matched by funds from:

1. A nonprofit organization; or

2. Funding permitting, a state or local government agency acting in cooperation with an organization pursuant to [described in] subparagraph 1 of this paragraph.

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

(1) Gross income test.

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

1. Income of the benefit group;

2. Income of a parent who does not receive SSI or state supplementation pursuant to 921 KAR 2:015;

3. Income of a sanctioned or penalized individual; and

4. An amount deemed available from;

a. The parent of a minor parent living in the home with the benefit group;

b. ~~[5. An amount deemed available from]~~ A stepparent living in the home;

c. ~~[6. An amount deemed available from]~~ The spouse of a minor dependent child living in the home; or

d. ~~[and]~~

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

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

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

(2) Benefit calculation.

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

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

(c) Amount of assistance shall be determined prospectively.

(3) Ineligibility period.

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

(b) The ineligibility period shall be:

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

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

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

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

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

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

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

5. The benefit group reapplies during an established ineligibility period and the cabinet [agency] determines that policy has changed to exclude the criteria originally used to establish the ineligibility period.

Section 4. Excluded Income and Deductions. [All] Gross non-K-TAP income received or anticipated to be received by the benefit group, sanctioned or penalized individual, natural parent, spouse of a dependent child and parent of a minor parent living in the home with the benefit group and stepparent living in the home, shall be considered with the application of excluded income and deduction policy pursuant to [as set forth in] the following subsections:

(1) Gross income test. An income [Incomes] listed in this subsection shall be excluded:

(a) A deduction [Deductions] applicable to stepparent income, income of the spouse of a minor dependent child, or income of the parent of a minor parent in the home with the benefit group, pursuant to [as set forth in] Section 6 of this administrative regulation;

(b) A deduction [Deductions] applicable to an alien sponsor's income, pursuant to [as set forth in] Section 7 of this administrative regulation;

(c) A deduction [Deductions] applicable to self-employment income;

(d) The difference between the standard of need and the payment maximum for the benefit group, pursuant to [as specified in] Section 8 of this administrative regulation, if ~~[for households in which]~~ a member of the benefit group receives a JTPA stipend;

(e) Value of United States Department of Agriculture program benefits including:

1. Donated food [foods];

2. Supplemental food assistance received pursuant to [under] 42 USC 1771;

3. Special food service program for a child pursuant to [children under] 42 USC 1775;

4. Nutrition program for the elderly pursuant to [under] 42 USC 3001; and

5. The monthly food stamp allotment;

(f) Reimbursement for transportation in performance of an employment duty [duties], if identifiable;

(g) The value of Kentucky Works supportive services payment pursuant to [payments authorized under] 921 KAR 2:017;

(h) Nonemergency medical transportation payment [payments];

(i) Payment [Payments] from complementary program [programs] if no duplication exists between the other assistance and the assistance provided by the K-TAP program;

(j) Educational grant, loan, scholarship, [grants, loans, scholarships;] and work study income, including:

1. Payment [Payments] obtained and used under a condition [conditions] that preclude their use for current living cost [costs]; and
2. An [All] education grant or loan to an [grants and loans to any] undergraduate made or insured under a [any] program administered by:
 - a. The United States Commissioner of Education; or
 - b. The Bureau of Indian Affairs.

(k) Highway relocation assistance;

(l) Urban renewal assistance;

(m) Federal disaster assistance and state disaster grant [grants];

(n) Home produce utilized for household consumption;

(o) Housing subsidy [subsidies] received from federal, state or local governments;

(p) Receipt [Receipts] distributed to a member [members] of certain Indian tribes by the federal government pursuant to [under] 25 USC 459, 1261 and 1401;

(q) Funds distributed per capita to or held in trust for a member of an [members of any] Indian tribe by the federal government pursuant to [under] 25 USC 459, 1261 and 1401;

(r) Payment [Payments] for supporting services or reimbursement of out-of-pocket expense [expenses] made to an individual volunteer [volunteers] serving under a program pursuant to [programs authorized by] 42 USC 5001 and 42 USC 5011, including:

1. Foster grandparent [grandparents];
2. Senior health aide [aides];
3. Senior companion; or [companions;]
4. Member of the:
 - a. Service Corps of Retired Executives; or
 - b. [and
 - 5.] Active Corps of Executives;

(s) Payment [Payments] to "Volunteers in Service to America" (VISTA) participant pursuant to [participants under] 42 USC 1451 if less than the minimum wage under state or federal law, whichever is greater;

(t) Payment [Payments] from the cabinet [for Families and Children] for:

1. Child foster care; or
2. Adult foster care;

(u) Energy assistance payment [Payments] made under:

1. The Low Income Home Energy Assistance Program pursuant to [under] 42 USC 8621; or
2. [and] Other energy assistance payment [payments which are] made to an energy provider or provided in-kind;

(v) Child support payment [payments] until K-TAP is received;

(w) Earnings of an individual attending school who is:

1. A child; or
2. A parent who is:
 - a. Under the age [of eighteen (18)]; or
 - b. Age eighteen (18) or nineteen (19) or under;

(x) Earnings of a dependent child under eighteen (18) who is a high school graduate;

(y) Nonrecurring gift [gifts] of thirty (30) dollars or less received per calendar quarter for an [each] individual included in the assistance group;

(z) The principal of a verified loan;

(aa) Up to \$12,000 to Aleuts and \$20,000 to an individual [individuals] of Japanese ancestry for payment [payments] made by the United States Government to compensate for a hardship [hardships]

experienced during World War II;

(bb) Income of an individual receiving SSI;

(cc) The essential person's portion of the SSI check;

(dd) Income of an individual receiving mandatory or optional state supplementary payment pursuant to 921 KAR 2:015 [payments];

(ee) The advance payment or refund of earned income tax credit;

(ff) Payment [Payments] made directly to a third party on behalf of the applicant or recipient by a nonresponsible person;

(gg) Child support received in a month [for which] the K-TAP payment is suspended;

(hh) In-kind income;

(ii) Income of a technically ineligible child;

(jj) Payment [Payments] made from the Agent Orange Settlement Fund;

(kk) K-TAP back payment [payments];

(ll) Income of legal guardian of a minor parent, unless the guardian meets the degree of relationship pursuant to [as specified in] 921 KAR 2:006, Section 10;

(mm) Payment [Payments] made from the Radiation Exposure Compensation Trust Fund;

(nn) Up to \$2,000 per year of income received by individual Indians denied from a lease or other use [leases or other uses] of individually-owned trust or restricted lands;

(oo) Payment [Payments] made to an individual [individuals] because of his [their] status as a victim [victims] of Nazi persecution; and

(pp) Income received from temporary employment from the United States Department of Commerce, Bureau of the Census.

(2) Benefit calculation. Excluded income pursuant to [in] subsection (1) of this section and an [any] applicable deduction listed in this subsection shall be applied:

- (a) Standard work expense deduction of ninety (90) dollars for full-time and part-time employment; and
- (b) On or after November 1, 1995, if the caregiver is not the parent, legal guardian or a member of the benefit group, the dependent care disregard shall:
 1. Be allowed as a work expense for:
 - a. An able bodied child age thirteen (13) or over and not under court supervision;
 - b. An incapacitated adult living in the home and receiving K-TAP;
 - c. A sanctioned individual whose earned income is considered available to the K-TAP household;
 - d. At the option of the recipient, a K-TAP case that [which] would otherwise be ineligible for K-TAP without the benefit of the disregard for child care; or
 - e. The month of application for K-TAP benefits; and
 2. Shall not exceed:
 - a. \$175 per month per individual for full-time employment; or
 - b. \$150 per month per individual for part-time employment; or
 - c. \$200 per month per individual for child under age two (2).
- (c) Child support payment [payments] assigned and actually forwarded or paid to the cabinet [department]; and
- (d) First thirty (30) dollars and one-third (1/3) of the remainder of earned income not already deducted for each member of the benefit group.
 1. The one-third (1/3) portion of this deduction shall be applied to each member's earned income for four (4) months.
 2. The thirty (30) dollar portion of this deduction shall be applied concurrently with the one-third (1/3) deduction and for an additional eight (8) consecutive months following the expiration of the concurrent period.
 3. Until the individual has earnings, reported timely, from new employment, the [These] deductions shall not be available to the individual after expiration of the time limits [until he has earnings, reported timely, from new employment]; and
- (e) For new employment, or increased wages, acquired after approval and reported timely, a one (1) time only disregard per employed adult member of the benefit group, the amount of two (2) full calendar months earnings.
 1. The two (2) months earnings disregard shall be consecutive, and at the option of the recipient.
 2. If otherwise eligible, a sanctioned or penalized member of the benefit group may receive the two (2) months earnings disregard.

(3) Deductions from earnings pursuant to [in] subsection (2)(a), (b)

and (d) of this section shall not apply for a [any] month [in which] the individual:

(a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists pursuant to 921 KAR 2:370, Section 6(1).

(b) Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (2)(d) of this section;

(c) Fails to report an [and] increase in earnings, that [which] impacts eligibility, within ten (10) days of the change, unless good cause exists as follows:

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

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

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

(4) Changes in income and resources of the benefit group that contains a member who is participating in the wage supplementation component of Kentucky Works pursuant to 921 KAR 2:370 shall be disregarded for the first six (6) months of wage supplementation component participation.

Section 5. Child Care Payments. With the exception of those circumstances pursuant to [outlined in] Section 4(2)(b) of this administrative regulation, a child care expense [expenses] incurred as a result of employment shall be paid pursuant to [according to] 922 KAR 2:160.

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

(a) A stepparent;

(b) The spouse of a minor dependent child;

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

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

(e) A parent of a minor parent.

(2) Income. The gross income of the individual shall be [is] considered available to the benefit group, subject to the following deductions:

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

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

1. The support of the individual; and

2. A [Any other] person living in the home if:

a. The needs of the person is not included [His needs are not taken into consideration] in the K-TAP eligibility determination; and

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

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

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

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

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

(3) Sanction exception. The income of a [any] sanctioned individual shall not be [is not] eligible for a deduction [the deductions] listed in this section.

(4) A resource shall not be considered in determining eligibility of the parent, minor dependent child, or specified relative other than a parent or the benefit group that belongs [Resources which belong] solely to the:

(a) Stepparent;

(b) Spouse of a minor dependent child;

(c) Spouse of a specified relative other than a parent; or

(d) Parent of a minor parent [are not considered in determining eligibility of the parent, minor dependent child, or specified relative other than a parent or the benefit group].

Section 7. Alien Income and Resources. (1) For the purpose [purposes] of this section, the alien's sponsor and sponsor's spouse (if living with the sponsor) shall be referred to as sponsor. This subsection and subsections (2), (3), (4), (5), and (6) of this section shall apply to an immigrant [immigrants] who has [have] an agreement executed other than an agreement pursuant to 8 USC 1183a.

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

(3) If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens.

(4) A sponsored alien shall be [is] ineligible for a [any] month in that [which] adequate information on the sponsor or sponsor's spouse is not provided.

(5) If an alien is sponsored by an agency or organization, that [which] has executed an affidavit of support, the [that] alien shall be [is] ineligible for benefits for a period of three (3) years from date of entry into the United States, unless it is determined that the sponsoring agency or organization:

(a) Is no longer in existence; or

(b) Does not have the financial ability to meet the alien's needs.

(6) The provisions of this subsection shall not apply to an alien pursuant to [those aliens identified in] subsection (5) or (7) of this section.

(a) Income. The gross income of the sponsor shall be [is] considered available to the benefit group subject to the following deductions:

1. Twenty (20) percent of the total monthly gross earned income, not to exceed \$175;

2. An amount equal to the K-TAP standard of need for the appropriate family size pursuant to [as set forth in] Section 8 of this administrative regulation of:

a. The sponsor; and

b. Other person [persons] living in the household:

(i) Who is [are] or may be claimed by the sponsor as a dependent [dependents] in determining his federal personal income tax liability; and

(ii) The person's need is [Whose needs are] not considered in making a determination of eligibility for K-TAP;

3. An amount [Amounts] paid by the sponsor to nonhousehold member [members] who is [are] or may be claimed as a dependent [dependents] in determining his federal personal tax liability;

4. Actual payment [payments] of alimony or child support paid to a nonhousehold member [members]; and

5. Income of a sponsor receiving SSI or K-TAP.

(b) Resources. Resources deemed available to the alien shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if he were a K-TAP applicant in this state, less \$1,500.

(7)(a) For a sponsored alien [aliens] who enter the United States on or after December 19, 1997, who is [are] required to complete a sponsorship agreement pursuant to 8 USC 1183a, the total gross income and resources of an alien's sponsor and sponsor's spouse shall be deemed available to the alien. The sponsor's obligation shall be available until:

1. The immigrant:

a. Becomes a United States citizen;

b. Is [Can be] credited with forty (40) quarters of work; or

c. Ceases to hold the status of an alien lawfully admitted for permanent residence; or

2. The sponsor dies.

(b) The immigrant shall provide the sponsorship agreement pursuant to 8 USC 1183a.

(8) If an amount less than the amount in the sponsorship agreement is made available to the immigrant, the actual amount provided by the sponsor shall be considered for a period up to twelve (12) months from the month of the determination if an alien is determined indigent. An alien shall be [is] determined indigent if:

(a) The amount of the sponsor's income and resources given to

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

the alien is less than the amount in the agreement; and

(b) Without K-TAP assistance and after consideration of the alien's own income, cash, food, housing or assistance provided by an individual ~~[other individuals]~~ including the sponsor, the alien is ~~[would be]~~ unable to obtain food and shelter;

(9) Deeming of the sponsor's income shall not apply for twelve (12) months if the:

(a) ~~[The]~~ Alien or alien's child has been subjected to extreme cruelty or battery while living in the United States and the individual committing the battery or extreme cruelty does not live with the child or parent if committed by a:

1. ~~[A]~~ Spouse or parent; or

2. ~~[A]~~ Spouse or parent's family living with the alien or alien's child and the spouse or parent allows the cruelty or battery; or

(b) ~~[The]~~ Alien is a child who lives with a parent who has been subjected to extreme cruelty or battery while living in the United States and the individual committing the battery or extreme cruelty does not live the child or parent if committed by a:

1. ~~[A]~~ Spouse; or

2. ~~[A]~~ Member of the spouse's family living in the same household and the spouse allows the cruelty or battery.

Section 8. Payment Maximum. (1) The K-TAP payment maximum includes an amount ~~[amounts]~~ for food, clothing, shelter, and utilities.

(2)(a) Countable income, pursuant to ~~[as determined by the provisions of]~~ Section 9 of this administrative regulation, shall be ~~[is]~~ subtracted in determining eligibility for and the amount of the K-TAP assistance payment as follows:

<u>[Effective December 1, 1995]</u>		
Number of Eligible Persons	Payment Maximum	Standard of Need
1 person	\$186	\$401 [394]
2 persons	\$225	\$460
3 persons	\$262	\$526
4 persons	\$328	\$592
5 persons	\$383	\$658
6 persons	\$432	\$724
7 or more persons	\$482	\$790

(b) The gross income limit shall be ~~[is]~~ as follows for the appropriate family size:

Number of Eligible Persons	Maximum Gross Income Limits
1 Person	\$742 [729]
2 Persons	\$851
3 Persons	\$974
4 Persons	\$1096
5 Persons	\$1218
6 Persons	\$1340
7 or more Persons	\$1462

(3) Since the payment maximum does not meet full need, effective July 1, 1989, a forty-five (45) percent ratable reduction shall be applied to the deficit between the family's countable income and the standard of need for the appropriate family size.

(4)(a) The assistance payment shall be the lesser amount of either:

1. Fifty-five (55) percent of the deficit pursuant to subsection (3) of this section; or

2. The payment maximum pursuant to subsection (2)(a) of this section ~~[, whichever is the lesser amount]~~.

(b) As a result of applying the forty-five (45) percent ratable reduction pursuant to ~~[listed in]~~ subsection (3) of this section, an eligible payment to an otherwise eligible family with no income shall be calculated pursuant to ~~[in accordance with]~~ KRS 205.200(2).

Section 9. Best Estimate. (1) ~~[The agency shall compute]~~ The benefit shall be computed by using a ~~[its]~~ best estimate of income that may exist ~~[which will exist]~~ in the payment month.

(2) The following method ~~[methods]~~ shall be used ~~[by the agency]~~ to calculate a best estimate:

(a) For a case ~~[cases]~~ with earned income, other than self-employment earned income:

1. Cents shall: ~~[The agency:]~~

a. Not be rounded ~~[Shall not round cents]~~ to the nearest dollar before adding or multiplying hourly or daily earnings; and ~~[but]~~

b. Be rounded ~~[Shall round cents]~~ to the nearest dollar before adding or multiplying weekly, biweekly, semimonthly, monthly, quarterly, or annual amounts.

2. Unless it does not represent the ongoing situation, ~~[the agency shall use]~~ income from all pay periods in the preceding two (2) calendar months shall be used.

3. ~~[The agency shall determine]~~ A monthly amount shall be determined by:

a. Adding gross income from each pay period;

b. Dividing by the total number of pay periods considered;

c. Converting the pay period figure to a monthly figure by multiplying a:

(i) Weekly amount by four and one-third (4 1/3);

(ii) [a] Biweekly amount by two and one-sixth (2 1/6); or

(iii) [a] Semimonthly amount by two (2); and

d. Rounding to the nearest dollar.

4. If income has recently begun and the applicant or recipient has not received two (2) calendar months of earned income, ~~[the agency shall compute]~~ the anticipated monthly income shall be computed by:

a. Multiplying the hourly rate by the estimated number of hours to be worked in a pay period; or

b. Multiplying the daily rate by the estimated number of days to be worked in the pay period; and

c. Converting the resulting pay period figure to a monthly amount pursuant to subparagraph 3c of this paragraph ~~[by multiplying a weekly amount by four and one-third (4 1/3); a biweekly amount by two and one-sixth (2 1/6); or a semimonthly amount by two (2)]; and~~

d. Rounding to the nearest dollar.

(b) For a case ~~[cases]~~ with unearned income, other than unearned self-employment income, ~~[the agency shall determine]~~ a monthly amount shall be determined by:

1. Rounding cents to the nearest dollar;

2. Using the gross monthly amount of continuing, stable unearned income received on a monthly basis;

3. Unless it does not represent the ongoing situation, averaging the amount of nonstable unearned income received in the three (3) prior calendar months.

(c) For a case ~~[cases]~~ with self-employment income:

1. If the self-employment enterprise has been in operation for at least a year, ~~[the agency shall prorate]~~ the income shall be prorated by dividing the income from the last calendar year by twelve (12).

2. If the self-employment enterprise has been in operation for less than a year, ~~[the agency shall prorate]~~ the income shall be prorated by dividing by the number of months the business has been in existence.

3. ~~[The agency shall determine]~~ Profit shall be determined by:

a. Rounding the total gross income to the nearest dollar;

b. Rounding the total amount of allowable expenses to the nearest dollar;

c. Dividing each by twelve (12), or the appropriate number of months, and rounding to the nearest dollar; and

d. Subtracting the rounded monthly expense from the rounded monthly income.

(3) The best estimate shall be recalculated:

(a) At six (6) month intervals for a case ~~[cases]~~ with:

1. Earned or unearned income other than self-employment; or

2. Income from a self-employment enterprise that ~~[which]~~ has not been in existence for at least one (1) year;

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

(c) If ~~[Whenever]~~ the agency becomes aware of a change in a circumstance ~~[circumstances]~~; or

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

Section 10. K-TAP Recoupment. Except for an overpayment ~~[those overpayments]~~ in administrative regulation 921 KAR 2:017, the following provisions are effective for an overpayment discovered on or after April 1, 1982, regardless of when the overpayment occurred.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

(1) Necessary action will be taken promptly to correct and recoup an overpayment.

(2) An overpayment, including assistance paid pending a hearing decision [decisions], shall be recovered from:

- (a) The claimant;
- (b) The overpaid benefit group;
- (c) A [Any] benefit group that [of which] a member of the overpaid benefit group has subsequently become a member; or
- (d) An [Any] individual member of the overpaid benefit group whether or not currently a recipient.

(3) An overpayment shall be recovered through:

- (a) Repayment by the individual to the cabinet; or
- (b) Reduction of future K-TAP benefits, that [which] shall result in the benefit group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income pursuant to [in accordance with] Section 8 of this administrative regulation; or
- (c) Civil action in the court of appropriate jurisdiction.

(4) In a case that has [cases which have] both an overpayment and an underpayment, they [the cabinet] shall be offset one against the other in correcting the payment to a current recipient [recipients].

(5) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing pursuant to [as specified in] 921 KAR 2:055 is given and the administrative and judicial remedies have been exhausted or abandoned.

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

- (a) [The] Case is totally ineligible for the month [for which] the check is issued; and
- (b) [The] Check has not been reduced for recoupment of a previous overpayment.

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

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

(1) [The agency recoups] An amount in excess of the actual overpayment is recouped;

(2) [The agency offsets] An overpayment and an underpayment is offset and [finds] a balance is owed to the recipient;

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

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

(1) [The department shall promptly correct] An underpayment shall be promptly corrected to:

- (a) A current K-TAP recipient; and
- (b) One (1) who would be a current recipient if the error causing the underpayment had not occurred.

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

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

- (a) The month the payment is paid; or
- (b) The next following month.

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) PA-30.2, "Payment Receipt, edition 2/97";
 - (b) PA-35, "Sale of Property Agreement to Repay K-TAP Benefits to the Commonwealth of Kentucky, edition 8/97";
 - (c) FA-1, "Transitional Assistance Self-assessment, edition 5/99".
- (2) These forms may be inspected and copied at the Department for Community-Based Services, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
CHARLES P. LAWRENCE, Attorney
VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: September 24, 1999
FILED WITH LRC: October 1, 1999 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley

(1) Type and number of entities affected: The affected entities are families who apply for or receive benefits under the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP). In Kentucky the TANF block grant program to implement the work requirements is called Kentucky Works. As of June 1999, approximately 40,554 families in Kentucky (monthly average) receive K-TAP, including 26,377 adults and 67,067 children. Adults receiving K-TAP are required to participate in work activities.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the notice of intent.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the notice of intent.

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

1. First year following implementation: The individuals who are applicants or recipients of AFDC, now K-TAP, will not have any additional compliance, reporting or paperwork requirements.

2. Second and subsequent years: same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The breakdown of costs and savings to the agency for the first year are listed below: No fiscal impact to the agency is anticipated due to the amendments to this administrative regulation.

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal funds and state funds

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

(a) Geographical area in which administrative regulation will be implemented: To be determined after the publication of the notice of intent.

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

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

(8) Assessment of expected benefits:

(a) Identify effects on public welfare and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation is needed to comply with federal TANF regulations issued April 12, 1999, effective October 1, 1999.

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

(c) If detrimental effect would result, explain detrimental effect: TANF Block grant funding for public assistance benefits (including supportive services) received by needy Kentuckians may be jeopardized if Kentucky does not comply with federal requirements found

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

in 45 CFR Parts 260 through 265, effective October 1, 1999. Prior to the issuance of the final federal TANF regulations, states were allowed to operate programs under a reasonable interpretation of the TANF federal statutes as a result of the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. However, this standard only applies until the effective date of the final TANF regulations which is October 1, 1999. At that time, states are required to implement changes in the programs to comply with these federal regulations. If these changes are not implemented, penalties and loss of federal funds may result. If public assistance benefits received by needy Kentuckians are jeopardized, these individuals would lose a source of support for their family including assistance for supportive services which enables the parent to remain in the work activity.

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 CFR Parts 260 through 265

2. State compliance standards. KRS 205.2003, 205.2005

3. Minimum or uniform standards contained in the federal mandate. federal regulations contain standards regarding the definition of "assistance" funded with TANF federal funds.

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

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

STATEMENT OF EMERGENCY 921 KAR 2:017E

The administrative regulation 921 KAR 2:017E, Kentucky Works supportive services, implements the requirements for supportive services for Kentucky Works. This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a)2 and 3 to prevent a loss of federal funds and meet a deadline established by federal law. This emergency administrative regulation is needed to comply with final federal regulations issued on April 12, 1999, effective October 1, 1999. Title IV-A Temporary Assistance for Needy Families (TANF) Block grant funding for public assistance benefits including supportive services received by needy Kentuckians may be jeopardized if Kentucky does not comply with federal requirements found in 45 CFR Parts 260 through 265, effective October 1, 1999. Prior to the issuance of the final federal TANF regulations, states were allowed to operate programs under a reasonable interpretation of the TANF federal statutes as a result of the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. However, this standard only applies until the effective date of the final TANF regulations which is October 1, 1999. At that time, states are required to implement changes in the programs to comply with these federal regulations. If these changes are not implemented, penalties and loss of federal funds may result. Therefore, in order to be in compliance with the federal regulations, this emergency administrative regulation must be placed in effect immediately in order to amend the requirements in 921 KAR 2:017. An ordinary administrative regulation would not allow sufficient time to meet the federally mandated changes by October 1, 1999, due to the issuance of the final regulations on April 12, 1999. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The notice of intent for the ordinary administrative regulation is being filed concurrently with this emergency administrative regulation.

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

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

921 KAR 2:017E. Kentucky Works supportive services.

RELATES TO: KRS 205.200(2), 205.211, 205.2003, 45 CFR Parts 260 through 265, 42 USC 601 et seq.

STATUTORY AUTHORITY: KRS 194B.050(1), 205.200(2), 205.2003, 42 USC 601 et seq., EO 98-731

EFFECTIVE: October 1, 1999

NECESSITY, FUNCTION, AND CONFORMITY: 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 assistance [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 supportive services.

Section 1. Definitions. (1) "Approved Kentucky Works activity [activities]" means participation in an allowable activity pursuant to 921 KAR 2:370, Section 2(2)(c).

(2) "Assistance" means the definition of "assistance" pursuant to 45 CFR 260.31.

(3) "Cabinet" means the Cabinet for Families and Children.

(4) [(3)] "Component" means a service or activity [services and activities] pursuant to 921 KAR 2:370, Section 2(2)(c).

(5) "Employed" means performs a physical or mental activity in exchange for direct monetary compensation.

(6) [(4)] "Component preparation" means the period in which assessment, testing, completion of the transitional assessment [assistance] agreement Form KW-202 "K-TAP Transitional Assessment [Assistance] Agreement", incorporated by reference in 921 KAR 2:370, and referral [referrals] for removal of concerns takes place.

(7) [(5)] "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(8) [(6)] "Kentucky Transitional Assistance Program (K-TAP)", means Kentucky's Temporary Assistance for Needy Families (TANF) [program, means a] money payment program for a child [children] pursuant to 921 KAR 2:006, Section 1.

(9) [(7)] "Kentucky Works" means a program that [which] assists a: (a) Recipient [recipients] of K-TAP in obtaining education, training, experience and employment necessary to leave public assistance; or

(b) Former K-TAP recipient with job retention service.

(10) [(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.

(11) [(9)] "Precomponent" means a waiting period between the dates of component assignment and component commencement.

(12) [(10)] "Preemployment" means a waiting period between the dates of hiring and employment commencement.

(13) [(11)] "Transitional extension" means a period of up to twelve [(12) months] [ninety (90) days] subsequent to the discontinuance of the K-TAP case in which a supportive service payment [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) Total income of the budget unit is at or below 200 percent of federal poverty level, adjusted annually; and

(d) The Kentucky Works participant;

1. Elects to continue the approved component activity in which he is engaged at the time of discontinuance; or

2. Is employed.

Section 2. Payment Entitlement. (1) Except for the exclusions

listed in this administrative regulation, an individual [those individuals] participating in the Kentucky Works Program shall be entitled to payment of a supportive services cost [costs] necessary for participation in an approved Kentucky Works activity.

(2) Kentucky Works activities are described pursuant to [in] 921 KAR 2:370, Section 2(2)(c).

Section 3. Transportation Payments in Kentucky Works components. Transportation reimbursement shall be paid, or a transportation service provided by a regional capitated transportation network, 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 921 KAR 2:016, Section 1]; or
- (4) Transitional extension[; or
- (5) On-the-job training (OJT) participants discontinued from K-TAP, until the end of the component placement].

Section 4. Transportation Payment Amount and Authorization. (1) If free transportation is unavailable that [which] meets the needs of the recipient, transportation shall be provided for an individual [individuals] participating in an approved Kentucky Works activity [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, the actual transportation cost [costs] shall be paid up to the maximum payment rate pursuant to [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, when the actual transportation cost exceeds [costs exceed] the maximum payment rate [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) A payment [Payments] shall be made pursuant to [as specified in] 921 KAR 2:050.

(2) In precomponent, if necessary to guarantee that the transportation arrangement shall not be lost, a transportation payment [payments] shall be provided for the period of up to:

- (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. Restrictions on Authorization of Transportation Payments. A payment [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 a Kentucky Works activity [activities], pursuant to [as specified in] 921 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 921 KAR 2:018, Section 2 and 603 KAR 7:080.

Section 7. Other Supportive Services in Kentucky Works Components. (1) Other supportive services shall be provided if necessary for participation in the approved Kentucky Works activity [activities] of:

- (a) Component preparation;
- (b) Component participation while the K-TAP case remains active;
- (c) [Transitional extension];
- (d) OJT participant [participants] discontinued from K-TAP, until the end of the component placement; or
- (d) [(e)] Acceptance of a new job or retention of an existing one if the parent or other adult:

1. Has accepted employment and a start date of employment is provided, except if [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. An item and service [Items and services] that shall be approved is [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.

(3) Other supportive services shall be a cumulative limit of \$600 in a twelve (12) month period, beginning with the first day of the month in which the appropriate verification 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 921 KAR 2:006.

(5) A penalized or [and] sanctioned K-TAP ineligible adult is [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, an eligible expense [expenses] may be authorized.

(7) Except pursuant to [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;
- (3) Hearing aids; and
- (4) Medical service or item required as a condition of employment.

Section 9. Car Repairs. (1) A car repair expenditure [repairs] shall be provided if necessary for participation in the approved Kentucky Works activity [activities] of:

- (a) Component preparation;
- (b) Component participation, including unsubsidized employment while the K-TAP case remains active; or
- (c) [Transitional extension]; or
- (d) OJT participant [participants] discontinued from K-TAP, until the end of the component placement.

(2) Car repair expense [expenses] shall meet the following criteria to be considered for payment:

- (a) Car repair that [which] makes the car functional;
- (b) Property tax [taxes] on vehicle;
- (c) Vehicle registration;
- (d) Licenses fee [fees];
- (e) Liability insurance to drive a vehicle; and
- (f) Other car expense needed by the K-TAP recipient that [which] would allow participation in the Kentucky Works activity, as determined by the cabinet.

(3) A [All] car repair expenditure [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 a garage. [garages];

(5) Prior to approval of a car repair expenditure [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 per year per eligible family.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

Section 10. 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 is:

- (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 Assessment [Assistance] Agreement, form KW-202, "K-TAP Transitional Assessment [Assistance] Agreement", as determined by the cabinet.

Section 11. Other Fees. (1) The following fee payment [payments] may be made for an eligible recipient:

- (a) Registration fee [fees];
 - (b) Financial aid application fee [fees];
 - (c) Testing fee [fees];
 - (d) Application fee [fees] required by a vocational school [schools] for a specified program [specified programs];
 - (e) Liability insurance fee [fees];
 - (f) Copy of records;
 - (g) Activity fee [fees] if mandated by the institution; or [and]
 - (h) Other required fee [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 that [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;
 - (d) Maintains employment for at least ninety (90) days; and
 - (e) At the end of the ninety (90) day period, requests the bonus within thirty (30) days.
- (f) 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 with [due to] reported earnings;
 - (b) Obtains and maintains full-time unsubsidized employment that [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.

(4) A post-K-TAP recipient eligible for the work incentive bonus during the transitional extension period shall not be required to meet the at or below 200 percent income limit pursuant to Section 1(12)(c) of this administrative regulation.

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) A short-term training program [programs] shall not qualify for postsecondary education.
- (3) A K-TAP applicant or recipient shall be advised of the edu-

cational bonus and be reminded of available work incentives:

1. During [at the time of] application;
2. At [each] recertification; and
3. Through periodic mailings [that remind them of incentives that are available].

Section 14. Home Mortgage Assistance. (1) To be eligible for Home Mortgage Assistance an employed former K-TAP recipient discontinued from K-TAP for at least twelve (12) months shall meet the following criteria:

- (a) The family shall be in a crisis situation, as determined by the Kentucky Housing Corporation.
- (b) Total income of the family shall not exceed the lower of:
 1. At or below 200 percent of federal poverty level, adjusted annually, for the appropriate family size; or
 2. Kentucky Housing Corporation's Family Self-Sufficiency Program guideline.
- (2) If due to loss of employment for no longer than four (4) months and an eligible former K-TAP recipient misses a house payment, short-term assistance may be received.
- (3) Assistance may be received for an eligible recipient for:
 - (a) An emergency repair to the home; or
 - (b) Credit counseling.
- (4) The amount of assistance shall be based on need according to Kentucky Housing Corporation's determination.

Section 15. Restrictions on Authorization of Supportive Service Payments. A payment [Payments] shall not be made for the period during which:

- (1) Verification is not returned; or
- (2) The participant is penalized for noncompliance with a Kentucky Works activity [activities], pursuant to [as specified in] 921 KAR 2:370, or is ineligible.

Section 16. [15:] Hearings and Appeals. An applicant or recipient [Applicants or recipients] of benefits pursuant to a program [under programs] described herein who is [are] dissatisfied with an [any] action or inaction on the part of the cabinet shall have the right to a hearing pursuant to [under] 921 KAR 2:055.

Section 17. [16:] Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) PA-32, "Authorization for Supportive Services Payments, edition 8/97";
 - (b) PA-33, "Verification of Education/Training, and Transportation, edition 1/98"; and
 - (c) PA-33N, "Verification of Education/Training, and Transportation, edition 1/98.
- (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
CHARLES P. LAWRENCE, Attorney
VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: September 24, 1999
FILED WITH LRC: October 1, 1999 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley

(1) Type and number of entities affected: The affected entities are families who apply for or receive benefits under the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP). As of June 1999, approximately 40,554 families in Kentucky (monthly average) receive K-TAP, including 26,377 adults and 67,067 children. Adults receiving K-TAP are required to participate in work activities.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined

after the publication of the notice of intent.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the notice of intent.

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

1. First year following implementation: The individuals who are applicants or recipients of K-TAP or post-K-TAP recipients eligible for services will not have any additional compliance, reporting or paperwork requirements.

2. Second and subsequent years: Same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

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

a. The supportive services for eligible post K-TAP recipients are extended from three (3) months to twelve (12) months at or below 200 percent of federal poverty level income limit. This fiscal impact is indeterminable to the agency due to these changes; however, there are sufficient TANF funds to cover these expenditures.

b. Allowing the exception to the at or below 200 percent income limit for post K-TAP recipients eligible for the work incentive bonuses is clarification of policy. Federal funds are used for bonuses received for recipients at or below 200 percent of poverty. Beginning October 1, 1999, state funds will be used for post K-TAP recipients receiving bonuses with income over 200 percent of federal poverty level. This information will be tracked so appropriate funds are correctly used. It is projected the cost impact to the agency will be minimal.

c. The exception that had prohibited employed K-TAP recipients from receiving a direct transportation payment is removed. It is undetermined the number of potential recipients who will need this service and the fiscal impact the agency is indeterminable. There are sufficient TANF funds to cover these expenditures.

d. Allow housing assistance for an employed former K-TAP recipient. It is indeterminable to the agency of the number of recipients requesting this service. There is a fiscal impact to the agency; however, there are sufficient TANF funds to cover these expenditures.

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal funds (TANF block grant funds) and state funds

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

(a) Geographical area in which administrative regulation will be implemented: To be determined after the publication of the notice of intent.

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

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the state is required to conform with Federal regulations effective October 1, 1999.

(8) Assessment of expected benefits:

(a) Identify effects on public welfare and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation is needed to comply with the mandated requirements found in final TANF federal regulations issued on April 12, 1999, effective October 1, 1999.

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

(c) If detrimental effect would result, explain detrimental effect: Public assistance benefits received by needy Kentuckians may be

jeopardized if Kentucky does not comply with the final TANF federal regulations issued on April 12, 1999. TANF Block grant funding (K-TAP) for public assistance benefits (including supportive services) received by needy Kentuckians may be jeopardized if Kentucky does not comply with federal requirements found in 45 CFR Parts 260 through 265, effective October 1, 1999. Prior to the issuance of the final federal TANF regulations, states were allowed to operate programs under a reasonable interpretation of the TANF federal statutes as a result of the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. However, this standard only applies until the effective date of the final TANF regulations which is October 1, 1999. At that time, states are required to implement changes in the programs to comply with these federal regulations. If these changes are not implemented, penalties and loss of federal funds may result. If public assistance benefits received by needy Kentuckians are jeopardized, these individuals would lose a source of support for their family including assistance for supportive services which enables the parent to remain in the work activity.

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 CFR Parts 260 through 265

2. State compliance standards. KRS 205.200, 205.2003

3. Minimum or uniform standards contained in the federal mandate. federal regulations contain standards regarding the definition of "assistance" funded with TANF federal funds.

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

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

STATEMENT OF EMERGENCY 921 KAR 2:370E

The administrative regulation 921 KAR 2:370E, Technical requirements for Kentucky Works, implements the technical requirements for the Kentucky Works Program. This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a)2 and 3 to prevent a loss of federal funds and meet a deadline established by federal law. This emergency administrative regulation is needed to comply with final federal regulations issued on April 12, 1999, effective October 1, 1999. Title IV-A Temporary Assistance for Needy Families (TANF) Block grant funding for public assistance benefits including supportive services received by needy Kentuckians may be jeopardized if Kentucky does not comply with federal requirements found in 45 CFR Parts 260 through 265, effective October 1, 1999. Prior to the issuance of the final federal TANF regulations, states were allowed to operate programs under a reasonable interpretation of the TANF federal statutes as a result of the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. However, this standard only applied until the effective date of the final TANF regulations which is October 1, 1999. At that time, states are required to implement changes in the programs to comply with these federal regulations. If these changes are not implemented, penalties and loss of federal funds may result. Therefore, in order to be in compliance with the federal regulations, this emergency administrative regulation must be placed in effect immediately in order to amend the requirements in 921 KAR 2:370. An ordinary administrative regulation would not allow sufficient time to meet the federally mandated changes by October 1, 1999, due to the issuance of the final regulations on April 12, 1999. This emer-

gency administrative regulation will be replaced by an ordinary administrative regulation. The notice of intent for the ordinary administrative regulation is being filed concurrently with this emergency administrative regulation.

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

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

921 KAR 2:370E. Technical requirements for Kentucky Works.

RELATES TO: KRS 205.200(7), 205.200(3), 45 CFR Parts 98.2, 260 through 265, 42 USC 601 et seq.

STATUTORY AUTHORITY: KRS 194B.050(1), 205.200(2), 205.200(7), 205.200(3), 42 USC 601 et seq., EO 98-731

EFFECTIVE: October 1, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program for the Kentucky Transitional Assistance Program, the block grant program funded pursuant to [under] 42 USC 601 et seq. KRS 205.200(3) requires that a work program for a recipient [recipients] of Kentucky Transitional Assistance Program be prescribed by administrative regulations. This administrative regulation sets forth the technical requirements of the Kentucky Works Program [participants as they relate to eligibility for receiving assistance from the Kentucky Transitional Assistance Program].

Section 1. Definitions. (1) "Affordable child care arrangements" means appropriate child care at a reasonable distance that is suitable and with a charge at or below the maximum provider payment rate pursuant to the Child Care and Development Fund plan.

(2) "Appropriate child care" means an eligible child care pursuant to 45 CFR Part 98.2.

(3) "Assessment" means the ongoing evaluation of an individual's strengths and needs relative to achieving self-sufficiency.

(4) "Assistance" means the definition of "assistance" pursuant to 45 CFR 260.31.

(5) [(2)] "Cabinet" means the Cabinet for Families and Children.

(6) [(3)] "Concerns" means a hardship the individual shall overcome to become employed and self-sufficient.

(7) [(4)] "Conciliation" means a process in which a participation problem [problems] in the Kentucky Works Program can be resolved.

(8) "Employed" means performs a physical or mental activity in exchange for direct monetary compensation.

(9) [(5)] "Kentucky Transitional Assistance Program (K-TAP)", Kentucky's Temporary Assistance for Needy Families (TANF) program, means a money payment program for a child [children] pursuant to 921 KAR 2:006, Section 1.

(10) [(6)] "Kentucky Works" means a program which assists;

(a) A recipient [recipients] of K-TAP in obtaining education, training, experience and employment necessary to leave public assistance; or

(b) A former K-TAP recipient with a job retention service.

(11) "Reasonable distance" means the distance customarily available within a locality.

(12) "Unsuitability of informal child care" means care not regulated pursuant to Kentucky law that does not meet the quality child care need as defined by the parent or the health and safety requirements applicable to unregulated child care in the Commonwealth.

(13) [(7)] "Vocational education" means a training program that [which] prepares the individual for employment.

(14) [(8)] "Wage supplementation" means a component in which an employer hires a participant [employers hire participants] and receives [receive] reimbursement from the cabinet for a portion of wages paid to the participant.

Section 2. Program Participation. (1) An [All] adult and teenage parent Kentucky Transitional Assistance Program recipient [recipients]

shall be required to participate in the Kentucky Works Program unless the recipient meets the exception criteria in Section 3 of this administrative regulation;

(2) An [All] adult Kentucky Transitional Assistance Program recipient who does [recipients who do] not meet the exception criteria in Section 3 of this administrative regulation shall be required to participate in the Kentucky Works Program as follows:

(a) A one (1) parent household shall be required to participate in a specific activity pursuant to [listed in] paragraph (c) of this subsection no less than the number of hours per week required in the activity, as determined by the cabinet. The activity shall be required to have at least a minimum of:

1. Through September 30, 1999, twenty-five (25) hours per week; five (5) hours per week that [which] may be satisfied through an education activity pursuant to [activities defined in] paragraph (c)7, 8, and 9 of this subsection or in literacy or adult education.

2. On or after October 1, 1999, a minimum of thirty (30) hours per week; ten (10) hours per week that [which] may be satisfied through an education activity pursuant to [activities defined in] paragraph (c)7, 8, and 9 of this subsection or in literacy or adult education.

(b) A two (2) parent household shall participate in a specific activity no less than the number of hours per week required in the activity, as determined by the cabinet. The activity shall be required to have at least a minimum of:

1. Thirty-five (35) hours per week for one (1) parent with at least thirty (30) hours of the required thirty-five (35) hours per week in an activity pursuant to [specific activities listed] in paragraph (c) of this subsection; and

2. Twenty (20) hours per week for one (1) parent in a two (2) parent household with all twenty (20) hours per week in an activity pursuant to [specific activities listed in] paragraph (c)1, 2, 3, 4, and 6 of this subsection if:

a. The family receives federally-funded child care assistance; and

b. An adult in the family is not disabled pursuant to 921 KAR 2:006; or

c. An adult is not needed to care for a child in the home with a severe disability pursuant to 921 KAR 2:006.

3. If the family does not receive federally-funded child care assistance, a minimum of thirty-five (35) hours per week shall be required for both parents combined.

4. A two (2) parent household eligible for K-TAP based on the deprivation of incapacity, pursuant to 921 KAR 2:006, shall meet the number of hours of participation in a work activity listed in paragraph (a) of this subsection.

(c) An activity [Specific activities] to be in compliance with the program participation requirement [requirements] in Kentucky Works shall include:

1. Unsubsidized employment;

2. Subsidized employment;

3. Work experience training;

4. On-the-job training;

5. Job search and job readiness assistance;

6. Community service;

7. Vocational education not to exceed twelve (12) months and after that time coupled with work or work activity [activities] for the amount of hours per week pursuant to [specified in] paragraphs (a) and (b) of this subsection;

8. Full-time enrollment progressing satisfactorily, as defined by the school, in post secondary education not to exceed twenty-four (24) months and after that time coupled with work or work activity [activities] for the amount of hours per week pursuant to [specified in] paragraphs (a) and (b) of this subsection;

9. Satisfactory attendance at secondary school or equivalent in the case of a recipient who has not completed secondary school or equivalent coupled with work or work activity [activities] in the amount of hours per week pursuant to [specified in] paragraphs (a) and (b) of this subsection;

10. Provision of child care services to an individual participating in community service;

11. Based on the findings of the assessment, the [agency or] cabinet designee and the participant may determine placement in a work preparation activity that [which] includes:

a. Domestic violence counseling;

- b. Life skills training;
- c. A substance abuse program;
- d. Mental health counseling;
- e. Vocational rehabilitation;
- f. Literacy; ~~[and]~~
- g. Adult education;

12. Wage supplementation, that ~~[which]~~ shall be available in limited areas and shall expand into additional areas until statewide implementation is complete;

13. Participation in a work program ~~[programs]~~ approved by the cabinet; and

14. Participation in an activity ~~[other activities]~~ approved by the cabinet.

Section 3. Exceptions to Program Participation. (1) A Kentucky Transitional Assistance Program recipient who is a head of household, who has not obtained a high school diploma or a graduate equivalency diploma and has not attained twenty (20) years of age shall be deemed to be engaged in work for a [any] month in a fiscal year if the recipient:

(a) Maintains satisfactory attendance at a secondary school or the equivalent during the month; or

(b) Participates in education that is directly related to employment for at least twenty (20) hours a week.

(2)(a) An adult Kentucky Transitional Assistance Program recipient shall not be required to comply with a program participation requirement ~~[requirements]~~ for up to twelve (12) months if the adult is an individual caring for a child who has not attained twelve (12) months of age;

(b) The twelve (12) months of exemption from a work participation requirement ~~[requirements]~~ shall be limited to a total of twelve (12) months in a lifetime for the adult and may be:

- 1. Consecutive; or
- 2. Cumulative.

(3)(a) For a Kentucky Transitional Assistance Program recipient where compliance with program participation would make it difficult to escape domestic violence or unfairly penalize the individual who is or has been victimized by domestic violence ~~[or who is at risk of further domestic violence, as determined by the cabinet]~~, compliance shall not be mandated;

(b) If a Kentucky Transitional Assistance Program applicant or recipient is identified as a victim of domestic violence or with a history of domestic violence, an appropriate services plan shall be required for the individual pursuant to 921 KAR 2:006, Section 23(1).

(4) A Kentucky Transitional Assistance Program recipient shall be deemed to be engaged in work for a [any] month if the recipient is:

(a) The only parent or caretaker relative in the family with a child who has not attained six (6) years in age; and

(b) Engaged in work for an average of at least twenty (20) hours per week during the month.

(5) An applicant of K-TAP shall be informed in writing of the availability of the exceptions to participation in Kentucky Works pursuant to ~~[listed in]~~ Section 3 of this administrative regulation.

Section 4. Program Participation Requirements. (1) Assessment.

(a) The cabinet or another entity designated by the cabinet shall make an assessment of the individual's employability;

(b) Other agencies shall assist in the assessment process as needed;

(c) The assessment shall include:

- 1. Consideration of basic skills;
- 2. Occupational skills; and
- 3. Concerns and other relevant factors.

(2) The self-sufficiency plan. Based on the findings of the assessment, the ~~[agency or]~~ cabinet designee and participant shall jointly develop a self-sufficiency plan by completing the Transitional Assessment ~~[Assistance]~~ Agreement. This plan shall contain:

(a) An employment goal for the participant;

(b) A service ~~[Services]~~ to be provided by the cabinet ~~[agency]~~ ~~{including child care}~~;

(c) An activity ~~[Activities]~~ to be undertaken by the recipient to achieve the employment goal; and

(d) Other needs of the family.

(3) An adult applicant or recipient of the K-TAP benefit group shall register for work except for a member who is:

(a) Under age eighteen (18);

(b) Age sixty (60) or over;

(c) Age eighteen (18) or nineteen (19) years old in full-time school attendance pursuant to ~~[as set forth in]~~ Section 1(10) of 921 KAR 2:016;

(d) Receiving benefits based on 100 percent disability;

(e) An individual who has received benefits based on 100 percent disability within the past twelve (12) months but lost the benefits due to income or resources and not an improvement in the disability; or

(f) Employed thirty (30) hours or more per week at minimum wage or more.

Section 5. Conciliation. (1) Conciliation shall be conducted:

(a) At the request of a Kentucky Works participant;

(b) At the request of a service provider; or

(c) When a situation is identified that ~~[which]~~ could result in a penalty pursuant to ~~[as specified in]~~ Section 7 of this administrative regulation~~{}]~~.

(2) The conciliation shall be conducted by the cabinet or contractor:

(a) During conciliation, the cabinet ~~[agency]~~ shall determine if an additional service is ~~[services are]~~ needed to assist with Kentucky Works participation.

(b) During conciliation, participation shall be monitored for up to fifteen (15) days following the issuance of form KW-204, "Conciliation Contract".

(c) The fifteen (15) day period may be extended for an additional fifteen (15) days, if necessary.

(3) At the conclusion of the conciliation period, the participant shall be notified in writing of the results of the conciliation.

Section 6. Excused from Penalties. (1) A ~~{K-TAP}~~ recipient shall be excused from a penalty ~~[penalties]~~ for failure to comply with the Kentucky Works Program, pursuant to ~~[as specified in]~~ Section 7 of this administrative regulation, if one (1) of the following good cause criteria is met:

(a) The individual is a single custodial parent who has a demonstrated inability to obtain needed child care for a child under six (6) years of age. A demonstrated inability to obtain needed child care for a child under six (6) years of age shall be met if the single custodial parent:

1. Cannot locate appropriate child care;

2. Cannot locate child care at a reasonable distance from home;

3. Determines the unsuitability of informal child; or

4. Cannot locate affordable child care arrangements; [caring for a child under age six (6) and child care is unavailable, as determined by the cabinet];

(b) Dependent care is not available for an incapacitated individual living in the same household as a dependent child;

(c) Child care is terminated through no fault of the applicant or recipient;

(d) Child care does not meet the needs of the child, for example, a child with a disability;

(e) The individual is unable to engage in employment or training for a mental or physical reason ~~[reasons]~~ as verified by the cabinet;

(f) Illness of another household member requiring the presence of the participant as documented by medical evidence or by a reliable information source, ~~[from other sources]~~ as verified by the cabinet;

(g) The participant is temporarily incarcerated or institutionalized for thirty (30) days or less;

(h) The cabinet ~~[agency]~~ determines there is discrimination by an employer and a formal complaint has been filed based on:

1. Age;

2. Race;

3. Sex;

4. Color;

5. Disability;

6. Religious belief ~~[beliefs]~~;

7. National origin; or

8. Political belief ~~[beliefs]~~;

(i) Work demand or condition renders ~~[demands or conditions]~~

render] continued employment unreasonable, such as:

1. Consistently not being paid on schedule; or
2. The presence of a risk to the individual's health or safety;
- (j) Wage rate is [rates are] decreased subsequent to acceptance of employment;

(k) The participant accepts a better job that [which], because of a circumstance [circumstances] beyond the control of the recipient, does not materialize;

(l) The work activity site is so far removed from the home that commuting time would exceed three (3) hours per day.

(2) The duration of good cause criteria may vary according to an individual's circumstance [individual circumstances].

Section 7. Penalties. (1) When a Kentucky Transitional Assistance Program recipient fails to comply with a requirement [the requirements] of the Kentucky Works Program, he shall be subject to a Kentucky Works and Kentucky Transitional Assistance Program penalty [penalties]. Failure to comply shall be found when the participant:

(a) Fails without good cause, pursuant to Section 6 of this administrative regulation, to participate in a required activity [activities], including:

1. An assessment interview;
2. An assessment; or
3. Self-sufficiency plan development including completion of the Transitional Assessment Agreement, KW-202;

(b) Fails without good cause, pursuant to Section 6 of this administrative regulation, to participate in a program activity [the program activities] as defined in the Transitional Assessment Agreement, KW-202;

(c) Refuses without good cause, pursuant to Section 6 of this administrative regulation, to accept employment;

(d) Terminates employment or reduces earnings without good cause, pursuant to Section 6 of this administrative regulation; or

(e) Unless an exception in Section 4(3) of this administrative regulation applies, fails to register for work.

(2)(a) Except for a requirement [requirements] listed in paragraph (b) of this subsection, a K-TAP recipient who has failed to comply with a Kentucky Works requirement [requirements] without good cause, pursuant to Section 6 of this administrative regulation, or register for work unless an exception pursuant to [in] Section 4(3) of this administrative regulation applies, shall be penalized by reducing the amount of the assistance otherwise payable to the benefit group on a pro rata basis; or

(b) Assistance to the benefit group shall be discontinued if the K-TAP recipient, fails, without good cause pursuant to Section 6 of this administrative regulation, to:

1. Keep appointment for an assessment interview; or
2. Complete an assessment, pursuant to Section 4 of this administrative regulation.

(c) The penalty in paragraph (a) or (b) of this subsection shall continue to be applied until the participant complies with a program requirement [requirements].

(d) The penalty in paragraph (a) or (b) of this subsection shall not be applied until after a conciliation procedure is [procedures are] conducted pursuant to Section 5 of this administrative regulation.

Section 8. Hearings and Appeals. An applicant or recipient [Applicants or recipients] of benefits pursuant to a program [under programs] described herein who is [are] dissatisfied with an [any] action or inaction on the part of the cabinet shall have the right to a hearing pursuant to [under] 921 KAR 2:055.

Section 9. Work Experience Program Training Site Agreement. (1) A cost [Gosts] incurred by the training site agency because of participation in WEP shall not be reimbursed.

(2) A WEP participant shall not be involved in partisan politics.

(3) A WEP participant shall not be removed from training without prior notice to the Department for Community-Based Services.

(4) A WEP participant shall not infringe upon the promotional opportunity [opportunities] of a currently employed individual.

(5) An individual shall not be subjected to discrimination, or denied training or employment or benefits, in the administration of, or in connection with, the training program because of:

- (a) Race;
- (b) Color;
- (c) Religion;
- (d) Sex;
- (e) National origin;
- (f) Age;
- (g) Disability; or
- (h) Political belief or affiliation;

(6) A training site agency shall:

(a) Complete a Department for Community-Based Services questionnaire [questionnaires] relating to the operation of the training site agreement;

(b) Not displace a currently employed worker by a WEP participant, including a partial displacement such as a reduction of the:

1. Hours of nonovertime work;
2. Wages; or
3. Employment benefits;

(c) Comply with 42 USC 12101 et seq. [the Americans with Disabilities Act];

(d) Shall report a personnel problem to the departmental representative designated by the cabinet [department];

(e) Shall maintain accurate time and attendance records for a [each] WEP participant;

(f) Verify time and attendance records for a [each] WEP participant on Form PA-33, "Certification of Education or Training, Child Care and Transportation" that will be submitted by a WEP participant;

(g) Shall grant access for the Department for Community-Based Services to the training site during working hours to counsel a participant [participants] and to monitor the site;

(h) Shall immediately report an injury to the designated representative;

(i) Shall conduct an investigation [investigations] and submit a report [reports] upon the request of the Department for Community-Based Services;

(j) Not encourage or require a WEP participant to take part in partisan political activity, or involve a WEP participant in partisan political activity;

(k) Except as authorized by law, or in writing by a WEP participant, shall maintain the confidentiality of information [in any form] provided by or about a WEP participant who seeks or receives a service pursuant to [services under] the Training Site Agreement;

(l) Hold the cabinet harmless from a loss, claim, expense, action, cause of action, cost, damage, and obligation [losses, claims, expenses, actions, causes of action, costs, damages, and obligations] arising from a negligent act or omission of the training site agency, its agent, employee, licensee, invitee, or WEP participant [agents, employees, licensees, invitees, or WEP participants] that results in injury to a person, or damage or loss [damages or losses] relative to a person, corporation, partnership, or other entity;

(m) Provide:

1. Sufficient training to ensure development of appropriate skills;
2. New task [tasks] after mastery of a [each] skill; and
3. Adequate participation instruction and supervision at all times.

(7) A training site agency shall:

(a) Provide the participant [participants] a safe training place;

(b) Assure a participant, [that if participants are] engaged in an activity [activities that are] not covered pursuant to 29 USC 651 et seq. [under the Occupational Safety and Health Act of 1970, as amended; they shall] not be required or permitted to be trained, or receive a service, in a building, or a surrounding, or under a training condition that is [services, in buildings, or surroundings, or under training conditions that are] unsanitary, hazardous, or dangerous to the health and safety of the participant [participants]; and

(c) Provide adequate material to complete a [each] training activity in a safe environment;

(8) A WEP participant shall have the right to request a public hearing relating to a grievance or complaint.

(9) A training site agency shall sign a "WEP Training Site Agreement" with the cabinet containing a statement of:

(a) [Each of] The conditions established by subsections (1) through (8) of this section; and

(b) The period covered by the agreement, including the required weekly number of hours of participation [required each week].

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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

- (a) PA-33, "Verification of Education or Training and Transportation edition 1/98";
- (b) PA-33D, "Child's Certification of School Enrollment/Attendance, edition 8/97";
- (c) PA-218A, "New Chance Referral, edition 4/97";
- (d) PA-219, "Kentucky Works Program Fact Sheet, edition 11/98";
- (e) KW-105, "Kentucky Works Referral Form (Participant), edition 6/97";
- (f) KW-200, "Kentucky Works Assessment Form, edition 5/97";
- (g) KW-202, "K-TAP Transitional Assessment [Assistance] Agreement, edition 4/97";
- (h) KW-204, "Conciliation Contact, edition 3/98";
- (i) KW-205, "Conciliation Results, edition 3/98";
- (j) KW-211, "Noncompliance Contact, edition 5/97";
- (k) KW-230, "Wage Supplementation Program Participant Agreement, edition 4/99";
- (l) KW-240, "Work Experience Training Program Participant Agreement, edition 1/98";
- (m) KW-244, "WEP Training Site Agreement Amendment, edition 1/98";
- (n) KW-245 "Notice of WEP Discontinuance, edition 1/98";
- (o) KW-246 "WEP Referral Form, edition 1/98";
- (p) KWET-241, "WEP Training Site Agreement, edition 9/98".

(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
CHARLES P. LAWRENCE, Attorney
VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: September 30, 1999

FILED WITH LRC: October 1, 1999 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley

(1) Type and number of entities affected: The affected entities are families who apply for or receive benefits under the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP). In Kentucky the TANF block grant program to implement the work requirements is called Kentucky. As of June 1999, approximately 40,554 families in Kentucky (monthly average) receive K-TAP, including 26,377 adults and 67,067 children. Adults receiving K-TAP are required to participate in work activities.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the notice of intent.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: To be determined after the publication of the notice of intent.

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

1. First year following implementation: The individuals who are applicants or recipients of K-TAP, who are required to comply with Kentucky Works provisions will have no additional compliance, reporting or paperwork requirements due to the amendments to this emergency regulation.

2. Second and subsequent years: same

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings to the agency:

1. First year: The breakdown of costs and savings to the agency for the first year are listed below: No additional fiscal impact is anticipated to the agency due to these amendments.

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

below: See impact in number 1.

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 and federal funds

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

(a) Geographical area in which administrative regulation will be implemented: To be determined after the publication of the notice of intent.

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

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the amendments to the emergency regulation are required to comply with federal regulations issued on April 12, 1999.

(8) Assessment of expected benefits:

(a) Identify effects on public welfare and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation is needed to comply with the mandated requirements found in final TANF federal regulations effective October 1, 1999.

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

(c) If detrimental effect would result, explain detrimental effect: Public assistance benefits received by needy Kentuckians may be jeopardized if Kentucky does not comply with the final TANF federal regulations issued on April 12, 1999. TANF Block grant funding (K-TAP) for public assistance benefits (including supportive services) received by needy Kentuckians may be jeopardized if Kentucky does not comply with federal requirements found in 45 CFR Parts 260 through 265, effective October 1, 1999. Prior to the issuance of the final federal TANF regulations, states were allowed to operate programs under a reasonable interpretation of the TANF federal statutes as a result of the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. However, this standard only applies until the effective date of the final TANF regulations which is October 1, 1999. At that time, states are required to implement changes in the programs to comply with these federal regulations. If these changes are not implemented, penalties and loss of federal funds may result. If public assistance benefits received by needy Kentuckians are jeopardized, these individuals would lose a source of support for their family including assistance for supportive services which enables the parent to remain in the work activity.

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals as set forth through federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 45 CFR Parts 260 through 265

2. State compliance standards. KRS 205.2003

3. Minimum or uniform standards contained in the federal mandate. federal regulations contain standards regarding the definition of "assistance" funded with TANF federal funds.

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

5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

GENERAL GOVERNMENT CABINET
Kentucky State Treasurer
(As Amended at ARRS, October 12, 1999)

20 KAR 1:040. Unclaimed properties; claims.

RELATES TO: KRS 393.010, 393.040, 393.110, 393.140, 393.150

STATUTORY AUTHORITY: KRS 393.130, 393.280(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 393.130 allows the holder of unclaimed property or the Department of Unclaimed Property, Office of the Kentucky State Treasurer, to turn that property over to a claimant upon proper proof. This administrative regulation establishes the requirement for claims for unclaimed property. [defines what proof is proper and governs how that proof shall be made. This administrative regulation also governs regulation of finders of unclaimed property.] [This administrative regulation relates to the claims process for unclaimed property, which owners and heirs shall follow; and the proof necessary for authorization of a claim refund.]

Section 1. (1)(a) A claim [Claims] for unclaimed property held in an interest-bearing demand, savings or time deposit held in an account assignable to the department under KRS 393.130(5) shall be filed in writing with the holder of the unclaimed property who maintains the interest-bearing account containing the unclaimed property.

(b) Upon receipt of a claim by a person other than a depositor or beneficiary of an account, the holder may refer the claim to the department to determine ownership of the property.

(2)(a) A monetary claim [Monetary claims] for unclaimed property not held in an interest-bearing demand, savings or time deposit shall [, may] be filed in writing with either the department or [with] the holder who remitted the unclaimed property to the department.

(b) All other claims for unclaimed property shall be made in writing and filed with the department. [Claims for unclaimed property or the proceeds from the sale of unclaimed property shall be filed with the department. Upon receipt of the initial claims inquiry from a person having an interest in the property, the department shall send the required claim forms to be completed by the claimant; and request necessary documentation as proof of ownership.]

(1) Documentation to prove ownership shall consist of a driver's license or other picture identification, a document proving Social Security number; and, one (1) or more of the following:

- (a) Copy of birth certificate;
- (b) Copy of will;
- (c) Copy of probate distribution;
- (d) Copy of marriage certificate;
- (e) Copy of divorce decree;

(f) Copy of documentation providing a connection with the reported address or business for the year cited as the "Date of Last Transaction" in the holder's report;

- (g) Copy of letters testamentary;
- (h) Copy of guardianship or trust agreement;

(i) Notarized affidavit executed by an individual other than the claimant having knowledge of, and in support of, a claim when requested information or documentation is not available;

- (j) Signature verification cards of financial institutions;

- (k) Family or church records, and personal correspondence;

(l) Newspaper articles, including marriage announcements and birth or obituary notices;

(m) Other documentation which may be used in support of the claim include an income tax return, adoption records, court records, CD's, state dated checks, or other public or business records.

(2) In addition to items set out above, minimum requirements needed to establish ownership for various types of property shall be:

(a) Checking accounts: a check (blank or canceled) showing the account number for that bank, or a statement on that account which contains the account number;

(b) Savings account: a copy of the passbook showing the account number or correspondence referencing the account number;

(c) Safe deposit box: a copy of the safe deposit box rental receipt or correspondence referencing that rental;

(d) Wages: copies of W-2 forms, tax records or correspondence relating to that employment;

(e) Stocks or dividends: copies of a stock certificate of the business entity reported, correspondence relating to the stock certificate or a statement from the broker showing purchase or sale of that stock;

(f) Bearer bonds and certificates of deposit: a copy of the record of purchase;

(g) Insurance: a copy of the policy, or correspondence relating to that policy by policy number;

(h) Court funds: a copy of the court decree or court order for the case that was the source of the funds. (i.e., probate, condemnation, quiet title, divorce, child support, and appearance bond);

(i) Vendor checks: copies of accounts receivable billing, invoices, bills of lading or correspondence with the holder reporting and remitting the funds that show a business relationship for each payment, or a statement that the funds are still considered to be due and owing on the account;

(j) Claims by heirs of listed owners: if the claim is based on hardship, one (1) or more of the following documents shall be required: final decree of probate; death certificate; or an affidavit of "Proof of Death and Heirship" executed by a person disinterested in the claim may be acceptable when the decedent's estate was not probated;

(k) Cashier's checks shall be claimed by the payee as the owner unless the purchaser submits sufficient documentation to prove a superior claim.

(3) Claims by finders or agents of listed owner. The claim shall be based on a notarized contract with the owner or heir of the owner. The department shall contact the owner or claimant to make sure that the owner or the claimant is aware of the full amount of unclaimed property involved. The finder or agent shall provide the department:

(a) A notarized copy of the contract showing names, current address, and Social Security number or Federal Employer Identification numbers of all parties to the contract; and

(b) A notarized affidavit from the owner or heir of the owner for the executive or power to act on his behalf. The affidavit shall also stipulate that the finder or agent has explained to the owner or claimant the state law on unclaimed properties and that any unclaimed properties due to the owner or claimant can be claimed without a fee, free and simple.

(4) Stock certificates received through safe deposit boxes or directly from a holder will be released to the rightful owner by one (1) of the following methods:

(a) Stock certificate in the owner's name;

(b) Stock certificate in the name of the department with an affidavit ready for transfer to the owner;

(c) Payment of money received for the certificate if the certificate has been redeemed by the issuer or has been sold in accordance with state law; or

(d) Obsolete stock certificates in the original owner's name will be transferred directly to the owner. If the original owner is deceased, the lawful heirs must determine disposition.]

Section 2. Upon receipt of a claim for unclaimed property which has been transferred to the department, either submitted to the department by the apparent owner or a holder seeking to recover money paid to an apparent owner, the department shall determine whether or not there is sufficient proof that the claimant is entitled to the claimed property. Proper proof shall consist of the following:

(1) Documentation to prove ownership shall consist of a driver's license or other picture identification, a document proving Social Security number; and[;] any ~~[one (1) or more]~~ of the following as the department finds necessary ~~[is needed]~~ to establish that the claimant is entitled to the unclaimed property:

- (a) Copy of birth certificate;
- (b) 1. Copy of death certificate; and
- 2.a. Copy of probate distribution;
- b. Copy of ~~[or]~~ an order of the court appointing an administrator to an estate;
- c. ~~[or]~~ A copy of an order from the court dispensing with administration; or

- d. A small estate affidavit;
- (c) Copy of marriage certificate;
- (d) Copy of divorce decree;
- (e) A signature verification card of a financial institution ~~[cards of financial institutions];~~

(f) Copy of guardianship or trust agreement; or

(g) If ~~[in the event that]~~ the claimant documents ~~[can show]~~ that the items required by paragraphs (a) through (f) of this subsection are not ~~[none of the above documentation is]~~ available or not applicable, the claimant shall ~~[may]~~ use other documentation in support of the claim including~~[-, but not limited to,]~~ the following:

- 1. An income tax return;
- 2. Adoption records;
- 3. Court records;
- 4. A certificate ~~[certificates]~~ of deposit;
- 5. Stale dated checks;
- 6. Public or business records;
- 7. Copy of documentation providing a connection with the reported address or business for the year cited as the "Date of Last Transaction" in the holder's report;
- 8. Newspaper articles ~~[(including a marriage announcement, announcements and] birth or obituary notice;~~
- 9. ~~[Notices];~~ Family or church records;
- 10. Personal correspondence; or
- 11. A notarized affidavit executed by an individual other than the claimant having knowledge of a claim.

(2) In addition to the items required by subsection (1) of this section, ~~[set out above;]~~ additional evidence which may be considered by the department ~~[minimum requirements needed]~~ to establish ownership for ~~[various types of]~~ property valuing over \$400 shall include ~~[includes]~~ ~~[shall be]~~:

(a) For a checking account:

1. ~~[Checking accounts;]~~ A check showing the account number for that bank; or

2. A statement on that account which contains the account number;

(b) For a savings account:

1. ~~[Savings account;]~~ A copy of the passbook showing the account number; or

2. Correspondence referencing the account number;

(c) For a safe deposit box:

1. A copy of the safe deposit box rental receipt; or

2. Correspondence referencing that rental;

(d) For wages, a copy of:

1. A W-2 form;

2. ~~[copies of W-2 forms;]~~ Tax records;

3. Pay stub; ~~[stubs]~~ or

4. Correspondence relating to that employment;

(e) For stocks or dividends:

1. A copy ~~[copies]~~ of a stock certificate of the business entity reported;

2. Correspondence relating to the stock certificate; or

3. A statement from the broker showing ownership of that stock;

(f) For a bearer bond:

1. ~~[Bearer bonds;]~~ If the department holds the original bond, ~~[bonds, then]~~ a copy of the bond ~~[bonds]~~ or information that establishes the claimant's relationship to the bonds; or

2. If the department held the original bond ~~[bonds]~~ but sold the bond ~~[them]~~ pursuant to statute, ~~[then]~~ the claimant shall ~~[may]~~ use ~~[any]~~ evidence which establishes ownership of the bond, ~~[bonds]~~ including:

a. A copy of the bond; or

b. A list ~~[copies of the bonds or lists]~~ of serial numbers and a relationship to the holder;

(g) For a certificate ~~[Certificates]~~ of deposit:

1. A copy of the certificate of deposit; or

2. A record of purchase;

(h) For insurance:

1. A copy of the policy; or

2. Correspondence relating to that policy;

(i) For court funds~~[-]~~ a copy of the court decree or court order for the case that was the source of the funds. ~~[(i.e.,] probate, condemnation, quiet title, divorce, child support, or [and] appearance bond);~~

(j) For vendor checks:

1. A copy ~~[copies]~~ of accounts receivable billing, or invoices;

2. Bills of lading; or

3. Correspondence with the holder reporting and remitting the funds that show a business relationship for each payment; or

4. A statement that the funds are still considered to be due and owing on the account;

(k) For a claim ~~[Claims]~~ by an heir of a listed owner ~~[heirs of listed owners]~~:

1. Final decree of probate; or

2. If the estate is intestate:

a. ~~[in the event of an intestate estate;]~~ An order of the court dispensing with administration; or

b. A court order appointing an administrator to the estate and a letter from the administrator of the estate allowing the release of the property from the estate;

(l) A cashier's check ~~[checks]~~ shall be claimed by the payee as the owner based upon proof of identity, unless the purchaser submits sufficient documentation to prove a superior claim; or

(m) For a claim ~~[claims]~~ where ownership cannot be established by proof as required by paragraphs (a) through (l) of this subsection, ~~[identified in this section]~~ the department may ~~[in its discretion]~~ accept alternative proof to establish ownership.

(3) A claim by a finder or agent ~~[Claims by finders or agents]~~ of a listed owner. The claim shall be based on a notarized contract with the owner or heir of the owner. The department may contact the owner or claimant to verify that the owner or the claimant is aware of the full amount of unclaimed property involved. The finder or agent shall provide the department:

(a) A notarized copy of the contract showing names, current addresses ~~[address]~~, and Social Security numbers ~~[number]~~ or Federal Employer Identification numbers of all parties to the contract; and

(b) A notarized affidavit from the owner or heir of the owner for the executive or power to act on his behalf. The affidavit shall ~~[also]~~ stipulate that the finder or agent has explained to the owner or claimant the law on unclaimed properties and that ~~[any]~~ unclaimed property ~~[properties]~~ due to the owner or claimant may ~~[can]~~ be claimed without a fee, free and simple; and

(c) ~~[Any]~~ Documentation that the owner or claimant of the unclaimed property would have to exhibit in order to show proper proof of entitlement to the unclaimed property.

(4) Payment of a claim ~~[claims]~~ shall be authorized upon review of documentation submitted by the claimant and approval by three (3) ~~[four]~~ designated department employees. Payment shall be made:

(a) ~~[(1)]~~ In the name of, and mailed to, the established owner; or

(b) ~~[(2)]~~ To the executor, executrix, administrator, administratrix of the estate or personal representative; the court appointed guardian; or to an heir for distribution to other heirs, if any.

Section 3. A stock certificate ~~[Stock certificates]~~ received through a safe deposit box ~~[boxes]~~ or directly from a holder shall ~~[will]~~ be released to the rightful owner by one (1) of the following methods:

(1) Stock certificate in the owner's name;

(2) Stock certificate in the name of the department with an affidavit ready for transfer to the owner;

(3) Payment of money received for the certificate if the stock has been redeemed by the issuer or has been sold in accordance with state law; or

(4) If the stock certificate is obsolete and ~~[Obsolete stock]~~

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

certificates] in the original owner's name, **the stock certificate shall [will] be transferred directly to the owner. If the original owner is deceased, the lawful heirs shall [must] determine disposition.**

Section 4. (1) If a claim for unclaimed property is made to a holder for property which is not held in an interest bearing demand, savings or time deposit account, the holder may direct the claimant to the department for review and payment of the claim.

(2) If the holder chooses to consider the claim for payment, the holder shall, prior to paying the claim, inquire in writing to the department to determine whether there have been any other competing claims for that property.

(3) The department shall respond to the holder in writing within ten (10) business days of receipt of the inquiry indicating whether **another claim has [or not any other claims have] been paid out of the property at issue or whether there is a competing claim [are any competing claims] pending. If there is a [are] competing claim [claims] or if another claim has [other claims have] been paid out of the property at issue, the department shall notify:**

(a) The holder and the holder shall not pay the claimant; and

(b) ~~[-The department [and the holder] shall notify]~~ the claimant in writing of his right to request a hearing on his claim ~~[with the department].~~

Section 5. (1) If a claimant submits a claim for unclaimed property to a holder, and the holder determines that the claimant is entitled to the property and that there have been no other competing claims paid out of the same property, ~~[then] the holder may pay the claimant.~~

(2) If the property was not held in an interest-bearing demand, savings or time deposit, and if the property has already been turned over to the department, ~~[then] the holder shall [may] be reimbursed by the department for a [any] claim paid [only] if the holder submits:~~

(a) ~~[(1) The holder submits]~~ Written confirmation from the department that the department was contacted prior to the payment of the claim to determine if there were any conflicting claims or if there were any prior paid claims on the property; ~~[and]~~

(b) ~~[(2) The holder submits]~~ An affidavit which identifies the proof used to determine that the claimant was entitled to the property. **The proof shall meet ~~[-that proof meets]~~ the requirements established in [of] Section 2 of this administrative regulation. A copy [and attached to the affidavit are copies] of the proof relied on shall be attached to the affidavit; and**

(c) ~~[(3) The holder submits]~~ proof that payment was made to the claimant.

JOHN KENNEDY HAMILTON, Kentucky State Treasurer
ROBERT S. JONES, Assistant Attorney General
APPROVED BY AGENCY: September 13, 1999
FILED WITH LRC: September 13, 1999 at 4 p.m.

GENERAL GOVERNMENT CABINET
Kentucky State Treasurer
(As Amended at ARRS, October 12, 1999)

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

RELATES TO: KRS Chapter 13B, 393.010, 393.160

STATUTORY AUTHORITY: KRS 393.280(4)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 393.280(4) authorizes the State Treasurer to promulgate administrative regulations necessary to implement KRS Chapter 393. This administrative regulation establishes [governs] the appeals and administrative hearings process when a decision regarding unclaimed property adversely affects a person [and brings the current appeal process into compliance with KRS Chapter 13B]. [This administrative regulation sets out the appeals and administrative hearings process when a department decision regarding unclaimed property adversely affects a person.]**

Section 1. A [Any] person adversely affected by a decision of a holder of unclaimed property regarding that property may request the department to review the holder's decision and make a determination regarding the claim. ~~[may appeal the decision and request an administrative hearing.]~~

Section 2. A [Any] claimant of unclaimed property whose claim is denied by the department may appeal the denial and request in writing an administrative hearing within thirty (30) days of the denial.

(1) Upon receipt of a written request for an administrative hearing, the department shall [immediately] set the date, time, and place of the hearing and shall forthwith notify the person by regular U.S. mail. ~~[The date set for the hearing shall be within thirty (30) days from the date the written request was received, unless otherwise agreed by the parties.]~~

(2) **An administrative hearing** ~~[The Treasurer may [shall] appoint a hearing officer to conduct the hearing.]~~

(3) ~~Administrative hearings]~~ conducted pursuant to this section shall [will] be held in accordance with KRS Chapter 13B.

(3) Pursuant to KRS 393.160 ~~[(4) If the hearing is conducted by an appointed hearing officer, the hearing officer shall submit recommended findings of fact, conclusions of law and order to the Treasurer within sixty (60) days after the conclusion of the hearing. The Treasurer shall make a determination and enter a final order. If the hearing is conducted by the Treasurer, the Treasurer within sixty (60) days after the conclusion of the hearing shall enter the findings of fact, conclusions of law and final order.]~~

(5) ~~any final order issued by the Treasurer may be appealed to the Franklin Circuit Court within sixty (60) days after issuance. [The hearing officer shall make findings of fact, conclusions of law, and enter a final order.]~~

JOHN KENNEDY HAMILTON, Kentucky State Treasurer
ROBERT S. JONES, Assistant Attorney General
APPROVED BY AGENCY: July 12, 1999
FILED WITH LRC: July 12, 1999 at 4 p.m.

GENERAL GOVERNMENT CABINET
Kentucky State Treasurer
(As Amended at ARRS, October 12, 1999)

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

RELATES TO: KRS 393.110(1)

STATUTORY AUTHORITY: KRS 393.110(1), 393.280(4)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 393.110(1) requires the holder of unclaimed property to submit annual reports to the State Treasurer concerning the property. This administrative regulation establishes the reporting requirements for a holder of unclaimed property. [KRS 393.110 mandates that the holder of unclaimed property annually makes certain reports to the State Treasurer concerning such property. This administrative regulation governs those reports, directing what must be included in the report and the filing of the report.]**

Section 1. Reports Filed by a Holder ~~[All Holders]~~ of Unclaimed Property. **A holder of unclaimed property shall annually file a completed Form 400, Unclaimed Property Report/Remit Form, with the main office of the State Treasurer no later than the close of business on November 1 of each year. [All holders of any unclaimed property shall annually file with the Kentucky State Treasurer a report on such property. This report shall be made on Form 400, and shall be filed in the main office of the State Treasurer no later than the close of business on November 1 of each year.]**

Section 2. Reports on Property Held in an Interest Bearing Account. If ~~[When]~~ the holder of unclaimed property is required to place that property in an interest bearing account, the holder shall submit to the State Treasurer the following reports:

(1) Statements on the interest-bearing account holding unclaimed property. **The statement** ~~[Such statements]~~ shall:

(a) Be the kind normally issued on an interest-bearing account;
 (b) ~~[accounts and shall]~~ Be filed;
 1. With the main office of the State Treasurer; and
 2. According to the holder's normal course of business ~~[but]~~ no less than quarterly; and

(c) ~~[-The statements shall]~~ Include the value of the unclaimed property and the amount of the interest paid on the account. ~~[The statements shall be filed at the main office of the State Treasurer.]~~

(2) Reports on an amount paid out of an account holding unclaimed property. A holder of an account holding unclaimed property shall file a report within ten (10) business days of paying an amount out of the account. The report shall:

(a) Include:

1. The name, Social Security number, and the address of the property owner;

2. The amount paid;

3. The portion of the amount that represents interest paid and the portion that represents the original amount of unclaimed property;

4. The date the property was presumed abandoned;

5. Proof of payment;

6. An itemization of each fee or expense charged against the account; and

7. An affidavit indicating:

a. What specific proof was used in determining that the person that received the amount or payment was the rightful claimant; and

b. That the procedures for paying a claim for unclaimed property as established in 20 KAR 1:040 were followed; and

(b) Be filed at the main office of the State Treasurer. [Reports on any amount paid out of an account holding unclaimed property. A report shall be filed within ten (10) business days by any holder paying any amount out of such account. The report shall include the name, Social Security number and the address of the property owner, the amount paid, the portion of the amount that represents interest paid and the portion that represents the original amount of unclaimed property, the date that the property was presumed abandoned, if not paid to the owner to whom the amount was paid, proof of payment, an itemization of any fees or expenses charged against the account and an affidavit indicating:

(a) What specific proof was used in determining that the person that received the amount/payment was the rightful claimant; and

(b) That the procedures for paying a claim for unclaimed property as outlined in 20 KAR 1:040 were followed. This report shall be filed at the main office of the State Treasurer.]

Section 3. [Remittance of Unclaimed Property. (1) All holders of unclaimed property that is not held in an interest-bearing demand, savings, or time deposit, shall annually turn over to the State Treasurer such property in the year it is presumed abandoned. The property shall be turned over to the State Treasurer by the close of business on the first day of November at the main office of the State Treasurer. If it is not feasible to turn such property over to the State Treasurer at the main office, the holder of such property shall contact the State Treasurer prior to November 1 and make other arrangements for the remittance of the property.

(2) Holders of unclaimed property held in an in an interest-bearing demand, savings, or time deposit, shall annually turn over such property with accrued interest to the State Treasurer in the year in which ten (10) years have passed from the date the property was presumed abandoned, or in the year the property was established as actually abandoned, whichever occurs first. The property shall be turned over to the State Treasurer by the close of business on the first day of November at the main office of the State Treasurer.

Section 4. [Incorporation by Reference. (1) Form 400, "[1998] Unclaimed Property Report/Remit Form", October 1999, is incorporated by reference. [(Nonfinancial Institutions) 1998;]

(2) This material [form] may be inspected, copied or obtained at the Kentucky State Treasurer, Capitol Annex, Room 183, Frankfort, Kentucky 40601, Monday through Friday, [from] 8 a.m. to [through] 4 p.m. [est.]

JOHN KENNEDY HAMILTON, Kentucky State Treasurer
 ROBERT S. JONES, Assistant Attorney General
 APPROVED BY AGENCY: July 12, 1999
 FILED WITH LRC: July 12, 1999 at 4 p.m.

KENTUCKY REVENUE CABINET
 Department of Law
 Division of Tax Policy
 (As Amended at ARRS, October 12, 1999)

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

RELATES TO: KRS 136.070

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 136.070(1) requires payment of a corporation license tax based on the amount of capital employed in the business. This administrative regulation establishes the requirements for computing the amount of capital for corporation license tax purposes in accordance with the definition of capital established in KRS 136.070(2). [KRS 136.070(2)(a) defines the term capital. This administrative regulation establishes a definition for each item of capital and provides guidance regarding the computation of capital.]

Section 1. Definitions. (1) "Advance" means a loan of money.

(2) "Affiliated companies" means two (2) or more corporations in an affiliated group as defined in 26 USC [Section] 1504(a), ~~[of the Internal Revenue Code]~~ except that in determining the voting power and value test prescribed by 26 USC [Section] 1504(a)(2), "more than fifty (50) percent" shall be substituted for "eighty (80) percent".

(3) "Bank overdraft" means the liability account reflecting the amount of checks issued or drawn against the corporation's bank account in excess of credit and does not include a credit balance in the cash account.

(4) "Book value" means the value reflected on a financial statement [statements] prepared for book purposes of an item of capital which may be composed of a single general ledger account or multiple accounts.

(5) "Borrowed money" means a loan of money including a loan from a stockholder or [and] a bank overdraft.

(6) "Capital stock" means:

(a) The sum of:

1. The par value of all issued and outstanding shares of stock having a par value; and

2. The amount of consideration received by the corporation [corporations] for shares of stock issued and outstanding without a par value;

(b) Less treasury stock.

(7) "Contingent liability" means a liability, including a deferred tax liability, not yet fixed or certain but dependent on events to occur in the future. ~~[Contingent liability includes a deferred tax liability.]~~

(8) "Debt" means an unconditional and legally enforceable obligation for the payment of money, which shall:

(a) ~~[-Debt shall]~~ Include trade payables or [and] accrued operating expense accounts; and

(b) ~~[-Debt shall]~~ Not include a contingent liability or an estimated liability.

(9) "Estimated liability" means a liability the existence of which is certain but for which the amount, due date, or payee is indeterminable.

(10) "Financial statement prepared for book purposes" means:

(a) The balance sheet prepared on a consistent basis from the corporation's books and records as of the last day of the taxable year; and

(b) If the balance sheet presentation of an [any] account is questioned, a financial statement that is prepared as required by generally accepted accounting principles. [the presentation required by generally accepted accounting principles shall control for purposes of determining capital.]

(11) "Intercompany accounts" means the corporation's receivable and payable accounts, other than advances, reflecting the re-

sult of transactions between affiliated companies.

(12) "Loan" means delivery by one (1) party to and receipt by another party of a sum of money upon agreement, expressed or implied, to repay it with or without interest.

(13) "Loans from stockholders" means the liability account reflecting the amount of loans from stockholders without a [any] reduction for the asset account reflecting the amount of loans to stockholders.

(14) "Net assets" means the amount by which total assets of a corporation exceed the total debt of the corporation.

(15) "Stockholder" means an individual or a corporation, which is not an affiliated company, owning stock in a corporation.

(16) "Surplus" means the excess of the net assets of a corporation over its capital stock. [; and]

(17) "Total assets" means the original cost of the entire property of a corporation:

(a) Including real property, personal property, tangible property, and intangible property;

(b) Less applicable contra-asset accounts and deferred tax benefits.

Section 2. Computation of Capital. (1) A corporation shall determine the book value of each of the following items of capital:

(a) Capital stock;

(b) Surplus;

(c) Advances by affiliated companies;

(d) Intercompany accounts; and

(e) Borrowed moneys.

(2) The corporation shall combine the book value of each item of capital.

Section 3. Surplus. Equity in affiliated companies shall be included in surplus if the parent corporation records the equity on its financial statements prepared for book purposes.

Section 4. Advances by Affiliated Companies. (1) The amount of advances by affiliated companies included in capital shall be the excess, if any, of the total advances by or from affiliated companies over the total advances to affiliated companies.

(2) Advances by affiliated companies shall include a liability account representing a transfer of cash resulting from a cash management plan.

(3) Advances to affiliated companies shall include an asset account representing a transfer of cash resulting from a cash management plan.

Section 5. Intercompany Accounts. (1) The amount of intercompany accounts included in capital shall be the net of the receivable and payable accounts, other than advances, reflecting the result of transactions between affiliated companies.

(2) Intercompany accounts shall not include:

(a) A loan of money;

(b) An asset or liability account representing a transfer of cash resulting from a cash management plan; or

(c) An advance by or to an affiliated company.

Section 6. Borrowed Moneys. (1) Borrowed moneys shall include loans and bank overdrafts.

(2) Borrowed moneys shall not include trade accounts or notes payable arising through trade transactions **including** [such as] salaries payable, taxes payable, **or** [and] accounts representing various types of liabilities incurred for supplies, repairs, **or** [and] other accounts **if** [where] the seller allows the purchaser to pay within thirty (30) to ninety (90) days.

Section 7. Loans From Stockholders. (1) Loans from stockholders shall be included in capital as borrowed moneys.

(2) The amount of loans from stockholders included in capital shall be [only] the balance of the liability account titled loans from stockholders.

(3) The asset account titled loans to stockholders shall not be:

(a) Included in capital; or

(b) Netted against the liability account titled loans from stock-

holders.

Section 8. This administrative regulation shall apply to the computation of capital as reported on the return filed for **a taxable year** [taxable years] beginning after December 31, 1999.

SARAH JANE SCHAAF, Secretary

DANA B. MAYTON, Commissioner

APPROVED BY AGENCY: July 28, 1999

FILED WITH LRC: August 11, 1999 at noon

OFFICE OF THE GOVERNOR
Department for Local Government
(As Amended at ARRS, October 12, 1999)

109 KAR 2:020. Training incentive.

RELATES TO: KRS 64.5275(1), (2), (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)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 64.5275(6) and (7) **provide** [provides] that **specified eligible officers** [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(6) provides that each forty (40) hour training unit shall be **approved and** 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 **establishes** [is necessary to set forth] the criteria for receipt of the training incentive fringe benefit, and **for** **department** approval and certification of **qualifying** 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 **Area Development District** [ADD] Services, Department for Local Government.

(4) "Eligible **officer** [official]" means a:

(a) County judge/executive;

(b) **County** [Sheriff,] clerk;

(c) Jailer who operates a full-service jail;

(d) **Sheriff; and**

(e) **In a county that does not contain an urban-county form of government, a:**

1. **Justice of the peace who serves on a fiscal court; and**

2. **County commissioner.** [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. **The director shall base approval and certification of courses for the training incentive upon their relation to the following primary areas of instruction regarding the operation of county government:** [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 **established** [set forth] in this section and Section 3 of this administrative regulation.

Section 3. Approval of Courses or Additional Areas of Learning. The director shall:

- (1) Approve **each course** [all courses] of instruction prior to an **eligible officer** [elected official] attending that course and receiving hourly credit for that course;
- (2) **Approve and certify each course** [(+) Courses shall be approved and certified] on an hourly basis, or portion of an hour;
- (3) [(2) The director shall] Approve and certify **each course** [courses] pursuant to KRS 64.5275(6), based **upon** [on] the following criteria:
 - (a) Relevance of instruction to the statutory duties performed by the **officer** [official] seeking certification and approval;
 - (b) Relevance of instruction to the areas of learning **established** [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 **officer** [official] attended the training event;
 - (f) Qualifications of the **training instructor** [instructor(s)] at the training event; and
 - (g) [Any] Other information relevant to the approval and certification of the training course or event;
- (4) [(3) The director may] Refuse to certify and approve a [any] training course or event that fails to meet [any of the] criteria **established** [outlined] in Section 2 of this administrative regulation **or** [and] this section;
- (5) **Automatically approve and certify a training course** [(4) Training courses] sponsored by the department; **and**
- (6) [shall automatically be certified and approved and the director shall] Assign [appropriate] hourly credit in accordance with **subsection (1) of this section** [(2+) of this administrative regulation];
- (7)(a) **Approve and certify a training course sponsored by another entity or organization if the director determines that the course or training event meets the criteria established in this section and Section 2 of this administrative regulation.**
- (b) **Consider submissions for approval and certification**

from an organization, entity, or individual, if it is submitted at least fourteen (14) days prior to the scheduled training event, and if it contains:

[(5)(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 Section 2 of this administrative regulation and this section.

(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 **officer** [official] per twelve (12) month period, based upon the eligible **officer's** [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 **officer's** [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 **officer's** [official's] first forty (40) hour training unit.

(3)(a) **An eligible officer** [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 **officer** [official] does not receive sufficient hours in a twelve (12) month period to **earn** [be eligible to receive] the training incentive, the **officer** [official] may carry forward any hours earned [to that point;] into the next twelve (12) month period.

(4) **An eligible officer** [Eligible officials] shall receive no more than four (4) training incentives for a four (4) year term of office.

(5)(a) An eligible **officer** [official] shall not carry [any] training incentives received into a new term of office.

(b) Upon reelection and assuming office for the new term, **an eligible officer** [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:

- (a) Keep track of the hours earned by **each eligible officer; and**
- (b) [eligible officials and shall] Certify the hours earned to **an eligible officer** [officials] upon **his** request.

(2) Upon successful completion of the forty (40) hour training unit, the director shall certify to the eligible **officer** [official], the fiscal court, and the county treasurer that the **officer** [official] shall receive the training incentive.

(3)(a) **In order** to receive credit **for an approved course or training event** [at approved courses or training events], the eligible **officer** [official] shall submit a [the] Request for Training Credit Form to the division for processing.

(b) Failure by an eligible **officer** [official] to submit a Request for Training Credit Form for a particular training course or event **shall** [may] result in:

- 1. The eligible **officer** [official] losing credit toward his training incentive; and
- 2. An inaccurate transcript for that eligible **officer** [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 a [any] training course or event approved and certified by the division.

(2) **Each** [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: July 14, 1999

FILED WITH LRC: July 15, 1999 at 8 a.m.

FINANCE AND ADMINISTRATION CABINET
Office of Financial Management and Economic Analysis
(As Amended at ARRS, October 12, 1999)

200 KAR 14:011. Qualified investments.

RELATES TO: KRS 42.500(9) to (14), 42.520, 42.525

STATUTORY AUTHORITY: KRS 42.500(10), 42.520(2), 42.525

NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.500, 42.520, and 42.525 provide that the State Investment Commission shall implement the state's investment program by administrative regulation. This administrative regulation establishes the standards that govern the Commonwealth's investment and cash management programs.

Section 1. Definitions. [For purposes of this administrative regulation:] (1) "Commission" means the State Investment Commission. [; and]

(2) "Hedge" means a position in a financial instrument taken to minimize or eliminate the risk associated with an existing instrument or portfolio of instruments.

(3) "Interest rate swaps" means an agreement governed by an International Swap Dealers Association master contract between two (2) parties to exchange, or have the conditional right to exchange, interest rate exposure from fixed rate to variable rate or from variable rate to fixed rate.

(4) "Nationally recognized rating agency" means Moody's Investors Service, Standard and Poor's, or Fitch IBCA.

(5) "Office" means the Office of Financial Management and Economic Analysis.

(6) "Options" means a contract that provides the right, but not the obligation, to buy or sell a specific amount of a specific security within a predetermined time period.

(7) "Pools" means the investment pools that are managed by the Office of Financial Management and Economic Analysis, under the guidance of the [State Investment] commission.

Section 2. The commission shall:

(1) Not invest state funds in an institution or instrument that it deems unsafe and a threat to the security of state funds; or [and]

(2) Maintain adequate liquidity to meet the cash needs of [to] the state.

(3)(a) Within the limits established by [the provisions of] this administrative regulation, the commission shall invest in securities that maximize yield or return to the Commonwealth.

(b) The use of leverage, or posting of margin, to increase the yield of a pool shall be expressly prohibited.

Section 3. Interest earned on the cash balances shall be calculated daily on an accrual basis.

Section 4. Investment Criteria. (1) The criteria to determine the amount of funds per investment instrument shall be the:

- (a) Liquidity needs of the state in aggregate as budgeted; and
- (b) Rates available per instrument; and
- (c) Safety of principal and interest.

(2) An investment instrument [investment-instruments] shall qualify if it is [they are] specified by:

- (a) KRS 42.500; [and]
- (b) [The provisions of] This administrative regulation;
- (c) 200 KAR 14:081; and
- (d) 200 KAR 14:091.

(3) Unless specifically authorized by KRS 41.610, the commission shall not invest state funds in an institution or instrument:

(a) For a term of one (1) year or less at a yield less than the yield available on a U.S. Treasury Bill of similar maturity; or [and]

(b) For a term of more than one (1) year, at a yield less than the yield available on U.S. Treasury Notes of similar maturity.

Section 5. Investment Policies. The maturity of investments made by the commission shall be subject to the liquidity needs of the Commonwealth as determined by the commission with the following limits:

(1) U.S. Treasury and agency securities with a maturity less than seven (7) years: no limit, with the exception of U.S. Treasury Strips which shall be limited to twenty (20) percent of each pool.

(2) U.S. agency mortgage backed securities with a final maturity of ten (10) years and a weighted average life of four (4) years or less at projected prepayment speed assumptions.

(3) Collateralized mortgage obligations shall be limited to a weighted average life of four (4) years or less at projected prepayment speed assumptions.

(4) U.S. agency mortgage backed securities and collateralized mortgage obligations shall be limited to twenty-five (25) percent of total pool assets in aggregate.

(5) Asset-backed securities shall be limited to:

(a) Those rated in the highest category by a nationally recognized rating agency with an expected life of four (4) years or less, [and a legal final of less than ten (10) years; and]

(b) Twenty (20) percent of total pool assets.

(6) U.S. dollar denominated corporate and Yankee securities issued by foreign and domestic issuers, rated A or higher by a nationally recognized rating agency, with a maturity not longer than five (5) years and limited to not more than twenty-five (25) percent of an individual pool and twenty-five (25) million dollars per issuer, inclusive of commercial paper, bankers' acceptances, and certificates of deposit.

(7) U.S. dollar denominated sovereign debt shall be rated A1 or higher by a nationally recognized rating agency, with a maturity not to exceed five (5) years and limited to not more than five (5) percent of any individual portfolio and twenty-five (25) [\$10] million dollars per issuer.

(8)(a) Money market securities shall be limited to twenty (20) percent of total pool assets and twenty-five (25) million dollars per issuer.

(b) Money market securities shall include:

1. Commercial paper;
2. Certificates of deposit; and
3. Eurodollars and time deposits rated in the highest short-term

rating with assets in excess of one (1) billion dollars and bankers' acceptances rated A or higher. Maturities shall be limited to six (6) months for bankers' acceptances and nine (9) months for all other money market securities.

(9) Repurchase and reverse repurchase agreements collateralized at 102 percent (marked to market daily) with treasuries, agencies, and collateralized mortgage obligations that meet the requirements established by subsection (4) of this section, with a maximum maturity of one (1) year if executed with approved broker-dealers as provided by Section 8 [9] of this administrative regulation and a maximum of three (3) years for the Kentucky Bank Repurchase Program participants.

Section 6. Risk Management. The pools may utilize interest rate

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

swaps, over-the-counter and exchange traded U.S. Treasury contracts and options to hedge the portfolio against fluctuations due to changes in interest rates. The pools shall use these securities for bona fide hedging purposes.

Section 7. [8:] Pools and Operating Procedures. (1)(a) Except for the Budget Reserve Trust Fund, state funds held in accounts the interest of which accrues to the General Fund shall be placed in the short-term pool or the intermediate pool.

(b) The short-term pool shall not purchase a security with a duration exceeding one (1) year.

(c) The duration of the short-term pool shall not exceed ninety (90) days.

(2)(a) Except as provided by paragraph (b) of this subsection, state funds held in agency or university accounts, the interest of which accrues to the agency or university, shall be placed in the intermediate pool.

(b) These funds may be placed in the short-term pool, if the commission determines that the liquidity needs of an agency require shorter term investment.

(c) The duration of the intermediate pool shall not exceed three (3) years.

(3)(a) Bond proceeds from state issued bonds shall be placed in the bond proceeds pool.

(b) The bond proceeds pool shall consist of U.S. Treasury and agencies' notes and repurchase agreements.

(4)(a) The portion of the Budget Reserve Trust Fund, [for] the disposition of which the approval of the General Assembly is required, and agency funds which the commission and agency determine need not be expended for a period of two (2) years, shall be placed in the long-term pool.

(b) The duration of the long-term pool shall not exceed four and one-half (4.5) years.

(5) No more than ten (10) percent of a pool's assets shall be invested in variable rate instruments.

(6) A pool shall be assessed an annualized charge, calculated and deducted daily, of five basis points (.0005) to defray operating expenses associated with the pool.

Section 8. [9:] Approved Broker-dealers. ~~[(1) The commission shall approve broker-dealers.]~~

(1) A broker-dealer who was approved by the commission prior to the effective date of this administrative regulation shall be considered an approved broker-dealer.

(2) Except as provided by subsection (1) of this section ~~[on and after the effective date of this administrative regulation]~~, a broker-dealer shall be approved by the commission ~~[as an approved broker-dealer]~~ if [it] the broker-dealer has met the requirements established by subsection (3), (4), or (5) of this section, as applicable.

(3) An approved broker-dealer shall be a broker dealer who:

(a) Is a primary dealer of the Federal Reserve rated A1-P1 by Moody's Investors Service, or Standard and Poor's; or

(b) Maintains an office in Kentucky, and:

1. Has twenty-five (25) million dollars in excess net capital; or

2. Whose trades are guaranteed by a primary dealer of the Federal Reserve who is rated A1-P1 or higher by Standard and Poor's or Moody's Investors Service; or

~~(c) Has a minimum of \$100 million in excess net capital. [Whose trades are guaranteed by a primary dealer of the Federal Reserve who is rated A1-P1 by Standard and Poor's or Moody's Investors Service.]~~

(4) An approved broker-dealer for repurchase agreements shall:

(a) Be a primary dealer of the Federal Reserve;

(b) Be rated A1-P1 by Standard and Poor's or Moody's Investors Service;

(c) Have transaction amounts limited to his excess net capital; and

(d) Have executed the:

1. Public Securities Association Master Repurchase Agreement prior to entering into a repurchase transaction; and

2. Appropriate Custodial undertaking in Connection with Master Repurchase Agreement.

(5) An approved broker-dealer for hedge vehicles ~~[(swaps and options);]~~ shall:

(a) Be a primary dealer of the Federal Reserve with at least \$100 million in excess net capital;

(b) Be rated A1-P1 by Standard and Poor's or Moody's Investors Service;

(c) Have transaction amounts limited to his excess net capital; and

(d) Have executed the:

1. International Swap Dealers' Association Agreement prior to the implementation of a swap; and

2. Commonwealth of Kentucky Master Agreement, Over-the-counter Option Transactions - U.S. Treasury Securities, prior to the implementation of an over the counter option transaction.

(6)(a) Within 180 days of the end of each broker-dealer's fiscal year, a broker-dealer shall submit a copy of the broker-dealer's audited financial statements for that fiscal year.

(b) A broker-dealer who wishes to be approved by the commission as an approved broker-dealer shall submit a copy of the broker-dealer's current audited financial statements

Section 9. [10:] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Commonwealth of Kentucky, Bond Proceeds Pool, Prospectus, (12/97)";

(b) "Commonwealth of Kentucky, Short-term Pool, Prospectus, (12/97)";

(c) "Commonwealth of Kentucky, Intermediate-term Pool, Prospectus, (12/97)";

(d) "Commonwealth of Kentucky, Long-term Pool, Prospectus, (12/97)";

(e) "Public Securities Association Master Repurchase Agreement (12/97)";

(f) "Custodial Undertaking in Connection with Master Repurchase Agreement, Bank of New York (12/97);

(g) "Custodial Undertaking in Connection with Master Repurchase Agreement, Chase Manhattan (12/97)";

(h) "International Swap Dealers' Association Agreement (12/97)"; and

(i) "Commonwealth of Kentucky Master Agreement, Over-the-counter Option Transactions - U.S. Treasury Securities (12/97)".

(2) This material may be inspected, copied, or obtained at State Investment Commission, Suite 261, Capitol Annex, Frankfort, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN P. MCCARTY, Secretary

KAREN POWELL, Attorney

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 14, 1999 at 3 p.m.

FINANCE AND ADMINISTRATION CABINET Office of Financial Management and Economic Analysis (As Amended at ARRS, October 12, 1999)

200 KAR 14:081. Repurchase agreement.

RELATES TO: KRS 41.610, 42.500(9) to (14), 42.520, 42.525
STATUTORY AUTHORITY: KRS 42.500(10), 42.520(2), 42.525
NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.525 requires [provides that] the State Investment Commission to [shall] prescribe standards for the operation of the state's investment program. This administrative regulation establishes the general standards which shall apply to the employment of repurchase agreements as investment vehicles with eligible financial institutions.

Section 1. Definitions. ~~[For purposes of this administrative regulation:]~~ (1) "Commission" means the State Investment Commission.

(2) "Eligible financial institution" means:

(a) A commercial bank, or savings and loan association:

1. Chartered to do business in Kentucky by the Commonwealth of Kentucky, or by an agency of the United States government; and

2. Maintains an office in Kentucky; or [and]

(b) A broker-dealer approved pursuant to the provisions of Section 8 [9] of 200 KAR 14:011.

(3) "Office" means the Office of Financial Management and Eco-

nomic Analysis.

(4) "Repurchase agreement" or "reverse repurchase agreement" means an actual, conditional purchase or sale of securities of the United States Treasury, an agency, instrumentality, or corporation of the United States, or another security authorized for investment pursuant to KRS 42.500(9), with an agreement to resell or repurchase the securities to their original owner on a specific date in the future.

Section 2. Minimum Interest Rates. Except as provided by KRS 41.610, the commission shall not invest public funds in a repurchase agreement with a yield less than could be received on a directly purchased United States Treasury security of [a] comparable maturity.

Section 3. Reporting Requirements for Eligible Investment Institutions. The commission shall inform eligible financial institutions of the reporting requirements for the investment of state funds in eligible financial institutions established by this section.

(1) An eligible financial institution shall:

(a) Submit a copy of its quarterly financial reports as furnished to Department of Financial Institutions, including [all] accompanying schedules, to the commission within thirty (30) days from the end of each quarter; and

(b) Complete and sign the "Public Securities Association Master Repurchase Agreement".

(2) [For] An approved broker-dealer shall:

(a) Submit a copy of its annual audited financial statements and copies of quarterly financial statements, as published, to the commission; and

(b) Complete and sign the "Public Securities Association Master Repurchase Agreement".

Section 4. Eligible Securities. Investment securities authorized for investment pursuant to KRS 42.500(9) shall be considered eligible securities for repurchase agreements. [The following shall be considered eligible securities for repurchase agreements: an investment security authorized for investment pursuant to KRS 42.500(9).]

Section 5. Sufficiency of Securities Purchased. (1) The securities purchased shall have a market value, including accrued interest, of not less than 102 percent of the face value of the repurchase agreement.

(2) The state's general depository banking contract shall require the general depository to review the sufficiency of collateral on all repurchase agreements, except those subject to a triparty agreement. The [This] review shall occur at least every seven (7) calendar days with periodic reviews made by the office.

(3) The commission shall demand additional securities to be delivered immediately, if market conditions cause the value of the securities purchased to drop below 102 percent of the face value of the repurchase agreement.

Section 6. Status of Parties. (1) The commission and the eligible financial institutions authorized to enter into repurchase agreements:

(a) Shall be considered principals in [all] repurchase agreements; and

(b) Shall not be considered [to be acting as] agents for third parties.

(2) [All] Contractual obligations shall apply to and be binding on the commission and the specific eligible financial institution with which the repurchase agreement is initially negotiated and settled.

Section 7. Default. (1)(a) If an eligible financial institution with which the commission has entered into a repurchase agreement defaults, or is determined by the commission to be in danger of default, the commission shall set off claims and liquidate property held in respect to the repurchase agreement against obligations owing to the eligible financial institution under other repurchase agreements.

(b) Payments, deliveries, and other transfers made under a repurchase agreement shall be deemed to have been made in consideration of payments, deliveries, and other transfers made under any other repurchase agreement by the eligible financial institution.

(c) The obligation to make payments, deliveries and other transfers under a repurchase agreement may be applied against the obligation to make payments, deliveries and other transfers under any

other repurchase agreements of the eligible financial institution and netted.

(2)(a) From the proceeds of liquidated property, the commission shall pay itself the full principal and accrued interest due as of the date of liquidation.

(b) Remaining cash balances shall be forwarded to the financial institution with which the repurchase agreement was originally executed.

Section 8. Kentucky Bank Repurchase Program. (1) Repurchase agreements with commercial banks and savings and loan associations chartered by the Commonwealth of Kentucky or by the U.S. government with offices located in Kentucky shall be placed pursuant to the following:

(a) A loan to deposit ratio equal to or greater than seventy (70) [seven-(7)] percent.

(b) A nonperforming loan to capital ratio of equal to or less than twenty-five (25) percent.

(c) A capital to assets ratio equal to or greater than seven (7) percent; and

(d) A return on assets ratio greater than zero.

(2) Repurchase agreements with maturities equal to or greater than 365 days with commercial banks and savings and loan associations chartered by the Commonwealth of Kentucky or by the U.S. government with offices located in Kentucky shall be limited to \$5,000,000 per institution.

(3) The office shall review the financial ratios listed quarterly to determine eligibility of institutions. Existing repurchase agreements with institutions which fail to meet the minimum criteria for two (2) consecutive quarters shall be subject to call at par value by the commission. Repurchase agreements shall be placed according to:

(a) Availability of funds;

(b) Demand for funds by the institutions; and

(c) Highest loan to deposit ratio of eligible institutions.

(4)(a) A repurchase agreement with a commercial bank or savings and loan shall not be an amount in excess of its capital structure or ten (10) percent of the institution's deposits, whichever is less.

(b) The commission shall not enter into a Kentucky Bank Repurchase Program repurchase agreement with a commercial bank or savings and loan association that will cause that institution to exceed in aggregate a total of \$25,000,000 in repurchase agreements.

(5) Yield charged and collateral requirements for commercial banks and savings and loans.

(a) A commercial bank or savings and loan [Commercial banks and savings and loans] submitting U.S. Treasuries and agencies excluding mortgage backed securities and collateralized mortgage obligations shall be charged the same duration yield generic repurchase rate as quoted by Bloomberg Financial Markets with 102 percent collateral.

(b) A commercial bank or savings and loan [Commercial banks and savings and loans] submitting mortgage-backed securities and collateralized mortgage obligations shall be charged the same duration yield generic repurchase rate as posted on Bloomberg Financial Markets, plus fifty (50) basis points with 105 percent collateral.

(6) Payment for and safekeeping of purchases.

(a) Each transaction [All transactions] shall be conducted on a payment-versus-delivery basis.

(b) A party shall not allow state funds to be released until delivery of adequate, negotiable collateral has been verified.

(c) Securities purchased from commercial banks or savings and loan associations in a repurchase agreement shall be received, verified, and safe-kept by the state's general depository bank or its agent.

JOHN P. MCCARTY, Secretary

KAREN POWELL, Attorney

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 14, 1999 at 3 p.m.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

FINANCE AND ADMINISTRATION CABINET
Office of Financial Management and Economic Analysis
(As Amended at ARRS, October 12, 1999)

200 KAR 14:091. Guidelines for money market instruments.

RELATES TO: KRS 41.610, 42.014(1), 42.500, 42.505 to 42.545
[Chapter 42]

STATUTORY AUTHORITY: KRS 42.500(10), 42.520(2), 42.525
NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.525,
requires [provides that] the State Investment Commission to [shall]
prescribe standards for the operation of the state's investment pro-
gram. This administrative regulation establishes the standards which
shall apply to the use of certain money market instruments which
include bankers' acceptances, commercial paper and negotiable col-
lateralized and uncollateralized certificates of deposit.

Section 1. Definitions. [~~For purposes of this administrative regula-~~
~~tion:~~] (1) "Commission" means the State Investment Commission.

(2) "Office" means the Office of Financial Management and Eco-
nomic Analysis.

(3) "Bankers' acceptance" means a short-term negotiable discount
note drawn on and accepted by a bank or trust company which is
obligated to pay the face value amount at maturity, which is rated in
one (1) of the three (3) highest categories by a nationally recognized
rating agency.

(4) "Commercial paper" means an unsecured promissory obliga-
tion having a maturity of less than 270 days and is originated by an
institution that is rated in the highest category by a nationally recog-
nized rating agency.

Section 2. Bankers' Acceptances. (1) The office may purchase
bankers' acceptances if originated by a bank rated in one (1) of the
three (3) highest categories by a nationally recognized rating agency.

(2) The purchase of these instruments shall be:

(a) Made on a payment versus delivery basis; and

(b) Held in the Commonwealth's account in whatever depository
shall be designated as eligible by the commission.

(3)(a) Investment in bankers' acceptances shall be made for a
period of no longer than six (6) months per investment.

(b) The total amount of the investment in this security shall not
exceed the amount of ten (10) million dollars in one (1) institution at a
time.

Section 3. Commercial Paper. (1) The office may purchase com-
mercial paper if [when] originated by an issuer that is rated in the
highest category by a nationally recognized rating agency.

(2) The purchase of these instruments shall be:

(a) Made on a payment versus delivery basis; and

(b) Held in the Commonwealth's account in whatever depository
shall be designated as eligible by the commission.

(3) The investments in commercial paper shall be made for a
period of no longer than nine (9) months per investment and the total
amount of the investment in this security shall not exceed the amount
of twenty-five (25) [ten-(10)] million dollars by any issuer at a time.

Section 4. Negotiable Certificates of Deposit, Collateralized and
Uncollateralized. (1) The office may purchase collateralized and un-
collateralized negotiable certificates of deposit if [when] issued by
banks rated in one (1) of the three (3) highest categories by a nation-
ally recognized rating agency.

(2) The purchase of these instruments shall be:

(a) Made on a payment versus delivery basis; and

(b) Held in the Commonwealth's account in whatever depository
shall be designated as eligible by the commission.

(3)(a) Investment in negotiable certificates of deposits shall be
made for a period of no longer than nine (9) [six-(6)] months per in-
vestment unless specifically authorized by KRS 41.610.

(b) The total amount of investments in certificates of deposit shall
not exceed the amount of ten (10) million dollars in any one (1) institu-
tion
at a time.

Section 5. Limit of Money Market Instruments of the State's Total
Portfolio. The aggregate investment in bankers' acceptances, com-
mercial paper, and negotiable certificates of deposit shall not exceed
twenty (20) percent of the Commonwealth's total investment portfolio.

JOHN P. MCCARTY, Secretary

KAREN POWELL, Attorney

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 14, 1999 at 3 p.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Veterinary Examiners
(As Amended at ARRS, October 12, 1999)

201 KAR 16:015. Fees.

RELATES TO: KRS 321.193, 321.195, 321.201, 321.207,
321.211, 321.221

STATUTORY AUTHORITY: KRS 321.193(2), [321.195, 321.201,
321.207], 321.211[, 321.221, 321.235, 321.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.193(2)
and 321.211 require the Board of Veterinary Examiners to estab-
lish the application, examination, and renewal fees for veterinari-
ans. This administrative regulation establishes the application,
examination, and renewal fees. [This administrative regulation is
necessitated by KRS 321.193, 321.195, 321.201, 321.207, 321.211,
and 321.221 and sets forth in detail all fees charged by the board.]

Section 1. Application Fees. [~~The following fees shall be paid in~~
~~connection with all types of veterinary applications:~~]

(1) The application fee for a licensed veterinarian shall be fifty (50)
dollars.

(2) The application fee for a veterinary technician or a veterinary
technologist shall be twenty-five (25) dollars.

Section 2. Examination Fees. [~~The following fees shall be paid in~~
~~connection with the examinations required by the board:~~]

(1) The fee for the National Board Examination for Veterinary
Medicine shall be \$165.

(2) The fee for the Clinical Competency Test in Veterinary Medi-
cine shall be \$140.

(3) The fee for the state examination shall be \$100.

(4) The fee for the veterinary technician or technologist examina-
tion shall be \$100 [eighty-(80) dollars].

Section 3. Renewal Fees and Penalties for a Veterinarian, Veteri-
nary Technician, and Veterinary Technologist. No person holding a
license shall practice in this state after November 30 of the year in
which their license is to be renewed unless such license has been
renewed as provided by KRS 321.211 [law] and payment of the re-
newal [prescribed] fee has been made. All licenses not renewed by
November 30 following the expiration date shall be deemed expired
and no person holding an expired license shall engage in the practice
of veterinary medicine. The following fees and penalties shall be paid
in connection with licensure renewals and penalties:

(1) The renewal fee for licensure as a veterinarian shall be fifty
(50) dollars.

(2) The late renewal fee, including penalty, for the grace period
extending from October 1 to November 30 for licensure as a veteri-
narian shall be \$150.

(3) The renewal fee for reinstatement of licensure as a veterinar-
ian after November 30 shall be \$300.

(4) The renewal fee for renewal of licensure as a veterinary tech-
nologist or technician shall be thirty (30) dollars.

(5) The late renewal fee, including penalty, for the grace period
extending from October 1 to November 30 for renewal of licensure as
a veterinary technologist or technician shall be forty (40) dollars.

(6) The renewal fee for reinstatement of licensure as a veterinary
technician or technologist after November 30 shall be fifty (50) dollars.

Section 4. Special Permit Fee. The fee for a special permit shall
be fifty (50) dollars.

Section 5. Fee for Issuance of Certification for a Certified Animal Control Agency and a Certified Animal Euthanasia Specialist. (1) The fee for issuance of a certificate to an animal control agency shall be fifty (50) dollars.

(2) The fee for issuance of a certificate to a certified animal euthanasia specialist shall be fifty (50) dollars.

Section 6. Renewal of Certification for a Certified Animal Control Agency and a Certified Animal Euthanasia Specialist. (1) Each certified animal control agency and certified animal euthanasia specialist shall annually, on or before March 1, pay to the board a renewal fee of fifty (50) dollars for the renewal of the certificate. A certificate not renewed by March 1 of each year shall expire based on the failure to renew in a timely manner.

(2) A sixty (60) day grace period shall be allowed after March 1, during which time the animal control agency or certified animal euthanasia specialist may continue to function and may renew the certificate upon payment of a late fee of sixty (60) dollars.

(3) A certificate not renewed before May 1 shall terminate based on the failure to renew in a timely manner. Upon termination, the certificate is no longer valid in the Commonwealth.

(4) After the sixty (60) day grace period, a certificate that has been terminated may be reinstated upon payment of a reinstatement fee of seventy-five (75) dollars.

(5) The renewal fee for the first renewal shall be waived for a certificate received within 120 days prior to the renewal date.

NANCY L. BLACK, Director

JAMES J. GRAWE, Assistant Attorney General

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 at 10 a.m.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Veterinary Examiners
(As Amended at ARRS, October 12, 1999)**

201 KAR 16:080. Certified animal control agencies.

RELATES TO: KRS 321.207

STATUTORY AUTHORITY: KRS 321.207(2), 321.235(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(3) [(+)] authorizes the board to certify an [issue a certificate to any] animal control agency who has been issued a registration certificate by the federal Drug Enforcement Agency to euthanize animals. [that it determines to be qualified.] KRS 321.207(2) requires the applicant to comply with administrative regulations that establish [promulgated by the board containing] standards for the proper storage and handling of the drugs the board has authorized for use, and [any] other provisions that may be necessary to ensure that the drugs are used safely and solely for the purpose of euthanizing animals [established in the statute]. This administrative regulation establishes the certification requirements, [qualifications,] standards for proper drug storage, and drugs that may be used by [-and other provisions necessary for the certification of] animal control agencies.

Section 1. General Requirements. (1) The applicant shall apply [make application] to the board for a certificate as a certified animal control agency as defined by KRS 321.207.

(2) The applicant shall pay the initial certification fee as set forth in 201 KAR 16:015.

(3) The applicant shall apply to the Drug Enforcement Administration, United States Department of Justice, for registration as a practitioner and designate "animal shelter" on the appropriate DEA form. [by the appropriate DEA form, for registration as a practitioner, to be designated as "animal shelter" on the appropriate DEA form.]

(4) The applicant shall undergo an inspection of the facility by a person authorized by the board prior to issuance of the certificate.

(5) Upon request, a certified animal control agency shall submit to inspection by a person authorized by the board upon request.

(6) A certified animal control agency shall designate an on-site

manager of the shelter. The agency shall notify the board within ten (10) days of any change in the on-site manager of the shelter.

Section 2. Approved Drugs. A certified animal control agency shall be restricted to the purchase of sodium pentobarbital and sodium pentobarbital with lidocaine for the purpose of euthanizing animals. Federal Schedule II order forms (DEA-222) are required for the purchase of sodium pentobarbital.

Section 3. Records. (1) A certified animal control agency shall maintain records of purchases and administration of sodium pentobarbital and sodium pentobarbital with lidocaine for a period of not less than two (2) years.

(2) Records of administration shall include:

(a) The date of use;

(b) Identification of the animal;

(c) The amount of the drug used;

(d) The signature of the person administering the drug;

(e) The signature of the on-site manager certifying the accuracy of the administration of sodium pentobarbital and sodium pentobarbital with lidocaine not less than once per month; and

(f) The signature of the on-site manager certifying to the accuracy of the records.

(3) Records of purchases of sodium pentobarbital and sodium pentobarbital with lidocaine shall be maintained in a separate file from the records of administration.

(4) The records of purchases and administration [These] records are subject to audit by the Drug Enforcement Administration or authorized employees of the board to determine adequacy, accuracy, and validity of the recordkeeping.

(5) The records of purchases and administration shall be maintained at the location of the agency.

Section 4. Storage. (1) Sodium pentobarbital and sodium pentobarbital with lidocaine shall be stored in a securely locked cabinet within a locked storage room.

(2) Schedule II order forms shall be stored in a securely locked cabinet within a locked storage room.

Section 5. Disposal of Needles and Medical Waste. All needles generated in the process of euthanizing animals shall be disposed of pursuant to KRS 217.177(6).

Section 6. Disciplinary Action. A certified animal control agency shall be subject to disciplinary action pursuant to KRS 321.235(7) for a violation of applicable statutes or administrative regulations.

NANCY L. BLACK, Director

JAMES J. GRAWE, Assistant Attorney General

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 at 10 a.m.

**GENERAL GOVERNMENT CABINET
Kentucky Board of Veterinary Examiners
(As Amended at ARRS, October 12, 1999)**

201 KAR 16:090. Certification as an animal euthanasia specialist.

RELATES TO: KRS 321.207

STATUTORY AUTHORITY: KRS 321.235

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(4) requires the board to issue a certificate to a person who meets the qualification of an [certification as a certified] animal euthanasia specialist [to any person whom it determines to be qualified]. This administrative regulation establishes the qualifications for certification as an animal euthanasia specialist and the duties of an animal euthanasia specialist. [that are necessary for issuance of the certificate and requirements for functioning under the certification.]

Section 1. In order to qualify for certification as a certified eutha-

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

anasia specialist an applicant shall:

- (1) Be twenty-one (21) years of age;
- (2) Be of good moral character;
- (3) Not **have** been convicted of, or entered an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more of the following:
 - (a) A felony;
 - (b) An act involving moral turpitude or gross immorality; or
 - (c) A violation of any law, rule, or administrative regulation of this state, any other state, or the federal government which involves the use or trafficking of illegal substances;
- (4) Have received a high school diploma or GED;
- (5) Pay the initial certification fee as specified in 201 KAR 16:015;
- (6) Be employed by a certified animal control agency;
- (7) Complete a sixteen (16) hour euthanasia specialist training course as set forth in Section 2 of this administrative regulation; and
- (8) Complete the "Application for Animal Euthanasia Specialist Certification".

Section 2. Euthanasia Specialist Training Course Curriculum. (1) The curriculum for the sixteen (16) hour euthanasia specialist course shall provide information on the following subjects:

- (a) Pharmacology, proper administration and storage of euthanasia solutions **that shall consist of a [;]** minimum of eight (8) hours;
 - (b) Federal and state laws regulating the storage and accountability for euthanasia solutions;
 - (c) Euthanasia specialist stress management;
 - (d) Proper animal handling with emphasis on easing the trauma and stress to the animal; and
 - (e) Disposal of euthanized animals.
- (2) A training course for **a** euthanasia specialist shall be reviewed and approved by the board prior to presentation. A provider of a euthanasia specialist training shall submit the following information:
- (a) A published course or similar description;
 - (b) Names and qualifications of instructors;
 - (c) A copy of the program agenda indicating hours of education, coffee, and lunch breaks; and
 - (d) Official certificate of completion from the sponsoring agency.

Section 3. Employment and Termination. (1) A certified animal euthanasia specialist may function only while employed by **a** certified animal control agency.

(2) Upon termination from a certified animal control agency, a certified animal euthanasia specialist shall not perform animal euthanasia until employed by a certified animal control agency.

Section 4. Duties of a Certified Animal Euthanasia Specialist. The duties of certified animal euthanasia specialist shall include the following:

- (1) Preparing animals for euthanasia;
- (2) Carefully and accurately recording dosages and drug waste;
- (3) Ordering supplies and drugs;
- (4) Maintaining the security of all controlled substances and drugs;
- (5) Reporting to the board any infraction of KRS Chapter 321 or the administrative regulations promulgated thereunder;
- (6) Humanely euthanizing animals;
- (7) Disposing of the bodies in a manner in **the same manner as established by KRS 257.160; [accordance with law and administrative regulations.]**
- (8) Maintaining his certification;
- (9) Reporting to the board any change of address; and
- (10) Providing a written response to a complaint or inquiry from the board within fifteen (15) working days of receipt.

Section 5. Approved Methods of Euthanasia. (1) A certified animal euthanasia specialist shall perform euthanasia by means of lethal injection on an animal by use of sodium pentobarbital or sodium pentobarbital with lidocaine, in a manufactured dosage form,

whose only indication is for euthanizing animals.

(2) When using a lethal solution to perform euthanasia on an animal, a certified animal euthanasia specialist shall use the appropriate solution in accordance with the following methods and in the following order of preference:

- (a) Intravenous injection by hypodermic needle;
- (b) Intraperitoneal injection by hypodermic needle;
- (c) Intracardial injection by hypodermic needle, but only on a sedated or unconscious animal;
- (d) Solution or powder added to food.

Section 6. Disciplinary Action. A certified animal euthanasia specialist shall be subject to disciplinary action pursuant to KRS 321.235(7) and 321.351 for any applicable violation of the Kentucky Revised Statutes or administrative regulations or any federal statutes or regulations.

NANCY L. BLACK, Director

JAMES J. GRAWE, Assistant Attorney General

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC: July 15, 1999 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 and
As Amended at IJC on Agriculture and Natural Resources,
October 13, 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), **64 Fed. Reg. 979, January 6, 1999, 64 Fed. Reg. 28700, May 26, 1999**

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), **64 Fed. Reg. 979, January 6, 1999, 64 Fed. Reg. 28700, May 26, 1999**

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, and 64 Fed. Reg. 28700, May 26, 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.

(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 and
As Amended at IJC on Agriculture and Natural Resources,
October 13, 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), **PL 106-40, August 5, 1999**

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), **PL 106-40, August 5, 1999**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. The federal regulation incorporated by reference in this administrative regulation provides the listing of substances under 42 USC 7412(r)(3), (4), and (5); the identification of threshold quantities for these substances; and the process for amending that list, pursuant to the federal program for chemical accident prevention and risk management.

Section 1. **(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.

(2) For purposes of 40 CFR 68.1 to 68.220, a retail facility for flammable fuels shall be a stationary source at which more than one-half (1/2) of the income is obtained from direct sales to end users or at which more than one-half (1/2) of the fuel sold, by volume, is sold through a cylinder exchange program.

Section 2. **Additional Exemptions. The following exemptions shall be added at 40 CFR 68.125:**

(1) Flammable fuels used as a fuel or held for sale as fuel at a retail facility shall be exempt from 40 CFR 68.1 to 68.220 except as provided in 42 USC 7412(r), as amended by PL 106-40, Section 2, enacted August 5, 1999.

(2) Propane shall be exempt from 40 CFR 68.1 to 68.220 if:

(a) Used as a fuel or held for sale as a fuel; or

(b) Included in a process with less than or equal to a threshold amount of another regulated substance.

Section 3. 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.

(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 and
As Amended at IJC on Agriculture and Natural Resources,
October 13, 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), **PL 106-40, August 5, 1999**

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), **PL 106-40, August 5, 1999**

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. **Release of Off-site Consequences Analysis (OCA) Information. (1) Risk Management Plans (RMP's) required under 401 KAR 68:150 shall not be made available to the public except as provided in 42 USC 7412(r)(7)(H), as amended by PL 106-40, Section 3, enacted August 5, 1999.**

(2) Stationary sources that are required to submit RMP's under 401 KAR 68:010 shall meet the requirements of 42 USC 7412(r)(7)(H), as amended by PL 106-40, Section 4, enacted August 5, 1999.

(3) Stationary sources employing only Program 1 processes, as provided in 401 KAR 68:010, shall be exempt from subsection (2) of this section.

Section 2. 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;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41105, (606) 920-2067;

(c) Bowling Green Regional Office, 1508 Westen Avenue,

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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.

EDUCATION, ARTS, AND HUMANITIES CABINET

Kentucky Board of Education

Department of Education

Office of Management Support Services

(As Amended at ARRS, October 12, 1999)

702 KAR 3:075. Substitute teachers' salary scheduling.

RELATES TO: KRS [156.031;] 156.160(1)(i)

STATUTORY AUTHORITY: KRS 156.160(1)(i)

NECESSITY, FUNCTION, AND CONFORMITY: [KRS 156.031 requires that administrative regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary and resubmitted to the Legislative Research Commission prior to December 30, 1990; and] KRS 156.160(1)(i) requires the Kentucky [State] Board for [Elementary and Secondary] Education to promulgate [adopt] administrative regulations relating to the preparation of salary schedules for local school districts. This administrative regulation establishes criteria for [is necessary to insure the establishment of] a pay schedule for substitute teaching.

Section 1. (1) A local board [boards] of education shall adopt [submit] annually [to the Division of School District Finance] a per diem pay schedule for substitute teaching. [Such pay schedule shall take into consideration the following:]

(2) A [(1)] substitute teacher [teachers] shall be paid on a single salary schedule based on training and experience.

(3) A [(2)] substitute teacher [teachers] shall be ranked in accordance with requirements outlined in KRS 157.390.

(4) The [A [(3)] local board [boards] of education shall adopt a] pay schedule for substitute teaching shall [which may] be the same, higher, or lower than the rate of pay for a regular full-time teacher.

WILMER S. CODY, Commissioner of Education

HELEN W. MOUNTJOY, Chairperson

KEVIN M. NOLAND, Attorney

APPROVED BY AGENCY: August 11, 1999

FILED WITH LRC: August 11, 1999 at 2 p.m.

EDUCATION, ARTS, AND HUMANITIES CABINET

Kentucky Board of Education

Department of Education

Office of District Support Services

(As Amended at ARRS, October 12, 1999)

702 KAR 3:120. Uniform school financial accounting system.

RELATES TO: KRS 156.070, 156.160, 156.200

STATUTORY AUTHORITY: KRS 156.070, 156.160, 156.200

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 gives the Kentucky Board of [State Board for Elementary and Sec-

ondary] Education the management and control of the common schools. [;] KRS 156.160 gives the state board authority over local school district budgets. [; and] KRS 156.200 gives the state board authority over the accounting procedures and reports of local boards of education. This administrative regulation establishes [is necessary to provide] a uniform system of financial accounting and budgets for boards of education.

Section 1. A local board [Local boards] of education shall follow the uniform financial accounting system detailed in ["Official Manual of Instruction for the Kentucky Uniform School Financial Accounting System," July 1990, approved by the chief state school officer, a copy of which is incorporated by reference, and which may be obtained from the Division of Finance, 15th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. through 4:30 p.m., until the Kentucky Education Technology System (KETS) district administrative system chart of accounts is installed in the district. Local boards of education shall then follow the chart of accounts inherent to the system;] "KETS District Administrative System Chart of Accounts," and the "Charts of Accounts Descriptions" [June, 1999]. [February, 1995, a copy of which is incorporated by reference. A copy may be obtained from the Division of Finance, 15th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. through 4:30 p.m.;]

Section 2. [A close estimate or working budget shall be required annually of each board of education. The form of this document shall conform to the uniform financial accounting system provided:

Section 3. As occasions shall demand, certain local boards of education may be permitted, upon approval of the chief state school officer, to deviate from the "Official Manual of Instruction for the Kentucky Uniform School Financial Accounting System," July 1990, or the "KETS District Administrative System Chart of Accounts," February, 1995, in general use in order to experiment or to serve as pilot systems, for good and detailed cause shown and for a time certain.

Section 4. All the financial records of a [the] local board of education shall be [prepared and] filed in either the office of the superintendent or in a location designated by the superintendent.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "KETS District Administrative System Chart of Accounts", June, 1999; and

(b) [the] "Chart of Accounts Descriptions", [dated] June, 1999[; are hereby incorporated by reference].

(2) This material may be inspected, copied, or obtained [These documents may be inspected and copied] at the Division of Finance, Department of Education, 15th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky **40601**, Monday through Friday, 8 a.m. through 4:30 p.m.

WILMER S. CODY, Commissioner

HELEN W. MOUNTJOY, Chairperson

KEVIN M. NOLAND, Attorney

APPROVED BY AGENCY: August 11, 1999

FILED WITH LRC: August 12, 1999 at 11 a.m.

EDUCATION, ARTS, AND HUMANITIES CABINET

Kentucky Board of Education

Department of Education

Office of District Support Services

(As Amended at ARRS, October 12, 1999)

702 KAR 3:244. Repeal of 702 KAR 3:245[; School council allocation formula: Kentucky Uniform School Financial Accounting System].

RELATES TO: KRS 160.345

STATUTORY AUTHORITY: KRS 156.070, 160.345

NECESSITY, FUNCTION, AND CONFORMITY: 702 KAR 3:245

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

specifies a formula, which guides the way in which school district funds shall be allocated to each school council, for use by school districts utilizing the Kentucky Uniform Financial Accounting System pursuant to 702 KAR 3:120. 702 KAR 3:120, as amended, no longer provides for the use of the Kentucky Uniform Financial Accounting System. Currently, all school districts allocate funds to school councils pursuant to 702 KAR 3:246. 702 KAR 3:245 is no longer needed.

Section 1. 702 KAR 3:245, School council allocation formula: ~~[for the]~~ Kentucky Uniform School Financial Accounting System, is hereby repealed.

WILMER S. CODY, Commissioner
HELEN MOUNTJOY, Chairperson
KEVIN M. NOLAND, Attorney

APPROVED BY AGENCY: August 11, 1999

FILED WITH LRC: August 12, 1999 at 11 a.m.

EDUCATION, ART, AND HUMANITIES CABINET Kentucky Board of Education Department of Education Bureau of Learning Support Services (As Amended at IJC on Education, October 11, 1999)

703 KAR 5:070. Procedures for the inclusion of special populations in the state-required assessment and accountability programs.

RELATES TO: KRS 158.6451, 158.6453, 158.6455

STATUTORY AUTHORITY: KRS 156.070, 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6455 provides the Kentucky Board of Education with the authority to promulgate administrative regulations to establish a system of determining successful schools and a system of rewards and assistance for certified staff in schools and districts. This administrative regulation establishes procedures for the inclusion of special student populations in the state-required assessment and accountability programs.

Section 1. (1) "Procedures for Inclusion of Special Populations in the State-Required Assessment and Accountability Programs," dated September ~~[February]~~, 1999, is hereby incorporated by reference.

(2) This document may be inspected and copied at the Department of Education, Office of Assessment and Accountability, 18th Floor, Capitol Plaza Tower, 500 Mero Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. through 4:30 p.m.

WILMER S. CODY, Commissioner
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 Education Professional Standards Board (As Amended at ARRS, September 14, 1999 and As Amended at IJC on Education, October 11, 1999)

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

RELATES TO: KRS 161.028(1)(a), (k) ~~[(1)(a), (k)]~~, 161.030(3), (4) ~~[(3), (4)]~~

STATUTORY AUTHORITY: KRS 161.028(1)(a), (k) ~~[(1)(a), (k)]~~, 161.030(3), (4) ~~[(3), (4)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.030(3) ~~[(3)]~~ requires that a new teacher, including an out-of-state teacher with less than two (2) years experience, successfully complete appropriate assessments prior to initial certification in Kentucky. KRS 161.030(3)

~~and (4) requires [(3) and (4)]~~ ~~[require]~~ the Education Professional Standards Board to select the tests, determine the passing scores, establish a reasonable fee for the assessments, and establish a procedure for a person to repeat a test and be informed of his strengths and weaknesses in each area. This administrative regulation establishes the written examination prerequisites for teacher certification, including the required tests, the minimum acceptable level of achievement on each test, the fee for each test, and the procedure for retaking the test.

Section 1. A teacher applicant for certification shall successfully complete the appropriate written tests identified in this administrative regulation prior to initial Kentucky certification. A score on a test completed more than five (5) years prior to application for certification shall not be acceptable.

Section 2. The Education Professional Standards Board shall require the specialty tests and passing scores identified in this section for each new teacher applicant, and each teacher seeking an additional certificate, who successfully completes these tests prior to December 31, 1999 and makes application for certification prior to December 31, 2000. If an applicant for certification successfully completes the tests prior to December 31, 1999, but does not make application for certification until after December 31, 2000, then he shall be required to successfully complete the specialty tests and passing scores identified in Section 3 of this administrative regulation. [Until January 14, 2000 [1999] these specialty tests and passing scores shall be required of each new teacher applicant and a teacher seeking an additional certificate as identified in this section.]

(1) An applicant for interdisciplinary early childhood education, birth to primary, certification shall take an Education Professional Standards Board test for interdisciplinary early childhood, with a passing score of 150.

(2) An applicant for elementary certification shall take Elementary Education: Curriculum and Instruction (10011) with a passing score of 143.

(3) An applicant for middle school certification shall ~~[take Education in the Elementary School Test (20010) with a passing score of 510 through the effective date of this administrative regulation. After that date, an applicant shall]~~ take two (2) middle school specialty tests based on the applicant's specialty with no passing scores as identified in this subsection:

(a) Middle School Mathematics (0069) - no passing score;

(b) Middle School Science (0439) - no passing score;

(c) Middle School English (0049) - no passing score;

(d) Middle School Social Studies (0089) - no passing score.

(4) An applicant for certification for teacher of exceptional children in communication disorders, learning behavior disorders, hearing or visual impaired, or moderate and severe disabilities shall take each specialty test based on the applicant's specialty with the corresponding passing score as identified in this subsection:

(a) Communication disorders:

1. Application for Core Principal Across Categories of Disabilities (10352) - 127; and

2. Speech Language Pathology (10330) - 450;

(b) Learning behavior disorder:

1. Application of Core Principles Across Categories of Disabilities (10352) - 127; and

2. Teaching Student with Behavioral Disorders/Emotional Disturbances (20371) - 147; ~~[or]~~

(c) Moderate and severe disabilities:

1. Application of Core Principles Across Categories of Disabilities (10352) - 127; and

2. Teaching Students with Mental Retardation (20321) - 139;

~~[(5) An applicant for certification for teacher of exceptional children with hearing disorders and visual disorders shall take Special Education test (10350) with a passing score of 500 through the effective date of this administrative regulation. After that date, an applicant shall take specialty tests based on the applicant's specialty with a corresponding passing score as identified in this subsection:]~~

~~(d) [(a)]~~ Hearing impaired:

1. Application for Core Principal Across Categories of Disabilities

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

- (10352) - 127; and
2. Education of Deaf and Hard of Hearing Students (0271) - 156;
- (e) [(b)] Visually impaired:
1. Application for Core Principal Across Categories of Disabilities (10352) - 127; and
 2. Teaching Students with Visual Impairments (0280) - no passing score.
- (5) [(6)] An applicant for certification at the secondary level shall take each specialty test corresponding to the teaching area or major with the passing score identified in this subsection. An applicant whose teaching specialty is in a major for which no appropriate specialty test is available shall take the specialty test corresponding to the minor teaching specialty.
- (a) Biology:
1. Biology: Content Knowledge Part 1 (20231) - 139; and
 2. Biology: Content Essays (30233) - 139;
- (b) Chemistry:
1. General Science: Content Knowledge Part 2 (10432) - 150; and
 2. Either:
 - a. Chemistry: Content Knowledge (20241) - 144; or
 - b. Physics: Content Knowledge (10261) - 141;
- (c) Dramatics:
1. English Language and Literature: Content Knowledge (10041) - 138; and
 2. English Language, Literature and Composition Essays (20042) - 135;
- (d) Dramatics-speech:
1. English Language and Literature: Content Knowledge (10041) - 138; and
 2. English Language, Literature and Composition Essays (20042) - 135;
- (e) English:
1. English Language and Literature: Content Knowledge (10041) - 138; and
 2. English Language, Literature and Composition Essays (20042) - 135;
- (f) History:
1. Social Studies: Content Knowledge (10081) - 146; and
 2. Social Studies: Interpretation of Materials (20083) - 150;
- (g) History - political science:
1. Social Studies: Content Knowledge (10081) - 146; and
 2. Social Studies: Interpretation of Materials (20083) - 150;
- (h) Mathematics:
1. Mathematics: Content Knowledge (10061) - 141; and
 2. Mathematics: Proofs, Models, and Problems (20063) - 141;
- (i) Mathematics - physical science: select from either:
1. Mathematics Test (10060) 500; or
 2. Chemistry, Physics, and General Science Test (10070) - 510;
- (j) Physics:
1. General Science: Content Knowledge, Part 2 (10432) - 150; and
 2. Either:
 - a. Chemistry: Content Knowledge (20241) - 144; or
 - b. Physics: Content Knowledge (10261) - 141;
- (k) Physical science:
1. General Science: Content Knowledge Part 2 (10432) - 150; and
 2. Either:
 - a. Chemistry: Content Knowledge (20241) - 144; or
 - b. Physics: Content Knowledge (10261) - 141;
- (l) Political science:
1. Social Studies: Content Knowledge (10081) - 146; and
 2. Social Studies: Interpretation of Materials (20083) - 150;
- (m) Science: select from either:
1. Biology and General Science Test (10030) - 550; or
 2. Chemistry, Physics and General Science Test (10070) - 510;
- (n) Speech:
1. English Language and Literature: Content Knowledge (10041) - 138; and
 2. English Language, Literature and Composition Essays (20042) - no passing score.
- (6) [(7) Except as provided in subsection (8) of this section,] An applicant for certification in all grades in the following specialty areas shall take the specialty test or tests with the passing score as identified

in this subsection.

- (a) Art:
1. Content Knowledge (10133) - 139; and
 2. Art Making (20131) - 154 [no-passing score];
- (b) French:
1. French: Content Knowledge (10173) - 144; and
 2. French: Productive Language Skills (20171) - 151 [no-passing score];
- (c) German: German: Content Knowledge (20181) - 143;
- (d) Health: Health Education (10550) - 550;
- (e) Latin: Latin (0600) - 530;
- (f) Music:
1. Music: Content Knowledge (10113) - 137; and
 2. Music: Concepts and Processes (30111) - 140 [no-passing score];
- (g) Physical education:
1. Physical education: Content Knowledge (10091) - 152; and
 2. Physical education: Movement Forms-Analysis and Design (30092) - 135;
- (h) Spanish:
1. Spanish Content Knowledge (10191) - 145; and
 2. Spanish: Productive Language Skills (20192) - 156;
- (i) School media librarian: Library Media Specialists (10310) - 590.
- ~~[(8) After the effective date of this administrative regulation, tests designated with no-passing scores in subsection (7) of this section shall have the following passing scores:~~
- ~~(a) Art Making (20131) - 154;~~
- ~~(b) French: Productive Language Skills (20171) - 151;~~
- ~~(c) Music: Concepts and Processes (30111) - 140.]~~
- (7) [(9)] An applicant for certification to teach in grades five (5) through twelve (12) with one (1) or more of the following specializations shall take the specialty tests with the passing scores as identified in this subsection:
- (a) Agriculture: Agriculture (10700) - 530;
- (b) Business and Marketing Education - Business Education (10100) - 570;
- (c) Comprehensive Business - Business Education (10100) - 570;
- (d) Distributive Education - Business Education - 570;
- (e) Family and Consumer Sciences - Home Economics Education (10120) - 540;
- (f) Industrial Education - Technology Education (10050) - 570.
- (8) [(10)] An applicant who holds one (1) of the certificates listed in this section shall qualify for additional certification in English as a second language by completing Teaching English as a Second Language (0360) - 550.
- ~~[(11) Specialty tests for an applicant who successfully completes a new test identified in subsections (3)(a) through (d), (5)(a) and (b), (7), and (10) of this section prior to October 1, 1998, shall be accepted for the issuance of the corresponding certification. Specialty tests required prior to October 1, 1998, shall be accepted for the issuance of the corresponding certification for a teacher applicant who successfully completed the tests prior to this date and apply for certification no later than September 30, 1999.]~~

Section 3. The Education Professional Standards Board shall require the specialty tests and passing scores identified in this section for each new teacher applicant, and each teacher seeking an additional certificate, who successfully completes these tests after December 31, 1999. [After January 14, 2000 [1999] these specialty tests and passing scores shall be required of each new teacher applicant and a teacher seeking an additional certificate as identified in this section.]

(1) An applicant for interdisciplinary early childhood education, birth to primary, certification shall take an Education Professional Standards Board test for interdisciplinary early childhood, with a passing score of 150.

(2) An applicant for elementary certification shall take Elementary Education: Curriculum and Instruction (10011) with a passing score of 163.

(3) An applicant for middle school certification shall take two (2) middle school specialty tests based on the applicant's specialty with passing scores as identified in this subsection:

- (a) Middle School Mathematics (0069) - 143;

(b) Middle School Science (0439) - 139;
 (c) Middle School English (0049) - 153;
 (d) Middle School Social Studies (0089) - 144.
 (4) An applicant for certification for teacher of exceptional children in Communication Disorders, Learning Behavior Disorders, Hearing or Visual Impaired, or Moderate and Severe Disabilities shall take each specialty test based on the applicant's specialty with the corresponding passing score as identified in this subsection:
 (a) Communication disorders:
 1. Application for Core Principles Across Categories of Disabilities (10352) - 146; and
 2. Speech Language Pathology (10330) - 600;
 (b) Learning behavior disorders:
 1. Application of Core Principles Across Categories of Disabilities (10352) - 146; and
 2. Teaching Student with Behavioral Disorders/Emotional Disturbances (20371) - 157;
 (c) Moderate and severe disabilities:
 1. Application of Core Principles Across Categories of Disabilities (10352) - 146; and
 2. Teaching Students with Mental Retardation (20321) - 146;
 (d) Hearing Impaired:
 1. Application for Core Principles Across Categories of Disabilities (10352) - 146; and
 2. Education of Deaf and Hard of Hearing Students (0271) - 167;
 (e) Visually Impaired:
 1. Application for Core Principles Across Categories of disabilities (10352) - 146; and
 2. Teaching Students with Visual Impairments (0280) - 658.
 (5) An applicant for certification at the secondary level shall take each specialty test corresponding to the teaching area or major with the passing score identified in this subsection. An applicant whose teaching specialty is in a major for which no appropriate specialty test is available shall take the specialty test corresponding to the minor teaching specialty.
 (a) Biology:
 1. Biology: Content Knowledge Part 1 (20231) - 156; and
 2. Biology: Content Essays (30233) - 141;
 (b) Chemistry:
 1. General Science: Content Knowledge Part 2 (10432) - 150;
 and
 2. Either:
 a. Chemistry: Content Knowledge (20241) - 144; or
 b. Physics: Content Knowledge (10261) - 141;
 (c) Dramatics:
 1. English Language and Literature: Content Knowledge (10041) - 160; and
 2. English Language, Literature and Composition Essays (20042) - 154;
 (d) Dramatics-speech:
 1. English Language and Literature: Content Knowledge (10041) - 160; and
 2. English Language, Literature and Composition Essays (20042) - 154;
 (e) English:
 1. English Language and Literature: Content Knowledge (10041) - 160; and
 2. English Language, Literature and Composition Essays (20042) - 154;
 (f) History:
 1. Social Studies: Content Knowledge (10081) - 151; and
 2. Social Studies: Interpretation of Materials (20083) - 155;
 (g) History - political science:
 1. Social Studies: Content Knowledge (10081) - 151; and
 2. Social Studies: Interpretation of Materials (20083) - 155;
 (h) Mathematics:
 1. Mathematics: Content Knowledge (10061) - 141; and
 2. Mathematics: Proofs, Models, and Problems (20063) - 141;
 (i) Mathematics - physical science: select from either:
 1. Mathematics Test (10060) - 500; or
 2. Chemistry, Physics, and General Science Test (10070) - 510;
 (j) Physics:
 1. General Science: Content Knowledge, Part 2 (10432) - 150;

and
 2. Either:
 a. Chemistry: Content Knowledge (20241) - 144; or
 b. Physics: Content Knowledge (10261) - 141;
 (k) Physical science:
 1. General Science: Content Knowledge Part 2 (10432) - 150;
 and
 2. Either:
 a. Chemistry: Content Knowledge (20241) - 144; or
 b. Physics: Content Knowledge (10261) - 141;
 (l) Political science:
 1. Social Studies: Content Knowledge (10081) - 151; and
 2. Social Studies: Interpretation of Materials (20083) - 155;
 (m) Science: select from either:
 1. Biology and General Science Test (10030) - 550; or
 2. Chemistry, Physics and General Science Test (10070) - 510;
 (n) Speech:
 1. English Language and Literature: Content Knowledge (10041) - 160; and
 2. English Language, Literature and Composition Essays (20042) - 154.
 (6) An applicant for certification in all grades in the following specialty areas shall take the specialty test or tests with the passing score as identified in this subsection.
 (a) Art:
 1. Content Knowledge (10133) - 154; and
 2. Art Making (20131) - 154;
 (b) French:
 1. French: Content Knowledge (10173) - 159; and
 2. French: Productive Language Skills (20171) - 167;
 (c) German: German: Content Knowledge (20181) - 157;
 (d) Health: Health Education (10550) - 623;
 (e) Latin: Latin (0600) - 630;
 (f) Music:
 1. Music: Content Knowledge (10113) - 150; and
 2. Music: Concepts and Processes (30111) - 146;
 (g) Physical Education:
 1. Physical Education: Content Knowledge (10091) - 152; and
 2. Physical Education: Movement Forms-Analysis and Design (30092) - 151;
 (h) Spanish:
 1. Spanish Content Knowledge (10191) - 160; and
 2. Spanish: Productive Language Skills (20192) - 158;
 (i) School Media Librarian: Library Media Specialists (10310) - 623.
 (7) An applicant for certification to teach in grades five (5) through twelve (12) with one (1) or more of the following specializations shall take the specialty tests with the passing scores as identified in this subsection:
 (a) Agriculture: Agriculture (10700) - 530;
 (b) Business and Marketing Education - Business Education (10100) - 584;
 (c) Comprehensive Business - Business Education (10100) - 584;
 (d) Distributive Education - Business Education - 584;
 (e) Family and Consumer Sciences - Home Economics Education (10120) - 570;
 (f) Industrial Education - Technology Education (10050) - 600.
 (8) An applicant who holds one (1) of the certificates listed in this section shall qualify for additional certification in English as a Second Language by completing Teaching English as a Second Language (0360) - 620.

Section 4. (1) An applicant for initial certification shall [may] take the Praxi II: Subject Assessments and Specialty Area Tests on a date established by:

(a) The Educational Testing Service for national administration; or
 (b) [on a date established by] The Education Professional Standards Board for special administration.

(2) An applicant shall authorize test results to be forwarded by the Educational Testing Service to the Kentucky Department of Education and to the appropriate teacher preparation institution.

(3) Public announcement of testing dates and locations shall be

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

issued sufficiently in advance of testing dates to permit advance registration as required by the Educational Testing Service. An applicant shall seek information regarding the dates and location of the tests and make application for the appropriate examination prior to the deadline established and sufficiently in advance of anticipated employment to permit test results to be received by the Department of Education and processed in the normal certification cycle.

Section 5. [4.] An applicant shall pay the appropriate examination fee for each relevant test required to be taken, to the Educational Testing Service, publisher of the National Teacher Examinations, unless a lesser fee has been negotiated by the Department of Education. The fee for a specialty test developed by the Department of Education shall be equivalent to the current fee for the test administered by the Educational Testing Service.

Section 6. [5.] An applicant who fail to achieve at least the minimum score on the specialty examination appropriate to the teaching field may retake the test or tests during one (1) of the scheduled test administrations.

Section 7. [6.] The Education Professional Standards Board shall collect data and conduct analyses of the score and institutional reports provided by the Educational Testing Service to determine the impact of these tests and permit a review of this administrative regulation on an annual or biennial basis.

TIM DEDMAN, Chair
MARCIA SEILER, Attorney

APPROVED BY AGENCY: June 30, 1999
FILED WITH LRC: July 6, 1999 at 1 p.m.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety
and Health Education and Training
(As Amended at ARRS, October 12, 1999)

803 KAR 2:300. General.

RELATES TO: KRS 338.051, 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may [Express authority to] incorporate by reference established federal standards and national consensus standards [is also given to the board]. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions Applicable to This Part. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) ["Employee" means any person employed except those employees excluded in KRS 338.021.

(4) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(5) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(6) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(7) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide

safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(4) [(8)] "U.S. Department of Labor" shall mean the U.S. Department of Labor or the Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601. [An employer, required under these standards to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601.]

Section 2. Purpose and Scope. The provisions of this administrative regulation adopt and extend the applicability of established federal standards contained in 29 CFR 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) 9 CFR 1910.3-.7 of the Code of Federal Regulations revised as of July 1, 1998 [1995], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration is hereby incorporated by reference;

(b) The revisions to 29 CFR 1910.6, "Incorporation by Reference", as published in the Federal Register, Volume 64, Number 55, March 23, 1999 [61, Number 46, March 7, 1996], are incorporated by reference.

(2) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman
KEMBRA TAYLOR, Attorney

APPROVED BY AGENCY: August 2, 1999
FILED WITH LRC: August 10, 1999 at 4 p.m.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety
and Health Education and Training
(As Amended at ARRS, October 12, 1999)

803 KAR 2:301. Adoption and extension of established federal standards.

RELATES TO: KRS 338.051, 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) ["Employee" means any person employed except those employees excluded in KRS 338.021.

(4) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(5) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(6) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(7) "Standard" means the same as regulation or federal rule

which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment.

(4) [(6)] "U.S. Department of Labor" means Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601, or the U.S. Department of Labor.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) 29 CFR 1910.11-.19 of the Code of Federal Regulations revised as of July 1, 1998 [1997], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration are incorporated by reference.

(b) The revision to 29 CFR 1910.16, "Longshoring and marine terminals", as published in the Federal Register, Volume 63, Number 230, December 1, 1998 [62, Number 143, July 25, 1997].

(2) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

MR. JOE NORSWORTHY, Chairman

KEMBRA SEXTON TAYLOR, Attorney

APPROVED BY AGENCY: August 2, 1999

FILED WITH LRC: August 10, 1999 at 4 p.m.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and Health Education and Training

(As Amended at ARRS, October 12, 1999)

803 KAR 2:306. Occupational health and environmental control.

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) ["Employee" means any person employed except those employees excluded in KRS 338.021.

(4) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(5) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(6) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(7) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(4) [(6)] "U.S. Department of Labor" means Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601, or the U.S. Department of Labor.

Section 2. Occupational Noise Exposure. (1) The language relat-

ing to audiometric test requirements for occupational noise exposure in subsection (2) of this section shall apply in lieu of 29 CFR 1910.95(h)(1).

(2) 29 CFR 1910.95(h)(1) is amended to read: Audiometric tests shall be pure tone, air conduction, hearing threshold examinations with test frequencies including as a minimum 500, 1,000, 2,000, 3,000, 4,000, and 6,000 Hz. Testing at 8,000 Hz **shall** [must] be included in the audiometric tests for employers using audiometers with that capacity and all audiometric tests must include 8,000 Hz after January 15, 1985.

(3) The language relating to audiometric test requirements for occupational noise exposure in subsection (4) of this section shall apply in lieu of 29 CFR 1910.95(h)(4).

(4) 29 CFR 1910.95(h)(4) is amended to read: Audiometric examinations shall be administered in a room meeting the requirements listed in Appendix D: Audiometric Test Rooms. When an audiometric test room is located in a mobile test van, background sound pressure level measurements shall be taken at each testing location.

(5) The language relating to audiometric test requirements for occupational noise exposure in subsection (6) of this section shall apply in lieu of 29 CFR 1910.95(h)(5)(ii).

(6) 29 CFR 1910.95(h)(5)(ii) shall read: Audiometer calibration shall be checked acoustically at least annually in accordance with Appendix E: Acoustic Calibration of Audiometers. Test frequencies below 500 Hz and above 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) may be omitted from this check. Deviations of fifteen (15) decibels or greater **shall** require an exhaustive calibration.

(7) The language relating to audiometric test requirements for occupational noise exposure in subsection (8) of this section shall apply in lieu of 29 CFR 1910.95(h)(5)(iii).

(8) 29 CFR 1910.95(h)(5)(iii) is amended to read: An exhaustive calibration shall be performed at least every two (2) years in accordance with sections 4.1.2; 4.1.3; 4.1.4.3; 4.2; 4.4.1; 4.4.2; 4.4.3; and 4.5 of the American National Standard Specification for Audiometers, S3.6-1969. Test frequencies below 500 Hz and above 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) may be omitted from this calibration.

(9) The language relating to access to information and training materials requirements for occupational noise exposure in subsection (10) of this section shall apply in lieu of 29 CFR 1910.95(l)(1).

(10) 29 CFR 1910.95(l)(1) is amended to read: The employer shall make available to affected employees or their representatives copies of this standard and shall also post a notice of the availability of this standard in the workplace.

(11) The language relating to exemptions to the regulation for occupational noise exposure requirements in subsection (12) of this section shall apply in lieu of 29 CFR 1910.95(o).

(12) 29 CFR 1910.95(o) is amended to read: Paragraphs (c) through (n) of this section shall not apply to employers engaged in oil and gas well drilling and servicing operations, agriculture, or construction.

(13) The language relating to acoustical calibration of audiometers for occupational noise exposure in subsection (14) of this section shall apply in lieu of 29 CFR 1910.95 Appendix E.

(14) 29 CFR 1910.95 Appendix E shall read: Acoustic Calibration of Audiometers.

This Appendix is Mandatory.

Audiometer calibration shall be checked acoustically, at least annually, according to the procedures described in this Appendix. The equipment necessary to perform these measurements is a sound level meter, octave-band filter set, and a National Bureau of Standards 9A coupler. In making these measurements, the accuracy of the calibrating equipment shall be sufficient to determine that the audiometer is within the tolerances permitted by American Standard Specification for Audiometers, S3.6-1969.

(a) Sound pressure output check.

1. Place the earphone coupler over the microphone of the sound level meter and place the earphone on the coupler.

2. Set the audiometer's hearing threshold level (HTL) dial to seventy (70) dB.

3. Measure the sound pressure level of the tones that each test frequency from 500 Hz through 8,000 Hz (6,000 Hz until January 15,

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

1985 for audiometers without 8,000 Hz capability) for each earphone.

4. At each frequency the readout on the sound level meter should correspond to the levels in Table E-1 or Table E-2, as appropriate, for the type of earphone, in the column entitled "sound level meter reading".

(b) Linearity check.

1. With the earphone in place, set the frequency to 1,000 Hz and the HTL dial on the audiometer to seventy (70) dB.

2. Measure the sound levels in the coupler at each ten (10) dB decrement from seventy (70) dB to ten (10) dB, noting the sound level meter reading at each setting.

3. For each ten (10) dB decrement on the audiometer the sound level meter should indicate a corresponding ten (10) dB decrease.

4. This measurement may be made electrically with a voltmeter connected to the earphone terminals.

(c) Tolerances. When any of the measured sound levels deviate from the levels in Table E-1 or Table E-2 plus or minus three (3) dB at any test frequency between 500 and 3,000 Hz, four (4) dB at 4,000 Hz, or five (5) dB at 6,000 Hz and 8,000 Hz, an exhaustive calibration **shall be** [is] advised. An exhaustive calibration is required if the deviations are greater than ten (10) dB at any test frequency.

TABLE E-1 - REFERENCE THRESHOLD LEVELS FOR TELEPHONICS-TDH-39 EARPHONES		
Frequency, Hz	Reference threshold level for TDH-39 earphones, dB	Sound level meter level meter reading dB
500	11.5	81.5
1000	7.07	7.0
2000	9.07	9.0
3000	10.0	80.0
4000	9.57	9.5
6000	15.5	85.5
8000	13.0	83.0

TABLE E-2 - REFERENCE THRESHOLD LEVELS FOR TELEPHONICS-TDH-49 EARPHONES		
Frequency, Hz	Reference threshold level for TDH-49 earphones, dB	Sound level meter level meter reading dB
500	13.5	83.5
1000	7.5	77.5
2000	11.0	81.0
3000	9.5	79.5
4000	10.5	80.5
6000	13.5	83.5
8000	13.0	83.0

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The material in paragraphs 1 through 7 of this subsection, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 1998 [1997], is incorporated by reference:

- 29 CFR 1910.94 through 1910.95(g)(10)(ii);
- 29 CFR 1910.95(h)(2) through 29 CFR 1910.95(h)(3);
- 29 CFR 1910.95(h)(5)(i) through 29 CFR 1910.95(h)(5)(ii);
- 29 CFR 1910.95(i)(1) through 29 CFR 1910.95(k)(2)(iii);
- 29 CFR 1910.95(l)(2) through 29 CFR 1910.95(n)(2);
- 29 CFR 1910.95(q) through 29 CFR 1910.95 Appendix D;
- 29 CFR 1910.95 Appendix F through 29 CFR 1910.100.

(b) The revisions to 29 CFR 1910.94, "Ventilation", as published in the Federal Register, Volume 64, Number 55, March 23, 1999 [63, Number 5, January 8, 1998], are incorporated by reference.

(2) The language relating to audiometric testing in Section 2(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.95(h)(1).

(3) The language relating to audiometric testing in Section 2(4) of this administrative regulation shall apply in lieu of 29 CFR 1910.95(h)(4).

(4) The language relating to audiometric testing in Section 2(6) of this administrative regulation shall apply in lieu of 29 CFR

1910.95(h)(5)(ii).

(5) The language relating to audiometric testing in Section 2(8) of this administrative regulation shall apply in lieu of 29 CFR 1910.95(h)(5)(iii);

(6) The language relating to access to information and training materials requirements for occupational noise exposure in subsection (10) of this section shall apply in lieu of 29 CFR 1910.95(l)(1);

(7) 29 CFR 1910.95(o) is amended to read: Paragraphs (c) through (n) of this section shall not apply to employers engaged in oil and gas well drilling and servicing operations, agriculture, or construction.

(8) The language relating to acoustical calibration of audiometers for occupational noise exposure in subsection (14) of this section shall apply in lieu of 29 CFR 1910.95 Appendix E;

(9) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA TAYLOR, Attorney

APPROVED BY AGENCY: August 2, 1999

FILED WITH LRC: August 10, 1999 at 4 p.m.

LABOR CABINET

Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety
and Health Education and Training
(As Amended at ARRS, October 12, 1999)

803 KAR 2:307. Hazardous materials.

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards is also given to the board. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions Applicable to this Part. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) [~~"Employee" means any person employed except those employees excluded in KRS 338.021.~~

(4) [~~"Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.~~

(5) [~~"Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.~~

(6) [~~"National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.~~

(7) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(4) [(8)] "U.S. Department of Labor" means Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601, or the U.S. Department of Labor.

Section 2. Automotive Service Station (Service Station). (1) The language relating to automotive service stations (service stations) in

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

subsection (2) of this section shall apply in lieu of 29 CFR 1910.106(a)(3).

(2) 29 CFR 1910.106(a)(3) is amended to read: The term automotive service station, or service stations, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The material in subparagraphs 1 through 2 of this paragraph, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 1998 [1997], is incorporated by reference:

1. 29 CFR 1910.101 through 1910.106(a)(2);
2. 29 CFR 1910.106(a)(4) through 29 CFR 1910.120.

(b) The revisions to the removal of 29 CFR 1910.108, "Dip Tanks containing Flammable or Combustible Liquids", as published in the Federal Register, Volume 64, Number 55, March 23, 1999, is incorporated by reference. [29 CFR 1910.109, "Explosives and Blasting Agents", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.]

(c) The additions of 29 CFR 1910.121-126, dealing with dipping and coating operations, as published in the Federal Register, Volume 64, Number 55, March 23, 1999, are incorporated by reference. [The revisions to 29 CFR 1910.110, "Storage and Handling of Liquefied Petroleum Gases", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.]

(d) The revisions to 29 CFR 1910.111, "Storage and Handling of Anhydrous Ammonia", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, are incorporated by reference.

(e) The revisions to 29 CFR 1910.111, "Storage and Handling of Anhydrous Ammonia", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.]

(2) The language relating to automotive service stations (service stations) in Section 2(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.106(a)(3).

(3) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA TAYLOR, Attorney

APPROVED BY AGENCY: August 2, 1999

FILED WITH LRC: August 10, 1999 at 4 p.m.

LABOR CABINET

Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety
and Health Education and Training
(As Amended at ARRS, October 12, 1999)

803 KAR 2:309. General environmental controls.

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards [is also given to the board]. The following administrative regulation contains those standards to be enforced

by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions Applicable to this Part. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) ["Employee" means any person employed except those employees excluded in KRS 338.021.

(4) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(5) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(6) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(7) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(4) [(8)] "U.S. Department of Labor" means the Kentucky Labor Cabinet or U.S. Department of Labor.

Section 2. Construction of Water Closets. (1) The language relating to construction of water closets in subsection (2) of this section shall apply in lieu of 29 CFR 1910.141(c)(2)(i).

(2) 29 CFR 1910.141(c)(2)(i) is amended to read: Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy.

Section 3. Lockout. (1) The language relating to utilization of lockout procedures in subsection (2) of this section shall apply in lieu of 29 CFR 1910.147(c)(2)(ii).

(2) 29 CFR 1910.147(c)(2)(ii) is amended to read: If an energy isolating device is capable of being locked out, the employer's energy control program under paragraph (c)1 of this subsection shall utilize lockout.

(3) The language relating to tag location in subsection (4) of this section shall apply in lieu of 29 CFR 1910.147(c)(3).

(4) 29 CFR 1910.147(c)(3)(i) is amended to read: Full employee protection. When a tagout device is used on an energy isolating device which is incapable of being locked out, the tagout device shall be attached at the same location that the lockout device would have been attached, and the employer shall demonstrate that the tagout program will provide a level of safety equivalent to that obtained by using a lockout program. If [Where] tagout devices are used with energy isolating devices designed with the incapability of being locked, the tag attachment **shall** [will] be fastened at the same point at which the lock would have been attached.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The material in subparagraphs 1 through 4 of this paragraph, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 1998 [1997], is incorporated by reference:

1. 29 CFR 1910.141 through 1910.141(c)(1)(iii);
2. 29 CFR 1910.141(d)(1) through 29 CFR 1910.147(c)(2)(i);
3. 29 CFR 1910.147(c)(2)(iii);
4. 29 CFR 1910.147(c)(3)(ii) through 29 CFR 1910.150.

(b) The revisions to 29 CFR 1910.146, "Permit-Required Confined Spaces," as published in the Federal Register, Volume 63, Number 230, December 1, 1998, are incorporated by reference.

(2) The language relating to the construction of water closets in Section 2(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.141(c)(2)(i);

(3) [29 CFR 1910.41, "Sanitation", as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(c) The revisions to 29 CFR 1910.142, "Temporary Labor Camps",

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

as published in the Federal Register, Volume 63, Number 117, June 18, 1998, are incorporated by reference.

(d) The language relating to utilization of lockout procedures in Section 3(2) of this administrative regulation shall apply in lieu of 29 CFR 1910.147(c)(2)(ii).

(4) [(e)] The language relating to tag location in Section 3(4) of this administrative regulation shall apply in lieu of 29 CFR 1910.147(c)(3)(i).

(5) [(2)] This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA TAYLOR, Attorney

APPROVED BY AGENCY: August 2, 1999

FILED WITH LRC: August 10, 1999 at 4 p.m.

LABOR CABINET

Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety
and Health Education and Training
(As Amended at ARRS, October 12, 1999)

803 KAR 2:313. Materials handling and storage.

RELATES TO: KRS 338.051(3), 338.061, 29 CFR 1910

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 CFR 1910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. Definitions Applicable to this Part. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(3) ["Employee" means any person employed except those employees excluded in KRS 338.021.

(4) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(5) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(6) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(7) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(4) [(8)] "U.S. Department of Labor" means the Kentucky Labor Cabinet or the U.S. Department of Labor.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) 29 CFR 1910.176-190, Subpart N, "Materials Handling and Storage", revised as of July 1, 1998 [1997], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration.

(b) The revision to the revision to 29 CFR 1910.178, "Powered Industrial Trucks", as published in the Federal Register, Volume 63, Number 230, December 1, 1998, is incorporated by reference.

(c) The revision to 29 CFR 1910.178, "Powered Industrial Trucks",

as published in the Federal Register, Volume 64, Number 80, April 27, 1999 [29 CFR 1910.183, "Helicopters", as published in the Federal Register, Volume 63, Number 117, June 18, 1998], is incorporated by reference.

(2) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

JOE NORSWORTHY, Chairman

KEMBRA TAYLOR, Attorney

APPROVED BY AGENCY: August 2, 1999

FILED WITH LRC: August 10, 1999 at 4 p.m.

PUBLIC PROTECTION AND REGULATION CABINET Department of Financial Institutions (As Amended at ARRS, October 12, 1999)

808 KAR 10:400 Examination fees and criteria.

RELATES TO: KRS 292.330(12)(d), 15 USC 78s(b), w [Chapter 292]

STATUTORY AUTHORITY: KRS 292.330(12)(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.330(12)(d) provides that the commissioner may make periodic examination [exams] of broker-dealers and investment advisers and may charge a reasonable fee for the examination [exams]. This administrative regulation establishes the schedule of fees.

Section 1. Investment Adviser. The fee for a routine examination of an investment adviser shall be:

(1) Seventy-five (75) dollars for an investment adviser with assets under management of one (1) million dollars or less;

(2) \$150 for an investment adviser with assets under management of more than one (1) million dollars but not more than five (5) million dollars;

(3) \$250 for an investment adviser with assets under management of more than five (5) million dollars but not more than ten (10) millions dollars million;

(4) \$300 for an investment adviser with assets under management of more than ten (10) million dollars but not more than twenty (20) million dollars; and

(5) \$350 for an investment adviser with assets under management of more than twenty (20) million dollars.

Section 2. Broker-Dealer [and Issuer Agent]. The fee for a routine examination of a broker-dealer shall be thirty-five (35) dollars per working hour [per examiner] with the total fee not to exceed \$1000. A fee shall not be [provided, however, that no fee is] charged for examination work by an examiner-trainee.

Section 3. Application of Industry Standards to Examination Criteria. When not in conflict with Kentucky law, a Department of Financial Institution examiner [examiners] shall apply the record-keeping, supervisory, and conduct rules promulgated by:

(1) The Securities and Exchange Commission pursuant to 15 USC 78w; or

(2) If the broker-dealer is a member of a [the] self-regulatory organization as defined in 15 USC 78c(a)(26), the self-regulatory organization pursuant to 15 USC 78s(b) [(s) to whom the Securities and Exchange Commission has granted authority to promulgate such rules under the Securities Exchange Act of 1934].

REDMON LAIR, Deputy Secretary

ELLA D. ROBINSON, Deputy Commissioner

COLLEEN KEEFE, Counsel

APPROVED BY AGENCY: July 21, 1999

FILED WITH LRC: July 26, 1999 at 11 a.m.

CABINET FOR HEALTH SERVICES
Office of Certificate of Need
(As Amended at ARRS, October 12, 1999)

900 KAR 6:050. Certificate of need administrative regulation.

RELATES TO: KRS 216B.010 to 216B.130, 216B.455, 216B.990
 STATUTORY AUTHORITY: KRS [13A.350;] 194A.030,
 [194A.060;] 216B.040

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services is required by statute to administer Kentucky's Certificate of Need Program and to promulgate administrative regulations as necessary. This administrative regulation establishes requirements for [sets forth those administrative regulations necessary to] the orderly administration of the Certificate of Need Program.

Section 1. Definitions. (1) "Administrative escalation" means an approval from the cabinet to increase the capital expenditure authorized on a previously issued certificate of need.

(2) "Cabinet" means the Cabinet for Health Services.

(3) "Certificate of Need Newsletter" means the monthly newsletter published by the cabinet regarding certificate of need matters.

(4) "Days" means calendar days.

(5) "Division of Licensing and Regulation" means the Cabinet for Health Services, Office of the Inspector General, Division of Licensing and Regulation.

(6) "Emergency circumstances" means situations that pose an imminent threat to the life, health, or safety of a [any] citizen of the Commonwealth.

(7) "Formal review" means the review of [these] applications for certificate of need which are reviewed within ninety (90) days from the commencement of the review as provided by KRS 216B.062(1) and which are reviewed for compliance with the review criteria set forth at KRS 216B.040 and Section 6 [7] of this administrative regulation.

(8) "Improvement" means change or addition to the premises of an existing facility that enhances its ability to deliver the services that it is authorized to offer under its existing license or an approved certificate of need.

(9) "Industrial ambulance service" means a Class I specialized provider licensed by the cabinet to serve the employees, customers, or patrons of a business, race track, recreational facility or similar organization excluding a health care facility.

(10) "Long-term care beds" means nursing home beds, intermediate care beds, skilled nursing beds, nursing facility beds, personal care beds, and Alzheimer disease facility beds.

(11) "Nonsubstantive review" means an expedited review of an application for certificate of need which has been granted nonsubstantive review pursuant to the provisions of KRS 216B.095 and [Section 8 of] this administrative regulation [if granted status pursuant to KRS 216B.095(3)(f)].

(12) "Owner" means a [the] person as defined in KRS 216B.015(16) who is applying for the certificate of need and will become the licensee of the proposed health service or facility.

(13) "Proposed service area" means the geographic area [and population] the applicant proposes to serve.

(14) [(13)] "Public information channels" means the Office of Communications in the Cabinet for Health Services.

(15) [(14)] "Public notice" means notice given through:

(a) Public information channels; or

(b) The cabinet's Certificate of Need Newsletter.

(16) [(15)] "Show cause hearing" means a hearing before the cabinet at which a person is required to explain or demonstrate why the person is not [should not be] required to obtain a certificate of need or is not [be] subject to the penalties provided by KRS 216B.990 for specific violations of the provisions of KRS Chapter 216B.

Section 2. Letter of Intent. (1) The Certificate of Need Letter of Intent (Form #1) shall be filed with the cabinet by all applicants for a certificate of need. This shall:

(a) Include those applicants requesting nonsubstantive review under the provisions of Section 8 of this administrative regulation.

(b) Not include those applicants requesting nonsubstantive

review under the provisions of KRS 216B.095(a) through (e).

(2) Upon receipt of a letter of intent, the cabinet shall provide the sender with written acknowledgment of receipt of the letter and shall publish notice of such receipt in the next published certificate of need newsletter.

(3) An application for a certificate of need shall not be processed until such time as the letter of intent has been on file with the cabinet for thirty (30) days.

~~Section 3. [Letter of Intent. (1) The Certificate of Need Letter of Intent (Form #1) shall be filed with the cabinet by all applicants for a certificate of need. This shall:~~

~~(a) Include those applicants requesting nonsubstantive review under the provisions of Section 8 of this administrative regulation.~~

~~(b) Not include those applicants requesting nonsubstantive review under the provisions of KRS 216B.095(a) through (e);~~

~~(2) Upon receipt of a letter of intent, the cabinet shall provide the sender with written acknowledgment of receipt of the letter and shall publish notice of such receipt in the next published certificate of need newsletter.~~

~~(3) An application for a certificate of need shall not be processed until such time as the letter of intent has been on file with the cabinet for thirty (30) days.~~

~~Section 3.] Certificate of Need Application. (1) An applicant [All applicants] for a certificate of need shall file an application with the cabinet on the appropriate Certificate of Need Application (forms 1A, 1B or 1C [2A, 2B, or 2C]).~~

~~(2) When filing an application for certificate of need, the applicant shall file an original and one (1) copy [two (2) copies] of the appropriate certificate of need application, together with the prescribed fee set forth in 900 KAR 6:020 with the cabinet on or before the deadlines established by Section 3 [4] of this administrative regulation.~~

~~(3) Formal or [Neither formal nor] nonsubstantive review of an application for a certificate of need shall not begin until the application has been deemed complete by the cabinet.~~

~~(4) The cabinet shall not deem an application complete unless:~~

~~(a) The applicant has provided the cabinet with all of the information necessary to complete the application; or~~

~~(b) The applicant has declined to submit the requested information and has requested that its application be reviewed as submitted.~~

~~(5) Once an application has been declared complete, the applicant shall [may] not submit additional information regarding the application unless the information is introduced at a public hearing.~~

~~(6) Once an application has been declared complete, it shall not be amended to:~~

~~(a) Increase the scope of the project;~~

~~(b) Increase the amount of the capital expenditure;~~

~~(c) Expand the size of the proposed service area;~~

~~(d) Change the location of the health facility or health service; or~~

~~(e) Change the owner [legal applicant], unless the application involves a licensed health facility and a change of ownership with appropriate notice has occurred after the application was submitted.~~

~~(7) An application that has been declared complete[,] may [only] be amended at a public hearing[,] and may then only be amended] to:~~

~~(a) Decrease the scope of the project;~~

~~(b) Decrease the amount of the capital expenditure; or~~

~~(c) Decrease the proposed service area.~~

~~(8) Applicants who have had proposals for certificates of need approved under the nonsubstantive review provisions of Section 7 [8] of this administrative regulation may request the cabinet to change the specific location to be designated on the certificate of need if:~~

~~(a) [provided that] The location is within the county listed on the certificate of need application; and~~

~~(b) [provided that] The applicant files [file] a written request with the cabinet within thirty (30) days of the date of approval. A [Such] request shall include the reason why the change is necessary;~~

~~(9) If an application is not filed with the cabinet within one (1) year of the date of the filing of a letter of intent, the letter of intent shall expire, and the applicant shall file a new letter of intent at least thirty (30) days prior to submitting an application.~~

~~(10) If an application is withdrawn, the applicant shall file a new letter of intent at least thirty (30) days prior to resubmitting~~

an application.

(11) ~~If an application is not filed with the cabinet within one (1) year of the date of the filing of a letter of intent, the letter of intent shall expire, and the applicant shall file a new letter of intent at least thirty (30) days prior to submitting an application.~~

~~(10) If an application is withdrawn, the applicant shall file a new letter of intent at least thirty (30) days prior to resubmitting an application.~~

~~(11) An application that is not declared complete within a year from the date that it is filed shall expire and shall not be placed on public notice or reviewed for approval.~~

Section 4. ~~[3.]~~ [4:] Timetable for Submission of Applications. (1) The cabinet's timetable for giving public notice for applications deemed complete for both formal review and for applications granted nonsubstantive review status pursuant to KRS 216B.095(3)(f) and Section 7 [8] of this administrative regulation shall be as follows:

(a) Public notice for organ transplantation, magnetic resonance imaging, lithotripter, megavoltage radiation equipment, cardiac catheterization, open heart surgery, and new technological developments shall be given on the third Thursday of the following months:

1. January; and

2. July. ~~[Public notice for hospital, psychiatric, comprehensive physical rehabilitation, chemical dependency and psychiatric residential treatment facilities, ambulatory care centers, freestanding ambulatory surgical centers, and birthing centers shall be given on the third Thursday of the following months:~~

~~1. February; and~~

~~2. August.]~~

(b) Public notice for hospice and home health agencies shall be given on the third Thursday of the following months:

1. February [March]; and

2. August [September].

(c) ~~[Public notice for mobile services shall be given on the third Thursday of the following months:~~

~~1. April; and~~

~~2. October.~~

~~(d) Public notice for ground ambulance providers, mobile services and rehabilitation agencies, [and day health care programs,] shall be given on the third Thursday of the following months:~~

~~1. March [May]; and~~

~~2. September [November].~~

~~(e) Public notice for day health care programs and personal care beds shall be given on the third Thursday of the following months:~~

~~1. April; and~~

~~2. October.~~

~~(f) Public notice for hospital, psychiatric, comprehensive physical rehabilitation, chemical dependency facilities, ambulatory care centers, freestanding ambulatory surgical centers, and birthing centers shall be given on the third Thursday of the following months:~~

~~1. May; and~~

~~2. November.~~

~~(g) Public notice for long-term care beds [personal care beds and rehab agencies] shall be given on the third Thursday of [the following month:] [months:~~

~~1.] June[-and~~

~~2. December].~~

~~(h) Public notice for long-term care beds and intermediate care beds for Mental Retardation and Developmentally Disabled facilities shall be given on the third Thursday of June.]~~

~~(i) Public notice for intermediate care beds for mental retardation and developmentally disabled facilities and psychiatric residential treatment facilities (PRTF) shall be given on the third Thursday of the following months:~~

~~1. June; and~~

~~2. December. [Public notice for organ transplantation, magnetic resonance imaging, lithotripter, megavoltage radiation equipment, cardiac catheterization, open heart surgery, and new technological developments shall be given on the third Thursday of the following months:~~

~~1. January; and~~

~~2. July.]~~

~~(h) A proposal [Any proposals] not included in paragraphs (a) through (g) of this subsection [listed above] shall be placed in the cycle that the cabinet determines to be most appropriate.~~

(2) In order to have an application deemed complete and placed on public notice, an application shall ~~[must]~~ be filed with the cabinet at least fifty (50) days prior to the date of the desired public notice.

(3) Applications filed prior to the effective date of the amended administrative regulation~~[-]~~ may be placed on public notice according to the Timetable for Submission of Applications in the administrative regulation in effect at the time the application was filed.

Section 5. ~~[4.]~~ [5:] Certificate of Need Review. (1) Prior to being reviewed for the approval or denial of a certificate of need, all applications for certificate of need shall be reviewed for completeness pursuant to Section 5 [6] of this administrative regulation.

(2) Unless granted nonsubstantive review status, an application for a certificate of need shall be reviewed for approval or denial of the certificate of need according to the formal review criteria set forth at Section 6 [7] of this administrative regulation.

(3) If granted nonsubstantive review status under Section 7 [8] of this administrative regulation, an application for a certificate of need shall be reviewed for approval or denial of the certificate of need according to the nonsubstantive review criteria set forth at Section 7 [8] of this administrative regulation.

Section 6. ~~[5.]~~ [6:] Completeness Review. (1) Fifteen (15) days prior to the deadline for deeming an application complete for the next appropriate batching cycle, the cabinet shall conduct an initial completeness review to determine whether the application is complete for applications for both formal review and nonsubstantive review granted pursuant to Section 7 [8] of this administrative regulation. Applications granted nonsubstantive review status pursuant to KRS 216B.095(3)(a) through (e) shall be reviewed within fifteen (15) days of receipt.

(2) If the cabinet finds that the application for formal review is complete, the cabinet shall:

(a) Notify the applicant in writing that the application has been deemed complete and that review of the application for the approval or denial of a certificate of need shall begin upon public notice being given; and

(b) Give public notice in the next appropriate certificate of need newsletter that review of the application for approval or denial of a certificate of need has begun.

(3) If the cabinet finds that the application for nonsubstantive review is complete, the cabinet shall notify the applicant in writing that the application has been deemed complete and that review of the application for the approval or denial of a certificate of need shall begin upon public notice being given.

(4) A decision to grant or deny nonsubstantive review status shall be made within ten (10) days of the date the applicant is notified that the application has been deemed complete.

(5) The cabinet shall give public notice for applications granted nonsubstantive review status under Section 7 [8] of this administrative regulation in the next appropriate certificate of need newsletter that status has been granted and that review of the application for approval or denial of a certificate of need has begun. Public notice for applications granted nonsubstantive review status according to KRS 216B.095(3)(a) through (e) shall ~~[will]~~ be mailed to affected persons.

(6) A determination that ~~[Deeming]~~ an application is complete shall:

(a) Indicate ~~[means]~~ ~~[only]~~ that the applicant has minimally responded to the necessary items on the application;

(b) Not be ~~[It is not]~~ determinative of the accuracy of, or weight to be given to, the information contained in the application; and

(c) [shall] Not imply that the application has met the review criteria for approval of a certificate of need.

(7) If the cabinet finds that the application is incomplete, the cabinet shall:

(a) Provide the applicant with written notice of the information necessary to complete the application; and

(b) [shall] Notify the applicant that the cabinet shall ~~[will]~~ not deem the application complete unless within ten (10) days of the date of the cabinet's request for additional information:

1. [(a)] The applicant submits the information necessary to complete the application by the date specified in the request; or

2. [(b)] The applicant requests in writing that the cabinet review its application as submitted.

(8) If, upon the receipt of the additional information, the cabinet finds that the application is complete, the cabinet shall, for applicants proceeding under formal review:

(a) Notify the applicant in writing that:

1. The application for formal review has been deemed complete; and

2. Review of the application for the approval or denial of a certificate of need shall begin upon public notice being given; and

(b) Give public notice in the next appropriate certificate of need newsletter that review of the application for approval or denial of a certificate of need has begun.

(9) If, upon the receipt of the additional information requested, the cabinet finds that an application for nonsubstantive review is complete, the cabinet shall:

(a) Notify the applicant in writing that:

1. [(a)] The application has been deemed complete and that review of the application for the approval or denial of a certificate of need shall begin upon public notice being given; and

2. [(b)] A decision to grant or deny nonsubstantive review status shall be made within ten (10) days of the date that the application was deemed complete; and

(b) [(c) The cabinet shall] Give public notice in the next appropriate certificate of need newsletter for applications granted nonsubstantive review status under Section 7 [8] of this administrative regulation, that status has been granted and that review of the application for approval or denial of a certificate of need has begun. Public notice for applications granted nonsubstantive review status according to KRS 216B.095(3)(a) through (e) shall [will] be mailed to affected persons.

(10) If the application, or if the information submitted, is insufficient to complete the application, the cabinet shall:

(a) Request the information necessary to complete the application; and

(b) Inform the applicant that the application shall not be deemed complete and shall not be placed on public notice until:

1. The applicant submits the information necessary to complete the application; or

2. The applicant requests in writing that its application be reviewed as submitted.

(11) Once an application has been deemed complete, an applicant shall not submit additional information to be made part of the public record unless:

(a) The information is introduced at a hearing; or

(b) In the case of a deferred application, the additional information is submitted at least twenty-five (25) days prior to the date that the deferred application is placed on public notice.

(12) A determination that [Deeming] an application is complete shall:

(a) Indicate [means] [only] that the application is sufficiently complete to be reviewed for approval or disapproval;

(b) Not be [-It is not] determinative of the accuracy of, or weight to be given to, the information contained in the application; and

(c) [shall] Not imply that the application has met the review criteria for approval.

Section 7. [6:] [7:] Considerations for Formal Review. In determining whether to approve or deny a certificate of need, the cabinet's review of applications under formal review shall be limited to the following considerations:

(1) Consistency with plans.

(a) Whether the proposal is consistent with the current State Health Plan established in 902 KAR 17:041.

1. Applications proposing to relocate [transfer] surgical services from one (1) licensed health facility to a newly established or other health facility and either facility is owned by the existing facility with surgical services shall be considered consistent with the State Health Plan if the existing facility has not added to its complement of operating rooms within twelve (12) months prior to filing the application for relocation and the following conditions are met:

a. The newly established surgical services are located:

(i) On the existing facility's licensed premises; or

(ii) In the same county as the existing health facility and where there are no other licensed providers of surgical services in the county; and

b. The existing facility with surgical services which relocated the rooms and the newly established surgical service shall not add operating rooms for one (1) year following the date that the newly established surgical services commence operations.

2. An application by an acute care hospital to convert acute care beds to psychiatric beds shall be consistent with the state health [this] plan if the following conditions are met:

a. The occupancy of acute care beds in the applicant's facility is less than seventy (70) percent in the latest published utilization report; [and]

b. All of the proposed psychiatric care beds are being converted from licensed acute care beds; [and]

c. All of the psychiatric care beds will be converted and implemented on site at the applicant's existing licensed acute care facility; [and]

d. All of the converted psychiatric care beds shall be dedicated exclusively to the treatment of geriatric patients, aged sixty-five (65) or older; [and]

e. The hospital shall establish distinct admission and discharge criteria for admitting only those patients who have both mental and physical conditions who would be excluded from treatment in a regular adult psychiatric unit; [and]

f. The staff of the unit shall include a multidisciplinary team of specialists involving psychiatry and internal medicine with specialization in the treatment of geriatrics and nursing personnel specially trained in psychiatric and medical geriatric patient care; [and]

g. The number of beds to be converted shall be based on the population age sixty-five (65) plus in the counties proposed to be served; and

h. The applicant agrees in writing not to seek Medicaid certification for the beds converted.

3. Applications proposing to add acute care beds shall be consistent with the State Health Plan if the following conditions are met:

a. The applicant shall document that utilization at its facility has reached functional capacity. In calculating functional capacity, consideration shall be given to factors such as the mix of private and semiprivate rooms, patient matching limitations such as gender or the need for isolation beds required to address emergency patient needs, and limits created by special purpose acute units, such as obstetrics;

b. The applicant shall document that the transfer of beds from special purpose acute units is not feasible because occupancy is greater than 65 percent or, if the occupancy is less than sixty-five (65) percent, the transfer of underutilized beds is not sufficient to meet the hospital's total additional acute care bed need;

c. The applicant shall document an overall acute care occupancy rate in the county of sixty-five (65) percent or greater for the twelve (12) prior months;

d. The applicant shall document that:

(i) A new service established in the last eight (8) years has resulted in increasing the number of inpatient days at the hospital by more than three (3) percent; or

(ii) A three (3) percent or greater increase in inpatient volume has occurred from out-of-state admissions; and

e. The maximum number of acute care beds that may be approved shall be based on volume projected five (5) years from the CON filing. Approval shall be based on the higher of:

(i) The applicant's credible forecast of future utilization; or

(ii) A regression analysis projection of patient day trends over a five (5) year time frame.

4. An application proposing to convert either psychiatric [and/or] chemical dependency [CD] beds, or both psychiatric and chemical dependency beds, to acute care shall be consistent with the State Health Plan if the application meets the following conditions:

a. The most recently published data indicates that the occupancy for existing acute care beds for the applicant's facility was sixty-five (65) percent or greater; [and]

b. The applicant has existing licensed acute care and either

psychiatric ~~[care and]~~ or chemical dependency beds, or both **psychiatric and chemical dependency beds**; ~~[and]~~

c. ~~[(ii)]~~ All of the proposed acute care beds are being converted from **either licensed psychiatric ~~[and]~~ or chemical dependency beds, or both licensed psychiatric and chemical dependency beds**;

d. ~~[(iii)]~~ The occupancy of **either psychiatric ~~[and]~~ or chemical dependency beds, or both psychiatric and chemical dependency beds**, is less than sixty (60) percent as computed from the latest published data; and

e. ~~[(iii)]~~ The additional acute care beds will be converted and implemented on site at the applicant's existing licensed acute care facility. ~~[shall not be reviewed for consistency with the State Health Plan but shall be reviewed under the nonsubstantive review provisions of Section 8 of this administrative regulation.]~~

(b) Whether the proposal is consistent with applicable biennial budget authorizations and limitations.

(c) Whether the proposal would adversely impact health care costs in the Commonwealth.

(d) In determining whether an application is consistent with the State Health Plan, the cabinet shall apply the latest inventories and need analysis figures maintained by the cabinet and the version of the State Health Plan in effect at the time of the cabinet's decision.

(2) Need.

(a) Whether the applicant has identified a need for the proposal in the geographic area defined in the application.

(b) Whether the applicant has demonstrated that it is able to meet the need identified in the geographic area defined in the application.

(3) Accessibility. Whether the health facility or health service proposed in the application will be accessible in terms of timeliness, amount, duration, and personnel sufficient to provide the services proposed.

(4) Interrelationships and linkages. Whether the proposal shall serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state, and whether the proposal is accompanied by assurance of effort to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system.

~~[(a) Whether it is necessary for the applicant to establish linkages with other health services, health facilities, and elements of the health care system within the region and the state in order to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system within the Commonwealth.]~~

~~[(b) If it is necessary for the applicant to establish linkages with other health services, health facilities, and elements of the health care system in the region and the state in order to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system within the Commonwealth, whether such linkages have been or will be established.]~~

(5) Costs, economic feasibility, and resource availability.

(a) Whether it is economically feasible for the applicant to implement and operate the proposal.

(b) If applicable, whether the cost of alternative ways of meeting the need identified in the geographic area defined in the application would be a more effective and economical use of resources.

(6) Quality of services.

(a) Whether the applicant is prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements established by the cabinet.

(b) Whether the applicant has the ability to comply with applicable licensure requirements. The fact that there is not an applicable licensure category shall not constitute grounds for disapproving an application.

Section 8. ~~[7:]~~ [8:] Nonsubstantive Review. (1) In addition to the projects specified in KRS 216B.095(3)(a) through (e), the cabinet may grant nonsubstantive review status to an application for which a certificate of need is required in circumstances wherein:

(a) [:

~~[(a)]~~ The proposal involves the establishment or expansion of a health facility or health service for which there are no standards or review criteria in the State Health Plan; or

~~[(b)]~~ The proposal involves the establishment or expansion of an ambulatory surgery center by an ambulatory surgery center that was existing and operating by July 15, 1997, if the ~~[such]~~ ambulatory surgery center was initially established as a private office or clinics of physicians.

~~[(b)]~~ The proposal involves the establishment or expansion of an ambulatory surgery center by an ambulatory surgery center that is existing and operating by July 15, 1997, if such ambulatory surgery center was initially established as a private office or clinics of physicians.

~~[(c)]~~ The proposal involves the transfer of surgical services from one (1) licensed health facility to another licensed health facility or from one (1) licensed health facility to a newly established health facility.]

(2) If an application is denied nonsubstantive review status, the application shall automatically be placed in the formal review process.

(3) If an application is granted nonsubstantive review status, notice of the decision to grant nonsubstantive review status shall be given to the applicant and all known affected persons.

(4) If an application is granted nonsubstantive review status, any affected person other than the applicant may request a hearing by filing a request for a hearing within ten (10) days of the notice of the decision to conduct nonsubstantive review. The provisions of Section 15 [16] of this administrative regulation shall govern the conduct of all nonsubstantive review hearings.

(5) If an application for certificate of need is granted nonsubstantive review status, there shall be a presumption that the facility or service is needed and applications granted nonsubstantive review status shall not be reviewed for consistency with the State Health Plan. The cabinet shall approve applications for certificate of need that have been granted nonsubstantive review status, unless the presumption of need is rebutted by clear and convincing evidence that there is not a need for the proposed facility or service in the geographic area defined in the application.

(6) The cabinet shall approve or disapprove an application which has been granted nonsubstantive review status within thirty-five (35) days of the date that notice is given that nonsubstantive review status has been granted.

(7) If a certificate of need is denied following nonsubstantive review, the applicant may:

(a) Request that the cabinet reconsider its decision pursuant to KRS 216B.090 and Section 16 [17] of this administrative regulation;

(b) Request that the application be placed in the next cycle of the formal review process; or

(c) Seek judicial review pursuant to KRS 216B.115.

Section 9. [8:] [9:] Notice of Decision. (1) The cabinet shall notify the applicant and any party to the proceeding of the final action on a certificate of need application.

(2) Notification of approval shall be in writing and shall include:

(a) Verification that the review criteria for approval have been met;

(b) Specification of any terms or conditions limiting any certificate of need approval, including ~~[but not limited to:]~~ limitations regarding certain services or patients. This specification shall be listed on the facility or service's certificate of need and license;

(c) Notice of appeal rights; and

(d) The amount of capital expenditure authorized, where applicable.

(3) Written notification of disapproval shall include:

(a) The reason for the disapproval; and

(b) Notice of appeal rights.

(4) An application for certificate of need that is disapproved shall not be refiled for a period of twelve (12) months from the original date of filing, absent a showing of a significant change in circumstances.

Section 10. [9:] [10:] Deferral of an Application. (1) An applicant may defer review of an application by notifying the cabinet in writing of its intent to defer review.

~~[(a)]~~ If the application has been granted nonsubstantive review status, the notice to defer shall be filed no later than five (5) days prior to the date that the decision is due on the application unless a hearing has been scheduled. If a hearing has been scheduled, the notice to defer shall be filed no later than six (6) days prior to the

date of the hearing.

(b) If the application is being reviewed under formal review, the notice to defer shall be filed no later than ten (10) days prior to the date that the decision is due on the application unless a hearing has been scheduled. If a hearing has been scheduled, the notice to defer shall be filed eight (8) days prior to the date of the hearing.

(c) If a hearing has been scheduled, the applicant shall also notify all parties to the proceedings in writing of the applicant's intent to defer the application.

(2) If deferral is requested, the application shall be deferred to the next regular batching cycle and shall be placed on public notice pursuant to the timetables set forth at Section 3 [4] of this administrative regulation.

(3) If an application is deferred, an applicant may update its application by providing additional information to the cabinet at least twenty-five (25) days prior to the date that the deferred application is placed on public notice.

(4) In order for a hearing to be held on a deferred application, a hearing shall be requested by either the applicant or an affected person within:

(a) Ten (10) days of the deferred application being placed on public notice if the application has been granted nonsubstantive review status; or

(b) Fifteen (15) days of the deferred application being placed on public notice if the application is being reviewed under the provision of formal review.

(5) An application shall not be deferred more than one (1) time unless the applicant can document that state statute, administrative regulation, State Health Plan or the cabinet's utilization statistics affecting the application have changed in the applicant's favor. **An application shall not** ~~[Under no circumstances shall an application]~~ be deferred more than twice.

Section 11. [10:] [11:] Withdrawal of an Application. (1) An applicant may withdraw an application for certificate of need prior to the entry of a decision to deny or approve the application by notifying the cabinet in writing of the decision to withdraw the application.

(2) If a hearing has been scheduled or held on the application, the applicant shall also notify all parties to the proceedings in writing of the applicant's decision to withdraw the application.

~~[(3) If an application is withdrawn, the applicant shall file a new letter of intent before resubmitting the application.]~~

Section 12. [11:] [12:] Emergency Circumstances. (1) If an emergency circumstance arises, a person may proceed to alleviate the emergency without first obtaining a certificate of need **if [provided]:**

(a) The person is licensed by the cabinet to provide the service necessary to alleviate the emergency; and

(b) The cabinet is notified in writing within five (5) days after the commencement of the service required to alleviate the emergency.

(2) The notice to the cabinet shall contain the following information:

(a) A detailed description of the emergency;

(b) The steps taken to alleviate the emergency;

(c) The location or geographic area where the emergency service is being provided; and

(d) If applicable, the name and addresses of the person to whom emergency services are being provided.

(3) If the provision of service to meet the emergency circumstance is required to continue beyond thirty (30) days from the date that the notice is filed with the cabinet, the person providing the emergency service shall file an application for a certificate of need for the next appropriate public notice pursuant to Section 3 of this administrative regulation.

(4) The person providing the emergency service may continue to alleviate the emergency circumstances until ~~[such time as]~~ the emergency ceases to exist or the cabinet issues a final decision to approve or disapprove the application for certificate of need.

Section 13. [12:] [13:] Transfers of Certificates of Need. (1) Certificates of need issued to an existing facility for purposes other than replacement of the facility may be transferred to the new owner of the facility if the change of ownership occurs prior to implementation of the

project for which the certificate of need was issued.

(2) The purchase of all capital stock or a controlling interest of capital stock of a person who is the holder of an approved certificate of need for the establishment of a new health facility shall not constitute the sale, trade or transfer of a certificate of need to another person for purposes of KRS 216B.061(1)(h) and 216B.0615.

Section 14. [13:] [14:] Location of New and Replacement Facilities. A certificate of need approved for the establishment of a new facility or the replacement of an existing facility **shall be [is]** valid only for the location stated on the certificate.

Section 15. [14:] [15:] Filings. (1) The filing of all documents required by this administrative regulation shall be made by filing **the [such]** documents with the Office of Certificate of Need, HS1E-D, 1st Floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621 on or before 4:30 p.m. eastern time on the due date.

(2) Filings of documents, other than certificate of need applications and proposed hearing reports, may be made by facsimile transmission **if [provided that]:**

(a) The documents are received by the cabinet by facsimile transmission on or before 4:30 p.m. eastern time on the date due; and

(b) An original document is filed with the cabinet on or before 4:30 p.m. eastern time on the next working day after the due date.

(3) The Office of Certificate of Need shall endorse by file stamp the date that each filing is received and **the [such]** endorsement shall constitute the filing of the document.

(4) In computing any period of time prescribed by **this administrative regulation [these administrative regulations]**, the date of notice, decision or order shall not be included.

(5) The last day of the period so computed **shall [is to]** be included, unless it is a Saturday, a Sunday or legal state holiday, in which event the period runs until 4:30 p.m. eastern time of the first working day following a Saturday, Sunday, or legal state holiday.

Section 16. [15:] [16:] Hearings. (1) Hearings on certificate of need matters shall be held by hearing officers from the Cabinet for Health Service's Administrative Hearings Branch. A hearing officer shall not act on any matter in which the hearing officer has a conflict of interest as defined in KRS 45A.340. Any party may file with the cabinet a petition for removal based upon a conflict of interest supported by affidavit.

(2) The hearing officer shall preside over the conduct of each hearing and shall regulate the course of the proceedings in a manner which **shall [will]** promote the orderly and prompt conduct of the hearing.

(3) Notice of the time, date, place and subject matter of each hearing shall be:

(a) Mailed to the applicant and all known affected persons providing the same or similar service in the proposed service area, via the CON newsletter when applicable not less than ten (10) days prior to the date of the hearing; and

(b) Provided to members of the general public through public information channels.

(4) A public hearing shall be canceled if the person or persons who requested the hearing **withdraws [withdraw] [withdrawn]** their **request [request(s)]** by giving written notification to the Office of Certificate of Need that the hearing is no longer required. The consent of affected persons who have not requested a hearing shall not be required in order for a hearing to be canceled.

(5) Any dispositive motion made by a party to the proceedings shall be filed with the hearing officer three (3) working days prior to the scheduled date of the hearing.

(6) The hearing officer may convene a preliminary conference.

(a) The purposes of the conference **shall be [are]** to:

1. Formulate and simplify the issues;

2. Identify additional information and evidence needed for the hearing; and

3. Dispose of pending motions.

(b) A written summary of the preliminary conference and the orders thereby issued shall be made a part of the record.

(c) The hearing officer **shall:**

1. **[may]** Tape record the conference; or

2. If requested by a party to the proceedings, arrange for a stenographer to be present at the expense of the requesting party.

(d) During the preliminary conference, the hearing officer may:

1. Instruct the parties to:

a. Formulate and submit a list of genuine contested issues to be decided at the hearing;

b. Raise and address issues that can be decided before the hearing; or

c. Formulate and submit stipulations to facts, laws, and other matters;

2. Prescribe the manner and extent of the participation of the parties or persons who shall participate;

3. Rule on any pending motions for discovery or subpoenas; or

4. Schedule dates for the submission of briefs and documents.

(7) At least five (5) days prior to the scheduled date of any non-substantive review hearings and at least seven (7) days prior to the scheduled date of all other hearings, all persons wishing to participate as a party to the proceedings shall file an original and one (1) copy [two (2) copies] of the following for each affected application with the cabinet and serve copies on all other known parties to the proceedings:

(a) Notice of Appearance, Form #2;

(b) Witness List, Form #3; and

(c) [(b)] Exhibit List, Form #4 and attached exhibits[-and

(e) Notice of Appearance, Form #5].

(8) The hearing officer shall convene the hearing and shall state the purpose and scope of the hearing or the issues upon which evidence shall be heard. All parties appearing at the hearing shall enter an appearance by stating their names and addresses.

(9) Each party shall have the opportunity to:

(a) Present its case;

(b) Make opening statements;

(c) Call and examine witnesses;

(d) Offer documentary evidence into the record;

(e) Make closing statements; and

(f) Cross-examine opposing witnesses on:

1. Matters covered in direct examination; and

2. At the discretion of the hearing officer, upon other matters relevant to the issues.

(10) A party that is a corporation shall be represented by an attorney licensed to practice in the Commonwealth of Kentucky.

(11) The hearing officer may:

(a) Allow testimony or other evidence on issues not previously identified in the preliminary order which may arise during the course of the hearing, including any additional petitions for intervention which may be filed;

(b) Act to exclude irrelevant, immaterial or unduly repetitious evidence; and

(c) Question any party or witness.

(12) The hearing officer shall not be bound by the Kentucky Rules of Evidence. Relevant hearsay evidence may be allowed, at the discretion of the hearing officer.

(13) The hearing officer shall have discretion to designate the order of presentation of evidence and the burden of proof as to persuasion.

(14) Witnesses shall be examined under oath or affirmation.

(15) Witnesses may, at the discretion of the hearing officer:

(a) Appear through deposition or in person; and

(b) Provide written testimony in accordance with the following:

1. The written testimony of a witness shall be in the form of questions and answers or a narrative statement;

2. The witness shall authenticate the document under oath; and

3. The witness shall be subject to cross-examination.

(16) The hearing officer may accept documentary evidence in the form of copies of excerpts if:

(a) The original is not readily available;

(b) [-provided that] Upon request, parties are [shall be] given an opportunity to compare the copy with the original; and

(c) [Provided that] The documents to be considered for acceptance are listed on and attached to the party's Exhibit List (Form #4) and filed with the hearing officer and other parties at least seven (7) working days before the hearing for formal review applications and five

(5) working days for nonsubstantive review applications.

(17) A document shall [may] not be incorporated into the record by reference without the permission of the hearing officer. Any referenced document shall be precisely identified.

(18) The hearing officer may take official notice of facts which are not in dispute, or of generally-recognized technical or scientific facts within the agency's special knowledge.

(19) The hearing officer may permit a party to offer or request a party to produce additional evidence or briefs of issues as part of the record within a designated time after the conclusion of the hearing. During this period, the hearing record shall remain open, and the conclusion of the hearing shall occur when the additional information is filed.

(20) In [the case of] a hearing on an application for a certificate of need, the hearing officer may [shall] [may], upon the agreement of the applicant, continue a hearing beyond the review deadlines established by KRS 216B.062(1) and 216B.095(1).

(21) The cabinet shall forward a copy of the hearing officer's final decision by U.S. mail to each party to the proceedings. The original hearing decision shall be filed in the administrative record maintained by the cabinet.

Section 17. [16:] [17:] Requests for Reconsideration. (1) In order to be considered, requests for reconsideration shall be filed within fifteen (15) days of the date of the notice of the cabinet's final decision relating to:

(a) Approval or disapproval of an application for a certificate of need;

(b) An advisory opinion entered after a public hearing; or

(c) Revocation of a certificate of need.

(2) A copy of the request for reconsideration shall be served by the requester on all parties to the proceedings.

(3) A party to the proceedings shall have seven (7) days from the date of service of the request for reconsideration to file a response to the request with the cabinet.

(4) The cabinet shall enter a decision to grant or deny a request for reconsideration within thirty (30) days of the request being filed.

(5) If reconsideration is granted:

(a) A hearing shall be held by the cabinet in accordance with the provisions of Section 15 [16] of this administrative regulation within thirty (30) days of the date of the decision to grant reconsideration; and

(b) A final decision shall be entered by the cabinet no later than thirty (30) days following the conclusion of the hearing.

(6) If reconsideration is granted on the grounds that a public hearing was not held pursuant to KRS 216B.085, the applicant shall have the right to waive the reconsideration hearing if the deficiencies in the application can be adequately corrected by submission of written documentation to be made a part of the record without a hearing.

Section 18. [17:] [18:] Show Cause Hearings. (1) The cabinet may conduct a show cause hearing on its own initiative or at the request of an affected [any] person, to include hearings requested pursuant to *Humana of Kentucky v. NKC Hospitals*, Ky., 751 S.W.2d 369 (1988), in order to determine whether a person has established or is operating a health facility or health service in violation of the provisions of KRS Chapter 216B or this administrative regulation [these administrative regulations] or is subject to the penalties provided by KRS 216B.990 for specific violations of the provisions of KRS Chapter 216B.

(a) In order for a show cause hearing to be held, a request for a show cause hearing submitted by an affected person shall be accompanied by an affidavit [affidavit(s)] or other documentation which demonstrates [demonstrate] that there is probable cause to believe that a person:

1. Has established or is operating a health facility or health service in violation of the provisions of KRS Chapter 216B or this administrative regulation; [these administrative regulations] or

2. Is subject to the penalties provided by KRS 216B.990 for specific violations of the provisions of KRS Chapter 216B.

(b) If a show cause hearing is held, the person being charged shall have the burden of showing cause why that person should not be found to:

1. Have established or to be operating a health facility or health

service in violation of the provisions of KRS Chapter 216B or **this administrative regulation**;

2. ~~[these administrative regulations, or should not be found to]~~ Be subject to the penalties provided by KRS 216B.990 for specific violations of the provisions of KRS Chapter 216B.

(2) ~~[(a)]~~ The cabinet shall conduct a show cause hearing based on its own investigation pursuant to an annual licensure inspection or otherwise which reveals a possible violation of the terms or conditions which are a part of a certificate of need approval and license.

(3) ~~[(b)]~~ The cabinet shall also conduct a show cause hearing regarding terms and conditions which are a part of a certificate of need approval and license at the request of any person.

(4) ~~[(c)]~~ The show cause hearing regarding the terms and conditions shall determine whether a person is operating a health facility or health service in violation of any terms or conditions which are a part of their certificate of need approval and license.

(5) ~~[(3)]~~ Show cause hearings shall be conducted in accordance with the provisions of Section 15 [16] of this administrative regulation.

(6) ~~[(4)]~~ Prior to convening a show cause hearing, the cabinet shall give the person suspected or alleged to be in violation not less than twenty (20) days' notice of its intent to conduct a hearing.

(7) ~~[(5)]~~ The notice shall advise the person of:

(a) The allegations against him;

(b) Any facts determined to exist which support the existence of the allegation; and

(c) The statute or administrative regulation alleged to have been violated.

(8) ~~[(6)]~~ A hearing officer shall convene the hearing and shall allow the person to establish through testimony or other evidence any grounds in support of its position that no action should be taken by the cabinet.

(9) ~~[(7)]~~ Within thirty (30) days of the conclusion of the hearing, the hearing officer shall issue a final decision on the matter.

(10) ~~[(8)]~~ A copy of the final decision shall be mailed to the person or his legal representative with the original hearing decision filed in the administrative record maintained by the cabinet.

(11) ~~[(9)]~~ If a violation is found to have occurred as a result of a show cause hearing conducted pursuant to subsection (1) of this section, the cabinet shall take action as provided by KRS Chapter 216B.

(12) ~~[(10)]~~ If the person is found to have violated any of the terms or conditions of any certificate of need approval and license as a result of a show cause hearing conducted pursuant to subsection (2) of this section, the cabinet shall take the following action:

(a) If the person had not previously been found to be in violation of the terms and conditions which were made a part of their certificate of need approval and license, the person shall be given a reasonable period of time, not to exceed sixty (60) days after issuance of the cabinet's decision, in which to demonstrate that they have corrected the violation. At the conclusion of this period, the cabinet shall verify that the facility or service is operating in compliance with the terms or conditions of the certificate of need and license at issue.

(b) If the cabinet is unable to verify that the facility or service has corrected the violation in accordance with paragraph (a) of this subsection, or if a person who had previously been found to be in violation of the terms and conditions which were a part of their certificate of need approval and license is found in a subsequent show cause hearing conducted pursuant to this section to be in violation of the terms and conditions again, the matter shall be referred to the Office of Inspector General for appropriate action.

Section 19. ~~[18:]~~ [19:] Administrative Escalations. (1) **A person shall not** ~~[No person may]~~ obligate a capital expenditure in excess of the amount authorized by an existing certificate of need unless the person has received an administrative escalation or an additional certificate of need from the cabinet.

(2) Requests for administrative escalations shall be submitted to the cabinet on the Cost Escalation Form, Form #5 [6].

(3) The cabinet shall authorize administrative escalations for funds which have not been obligated and which do not exceed the following limits ~~if [provided]~~ there is not a substantial change in the project:

(a) Twenty (20) percent of the capital expenditure authorized on the original certificate of need or \$100,000, whichever is greater, if the capital expenditure authorized on the certificate of need is less than

\$500,000;

(b) Twenty (20) percent of the capital expenditure if the capital expenditure authorized on the certificate of need is \$500,000 to \$4,999,999;

(c) Ten (10) percent of the amount in excess of \$5,000,000, plus \$1,000,000, for projects where the capital expenditure authorized on the certificate of need is \$5,000,000 to \$24,999,999;

(d) Five (5) percent of the amount in excess of \$25,000,000, plus \$3,000,000, where the capital expenditure authorized on the certificate of need is \$25,000,000 to \$49,999,999; and

(e) Two (2) percent of the amount in excess of \$50,000,000, plus \$4,250,000, where the capital expenditure authorized on the certificate of need is \$50,000,000 or more.

(4) If an administrative escalation is authorized, the certificate of need holder shall submit any additional certificate of need application fee required by the increased capital expenditure.

(5) The escalation of a capital expenditure in excess of the limits set forth in subsection (3) of this section~~[:]~~ shall:

(a) Constitute a substantial change in a project; and

(b) ~~[Shall]~~ Require a certificate of need pursuant to KRS 216B.061(1)(e).

(6) The unauthorized obligation of a capital expenditure in excess of the amount authorized on a certificate of need shall be:

(a) Presumed to be a willful violation of KRS Chapter 216B; and

(b) ~~[shall be]~~ Subject to the penalties set forth at KRS 216B.990(2).

Section 20. ~~[19:]~~ [20:] Timetables and Standards for Implementation. (1) As a condition for the issuance of a certificate of need, a holder of a certificate of need shall submit progress reports on the Certificate of Need Six (6) Month Progress Report, Form #7, at the six (6) month intervals specified in this section.

(2) A notice specifying the date each progress report is due shall be sent to every holder of a certificate of need whose project is not fully implemented.

(3) The cabinet or its designee shall review a progress report and shall:

(a) Determine whether the required elements have been completed; and

(b) If the required elements have not been completed, whether sufficient reasons for failure to complete have been provided.

(4) A certificate of need shall be deemed complete when:

(a) The project has been approved for licensure or occupancy by the Division of Licensing and Regulation;

(b) A final cost breakdown has been submitted; and

(c) Documentation that services are being provided to all of the licensed service area has been submitted.

(5) Until a project is deemed complete by the cabinet, the cabinet may require:

(a) The submission of additional reports as specified in subsections (16) through (18) of this section; or

(b) Progress reports in addition to those required at six (6) month intervals under the provisions of this section.

(6) Except for long-term care bed proposals, a certificate of need shall not be revoked for failure to complete the items required during a six (6) month period, if the holder of the certificate of need establishes that the failure was due to emergency circumstances or other causes that could not reasonably be anticipated and avoided by the holder, or were not the result of action or inaction of the holder.

(7) If the cabinet determines that required elements have not been completed for reasons other than those set forth in subsection (6) ~~[(5)(a)]~~ of this section, it shall notify the holder of the certificate of need, in writing, that it has determined to revoke the certificate of need.

(8) The revocation shall become final thirty (30) days from the date of notice of revocation, unless the holder requests a hearing pursuant to KRS 216B.086.

(9) The first progress report for all projects other than long-term care beds shall include:

(a) Projects for the addition of new services or expansion of existing services that do not involve construction, renovation or the installation of equipment; ~~[shall provide]~~ plans for implementation of the project;

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

(b) Projects for the purchase of equipment only: a copy of the purchase order;

(c) Projects involving the acquisition of real property: evidence of an option to acquire the site; and

(d) Construction or renovation projects: evidence that schematic plans have been submitted to the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction and the Division of Licensing and Regulation.

(10) For projects other than long-term care beds not deemed complete, a second progress report shall include:

(a) Projects converting beds: documentation that all beds are licensed;

(b) Projects for addition of new services or expansion of existing services that do not involve construction, renovation, or the installation of equipment: documentation of approval for licensure and occupancy by the Division of Licensing and Regulation or the Emergency Medical Services Branch; and

(c) Construction or renovation projects: the schedule for project completion, evidence of preliminary negotiation with a financial agency, and evidence of preliminary negotiation with contractors.

(11) For projects other than long-term care beds not deemed complete, a third progress report shall include:

(a) Construction or renovation projects:

1. Copy of deed or lease of land;

2. Documentation of final enforceable financing agreement, where applicable;

3. Documentation that final plans have been submitted to the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction and the Division of Licensing and Regulation; and

4. Enforceable contract with a construction contractor.

(b) Projects for purchase of equipment only: evidence of approval for licensure and occupancy by the Division of Licensing and Regulation.

(12) For projects other than long-term care beds not deemed complete, a fourth progress report shall include documentation of final plan approval by the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction and the Division of Licensing and Regulation and evidence that construction has begun.

(13) For projects other than long-term care beds not deemed complete, a fifth progress report shall include documentation that construction or renovation is progressing according to schedule.

(14) For projects other than long-term care beds not deemed complete, a sixth progress report shall include documentation that the project has been approved for licensure or occupancy by the Division of Licensing and Regulation and, if required, that the appropriate license has been approved for the health care service or facility.

(15) For projects other than long-term care beds not deemed complete after the sixth progress report, the certificate holder shall, upon request, provide the cabinet or its designee with a written statement showing cause why the certificate should not be revoked. The cabinet may defer revocation action upon a showing by the certificate holder that the project shall [will] be completed on a revised schedule. The cabinet or its designee may require additional progress reports.

(16) For projects involving long-term care beds:

(a) The first progress report shall include:

1. A copy of the deed or lease of land for projects requiring acquisition of real property; and

2. Evidence that final plans have been submitted to the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction and the Division of Licensing and Regulation.

(b) For projects involving long-term care beds not deemed complete, a second progress report shall include:

1. For conversion of bed projects, documentation that the beds in the project are licensed; and

2. For construction projects:

a. Schedule for project completion with projected dates;

b. Documentation of final financing;

c. Documentation of final plan approval by the Public Protection and Regulation Cabinet, Department of Housing, Buildings and Construction and the Division of Licensing and Regulation; and

d. Enforceable construction contract.

(17) For projects involving long-term care beds not deemed com-

plete, a third progress report shall include documentation that construction or renovation is progressing according to the schedule for project completion.

(18) For projects involving long-term care beds not deemed complete, a fourth progress report shall include documentation that the project has been appropriately licensed and approved for occupancy by the Division of Licensing and Regulation.

(19) The cabinet or its designee may grant no more than three (3) additional extensions of six (6) months for good cause shown if [when] the certificate holder of long-term care beds has failed to comply with the [above] relevant progress report requirements established in this section.

(20) Within six (6) months following licensure of a project for which a certificate of need has been issued, the certificate holder shall submit documentation that services are being provided to all of the licensed service area. Failure to provide this [such] documentation shall constitute grounds for revocation of the certificate of need and the license for those areas where service is not being provided.

(21) [(22)] If the project involves a capital expenditure, a final cost breakdown shall be included in the final progress report.

(22) [(23)] If the Office of Inspector General discovers a violation of terms and conditions listed on a certificate of need and license while it is conducting its annual licensure inspection, it shall refer this violation for a show cause hearing in accordance with Section 17 [18] of this administrative regulation.

Section 21. [20:] [21:] Biennial Review. (1) Certificate of need holders may be subject to biennial review to determine whether they are in compliance with the terms as listed on their certificate of need.

(2) Biennial review may be conducted within sixty (60) days of the second anniversary of the final progress report and at twenty-four (24) month intervals thereafter.

(3) The cabinet or its designee shall provide sixty (60) days' advance written notification to the subject of any biennial review, including the following:

(a) When the biennial review shall [will] be initiated;

(b) Request for information necessary for the review to which the cabinet does not have ready access; and

(c) A deadline for response to the request for information.

(4) If the cabinet finds that any of the terms and conditions of a certificate of need approval and license have been violated, the review of and any sanctions for this violation shall be conducted in accordance with Section 17 [18](2) of this administrative regulation.

Section 22. [21:] [22:] Advisory Opinions. (1) The cabinet shall issue advisory opinions regarding matters related to certificate of need on its own initiative or upon request from any person.

(2) Requests for advisory opinions shall be filed with the cabinet and shall be accompanied by the Request for Advisory Opinion [Form], Form [Number] #6 [8].

(3) In rendering an advisory opinion, a proposal shall be considered to constitute an improvement within the definition of a nonclinically related expenditure exempt from review if the proposed expenditure meets the definition of an improvement contained in Section 1 of this administrative regulation.

(4) The cabinet may require verification of information and request additional documentation at its discretion prior to issuing an advisory opinion.

(5) The cabinet shall issue a written advisory opinion within thirty (30) days of receipt of a completed request for an advisory opinion or of receipt of additional information.

(6) Public notice of the advisory opinion shall be published in the monthly certificate of need newsletter.

(7) An affected person may request a public hearing regarding an advisory opinion in writing within thirty (30) days of the public notice of the advisory opinion.

(8) The public hearing shall be held within forty-five (45) days of the date of the filing of the request and shall be conducted in accordance with the provisions of Section 15 [16] of this administrative regulation.

(9) The cabinet shall enter a final decision regarding the advisory opinion, within forty-five (45) days of the completion of the public hearing.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

(10) If a public hearing is not requested, the advisory opinion shall be the final action of the cabinet.

Section ~~23.~~ ~~[22:]~~ ~~[23:]~~ Notification of the Addition of a Health Service. (1) Health facilities that make additions to an existing health service for which there are review criteria in the State Health Plan but for which a certificate of need is not required, or add equipment for which there are review criteria in the State Health Plan but for which a certificate of need is not required, shall notify the cabinet that ~~[such]~~ a service or equipment has been added within ten (10) days of ~~[such]~~ addition.

(2) ~~Notice of [Notification of the]~~ Addition of a Health Service or Equipment (Form #9 ~~[10]~~) shall be used in making ~~the~~ ~~[such]~~ notification.

Section ~~24.~~ ~~[23:]~~ ~~[24:]~~ Acquisition and Relocation of Nonconforming Nursing Facility. (1) Any person proposing to acquire a nursing facility in excess of 300 beds that is not in substantial compliance with 902 KAR 20:310 shall provide a notification of intent to acquire pursuant to KRS 216B.065. **Form #8, Acquisition of a Health Facility, Notice of Intent to Acquire, shall be completed and filed.**

(2) The nursing facility acquired pursuant to subsection (1) of this section may be relocated to more than one (1) location, ~~if [provided that]~~ all the beds remain within the county of location of the original facility.

(3) Applications to relocate the nursing facility acquired pursuant to subsection (1) of this section~~[:]~~ shall be filed pursuant to KRS 216B.095.

(4) Once relocated and licensed, any person proposing to acquire the relocated nursing facilities shall provide notifications of intent to acquire pursuant to KRS 216B.065.

Section ~~25.~~ ~~[24:]~~ ~~[25:]~~ ~~Incorporation [Material Incorporated]~~ by Reference. (1) The following ~~material is [forms necessary for the administration of the certificate of need program are hereby]~~ incorporated by reference:

- (a) ~~[Letter of Intent (Form #1);~~
- (b) ~~] Certificate of Need Application [Formal and Nonsubstantive Review] (Form #1A) (6/15/99 [2A]);~~
- (b) ~~[(c)] Certificate of Need Application for Ground Ambulance and Air Ambulance [Service] Providers (Form #1B) (6/15/99 [2B]);~~
- (c) ~~[(d)] Certificate of Need Application for Change of Location, Replacement, or Cost Escalation (Form #1C) (6/15/99 [2C]);~~
- (d) ~~Notice of Appearance (Form #2) (6/15/99);~~
- (e) ~~Witness List (Form #3) (9/10/97);~~
- (f) ~~Exhibit List (Form #4) (9/10/97);~~
- (g) ~~Notice of Appearance (Form #5);~~
- (h) ~~Cost [Administrative] Escalation Form (Form #5) (6/15/99)~~
- (6);
- (h) ~~Request for Advisory Opinion [Request] (Form #6) (6/15/99);~~
- (i) ~~Six (6) Month Progress Report (Form #7) (7/15/97);~~
- (j) ~~[Advisory Opinion Request (Form #8);~~
- (k) ~~Acquisition of a Health Facility, Notice of Intent to Acquire (Form #8) (6/15/99 [9]); and~~
- (k) ~~[(l)] Notice of [Notification of the]~~ Addition of a Health Service or Equipment (Form #9) (6/15/99) ~~[10]~~.

(2) ~~This material [These forms]~~ may be inspected, ~~[and]~~ copied, ~~or obtained~~ at the Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40621, ~~[between the hours of 8 a.m. and 4:30 p.m.;~~ Monday through Friday, 8 a.m. to 4:30 p.m.

~~[Section 25. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.]~~

JOHN H. GRAY, Executive Director
JOHN H. MORSE, Secretary
JOHN H. WALKER, Attorney

APPROVED BY AGENCY; September 14, 1999
FILED WITH LRC; September 15, 1999 at 10 a.m.

CABINET FOR HEALTH SERVICES
Department for Public Health
(As Amended at ARRS, October 12, 1999)

902 KAR 17:041. State Health Plan for facilities and services.

RELATES TO: KRS 216B.010 to 216B.130

STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1), 216B.010, 216B.015(19), 216B.040(2)(a)2a ~~[-216B.015, EO 96-862]~~

NECESSITY, FUNCTION, AND CONFORMITY: ~~[Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources, establishes and creates the Cabinet for Health Services, changes the name of the Department for Health Services to Department for Public Health and its programs under the Cabinet for Health Services.]~~ KRS 216B.015(19) requires 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. **This administrative regulation establishes the State Health Plan for facilities and services.**

Section 1. **The 1999 Update to the 1998-2000 State Health Plan shall be used to:**

(1) Review a certificate of need application pursuant to KRS 216B.040; and

(2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(20)(a) and 216B.061(1)(d). ~~[Incorporation by Reference. (1) The 1998-2000 Kentucky State Health Plan, as amended July 15, 1999 [January 15, 1998], is hereby incorporated by reference.]~~

Section 2. Updating of Inventories and Need Analysis. (1) The cabinet shall update the inventory of licensed ~~[and/or]~~ certificate of need approved health services and health facilities ~~and [as well as]~~ the need analysis ~~established [contained]~~ in the State Health Plan on a periodic basis to reflect any changes in inventory or need projections for health services and health facilities. ~~[-and]~~ The most current update shall be used in making certificate of need decisions.

(2) Notice of ~~an update [such updates]~~ shall be published in the cabinet's certificate of need newsletter.

Section 3. Incorporation by Reference. (1) The 1999 Update to the 1998-2000 State Health Plan, as amended October 12, 1999, is incorporated by reference.

(2) This material [(3) Such updates] may be inspected, copied, or obtained at the Cabinet for Health Services, 275 East Main Street, Frankfort, Kentucky 40601, **Monday through Friday, 8 a.m. to 4:30 p.m. [Monday through Friday.]**

RICE C. LEACH, M.D., Commissioner
JOHN H. MORSE, Secretary

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: July 14, 1999

FILED WITH LRC; July 15, 1999 at noon

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(As Amended at ARRS, October 12, 1999)

921 KAR 1:390. Child Support Program paternity establishment.

RELATES TO: KRS 186.570(2), ~~[194B.050(1);]~~ 205.710-205.800, 213.046(4), (5), (9), (10), 237.110~~(5)~~ ~~[(4)]~~, 405.430, ~~[405.520;]~~ 406.011, 406.021, 406.025, 406.180, 45 CFR 302.31, 302.33, 303.5, 42 USC 651 et seq., EO 98-731

STATUTORY AUTHORITY: 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., EO 98-731]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children shall administer the Child Support Program in

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

accordance with KRS 205.710 to 205.800. This administrative regulation establishes the requirements for the establishment of paternity. [~~specifies the requirements of the agency in the establishment of paternity.~~]

Section 1. Requirement for Paternity Establishment. The cabinet shall bring action, as specified in KRS 406.21(1) and (3) if:

- (1) The child is born out of wedlock; and
- (2) An assignment of rights to the cabinet is in effect or an individual not receiving public assistance applies for child support services including paternity establishment.

Section 2. Cabinet Action. (1) A case requiring paternity action shall be opened upon receipt of:

- (a) A public assistance case referral; or
- (b) A nonpublic assistance application, in accordance with KRS 205.721.

(2) The cabinet shall open a case pending determination of "good cause".

(a) If "good cause" for failure to cooperate is determined, the child support case shall be closed;

(b) "Good cause" may be found to exist if criteria contained in 921 [904] KAR 2:006, Section 16(4) are met;

(c) Evidence for determination of "good cause" shall be provided as specified in 921 [904] KAR 2:006, Section 16(5).

(3) In a case [~~For all cases~~] referred to the cabinet in which paternity has not yet been established, the cabinet shall, within ninety (90) days of locating the alleged father or custodial parent [~~or successful service of process, whichever occurs later~~]:

(a) Obtain a voluntary acknowledgment of paternity as specified by KRS 213.036(5) and 213.046(3), (9);

(b) File for establishment of paternity;

(c) Complete service of process to establish paternity; or

(d) Document unsuccessful attempts to serve process, whichever occurs later.

(4) Paternity shall be established or the putative father excluded as a result of genetic tests or legal process within one (1) year of:

(a) Successful service of process; or

(b) The child reaching the age of six (6) months.

(5) The voluntary acknowledgment of paternity may be rescinded in accordance with 901 KAR 5:070, Form VS-8E [~~VS-8, Form VS-8B, and Form VS-8G~~].

(6) The cabinet shall recover a reasonable fee for genetic tests from the administratively or judicially determined father [~~from an alleged noncustodial parent, or obligor, a reasonable fee for performing genetic tests~~] pursuant to KRS 205.712(2)(h).

(7) The cabinet shall request denial, suspension or revocation of a license or certification for failure to comply with a subpoena or warrant relating to paternity pursuant to KRS 186.570(2) and 237.110(5) [~~(4)~~].

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form CS-99.1, -99.2, -99.3 "Affidavit in Support of Establishing Paternity [Affidavit]", edition 5/98 [~~(5/98 Edition), Cabinet for Families and Children~~]; and

(b) Form CS-77 "Administrative Order for Genetic Testing", edition 10/98 [~~(10/98 Edition), Cabinet for Families and Children~~].

(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.

VIOLA P. MILLER, Secretary

DIETRA PARIS, Commissioner

CHARLES P. LAWRENCE, Attorney

APPROVED BY AGENCY: July 29, 1999

FILED WITH LRC: August 11, 1999 at 2 p.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Amended After Hearing)

806 KAR 9:190. Disclosure requirements for financial institutions authorized to engage in insurance agency activities.

RELATES TO: KRS 287.030(4), 304.9-135

STATUTORY AUTHORITY: KRS 304.9-135(2)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.9-135(2)(f) requires the commissioner to specify the disclosure forms required by KRS 304.9-135(2)(b), (c), and (e). This administrative regulation specifies the disclosure forms for use by financial institutions authorized to engage in insurance agency activities.

Section 1. Definitions. (1) "Financial institutions" is defined by KRS 304.9-135(1)(a).

(2) "Insurance agency activities" is defined by KRS 304.9-135(1)(b).

Section 2. Application. This administrative regulation shall apply to a financial institution authorized by law to engage in insurance agency activities in the state of Kentucky.

Section 3. Disclosures. (1) A financial institution authorized to engage in insurance agency activities shall provide to an insurance consumer the following disclosure forms in accordance with KRS 304.9-135(2)(b), (c), and (e) which are incorporated by reference into this administrative regulation:

(a) FI-01, Consumer Acknowledgment Form; and

(b) FI-02, Notice of Free Choice of Agent and Insurer and Financial Institution Disclosures.

(2) Each disclosure form required by subsection (1) of this section shall be:

(a) Signed or initialed by the insurance consumer; and

(b) Dated as of the date that the insurance consumer signed or initialed the disclosure form.

Section 4. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) FI-01, "Consumer Acknowledgment Form (09/1999 [06/1999] edition)", Department of Insurance; and

(b) FI-02, "Notice of Free Choice of Agent and Insurer and Financial Institution Disclosures (06/1999 edition)", Department of Insurance.

(2) This material may be inspected, copied, or obtained at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GEORGE NICHOLS III, Commissioner

RONALD B. MCCLOUD, Secretary

GALE PEARCE, General Counsel

APPROVED BY AGENCY: September 21, 1999

FILED WITH LRC: September 28, 1999 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Sharron S. Burton

(1) Type and number of entities affected: This administrative regulation will affect all financial institutions licensed to engage in insurance agency activities in the state of Kentucky. Currently, there are 41 financial institutions authorized by the department to engage in insurance agency activities in this state.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(b) Cost of doing business in the geographical area in which the

administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

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

1. First year following implementation: KRS 304.9-135(2) requires all financial institutions authorized to engage in insurance agency activities in the state of Kentucky to disclose specific information to consumers who purchase an insurance product through the financial institution. This administrative regulation establishes the format for the disclosures required pursuant to KRS 304.9-135(2). Because the disclosure requirements currently exist by statute, the department does not anticipate that this administrative regulation will have an effect upon the costs of complying with the statutory disclosure requirements.

2. Second and subsequent years: Financial institutions authorized to engage in insurance agency activities in the state of Kentucky will be required, by statute, to disclose information to consumers who purchase insurance through the financial institution for the second and subsequent years. The format for disclosure promulgated by this administrative regulation will be available for financial institutions for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation simply establishes a format for the disclosure documents required pursuant to KRS 304.9-135(2). The department does not foresee any direct or indirect costs or savings on the administrative body as a result of this administrative regulation.

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: The budget for the Department of Insurance will be used 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: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 304.9-135(2)(f) requires the commissioner to promulgate administrative regulations to specify the disclosure forms required by KRS 304.9-135(2)(b), (c), and (e). For this reason, no other alternatives were considered.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The department does not anticipate that this administrative regulation will have any effect on public health or environmental welfare in Kentucky.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect:

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

(a) Necessity of proposed regulation if in conflict:

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

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not applied since this administrative regulation applies to all financial institutions authorized to engage in insurance agency activities in the state of Kentucky.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, OCTOBER 15, 1999

PERSONNEL BOARD
(Amendment)

101 KAR 1:325. Probationary periods.

RELATES TO: KRS 18A.075(1), 18A.0751(1)(e), (4)(e), 18A.111
STATUTORY AUTHORITY: KRS 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075(1) requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 requires the Personnel Board to promulgate comprehensive administrative regulations for the classified service governing probation. KRS 18A.111 establishes requirements governing initial and promotional probationary periods for classified service. This administrative regulation establishes the requirements relating to probationary periods.

Section 1. Initial Probationary Period. (1) The initial probationary period shall be computed from the effective date of appointment to the corresponding date in the sixth or final month, depending upon the length of initial probationary period, except as provided in KRS 18A.111.

(2) The following job classifications shall require an initial probationary period in excess of six (6) months:

TITLE CODE	JOB CLASSIFICATION	LENGTH OF INITIAL PROBATIONARY PERIOD
2001	<u>Wildlife and Boating Officer Recruit</u> [Fish and Wildlife Law Enforcement Officer-Trainee]	12 months
2112	DEM [DES] Duty Officer I	12 months
2113	DEM [DES] Duty Officer I [Senior]	12 months
2201	Correctional Officer	8 months
2301	Arson Investigator I	12 months
2302	Arson Investigator II	12 months
2305	Hazardous Devices Investigator	12 months
2306	Park Ranger	12 months
2308	Facility Security Sergeant	12 months
2309	Facility Security Lieutenant	12 months
2311	Facility Security Officer	12 months
2312	Park Ranger Captain	12 months
2322	Facility Security Officer II	12 months
2330	MVE Officer I	12 months
2401	Police Communications Dispatcher I	12 months
2403	Police Communications Dispatcher II [Senior]	12 months
2404	Police Communications Dispatcher Coordinator	12 months
2405	Police Communications Dispatcher Supervisor	12 months
2408	Vehicle Enforcement Inspector I	12 months
2468	Communications Dispatcher I	12 months
2493	Mounted Patrol [Security] Office	12 months

2494	Mounted Patrol [Security] Sergeant	12 months
2495	Mounted Patrol [Security] Captain	12 months
2496	Mounted Patrol Officer Recruit [Security Officer-Trainee]	12 months
3254	Boiler Inspector I [Trainee]	12 months
3416	Financial Institution Examiner I [Trainee]	12 months
3550	Insurance Fraud Investigator I	12 months
3551	Insurance Fraud Investigator II [Senior]	12 months
3552	Insurance Fraud Investigator III [Chief]	12 months
3553	Insurance Fraud Investigator Supervisor	12 months
3734	Assessment Conference Officer	12 months
4051	Questioned Documents Examiner I	12 months
4056	Firearms and Toolmark Examiner I	12 months
4061	Forensic Serologist I	12 months
4080	Forensic Anthropologist	12 months
4701	Vocational Rehabilitation Assistant I	12 months
4710	Vocational Rehabilitation Specialist I	12 months
4711	Vocational Rehabilitation Specialist II	12 months
4712	Vocational Rehabilitation Specialist III	12 months
4713	Vocational Rehabilitation Specialist IV	12 months
4714	Vocational Rehabilitation Specialist V	12 months
4720	Vocational Rehabilitation Administrator I	12 months
4721	Vocational Rehabilitation Administrator II	12 months
5120	Student Development Associate [Trainee]	12 months
5141	Vocational Rehabilitation Teacher	12 months
6253	Disability Determiner I	12 months
6290	Administrative Hearing Officer I	12 months
7213	Forestry District Equipment Supervisor	12 months
7215	Nursery Foreman	12 months
7217	Nursery Superintendent	12 months
7221	Forester I	12 months
7222	Forester II [Senior]	12 months
7224	Forester III [Chief]	12 months
7226	Forester District	12 months
7228	Forester Regional	12 months
7231	Rural Fire Suppression Technical Advisor	12 months

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

7232	Forestry Program Specialist	12 months
7233	Forestry Program Coordinator	12 months
7235	Forestry Program Manager	12 months
7250	Forest Ranger Technician I	12 months
7251	Forest Ranger Technician II [Senior]	12 months
7252	Forest Ranger Technician III [Chief]	12 months
7253	Forest Ranger Technician District	12 months
7255	Forest Resource Advisor	12 months
7257	Forestry Fire Management Program Coordinator	12 months
7259	Forestry Resource Education Program Coordinator	12 months
8236	Right-of-way Agent I	12 months
9175	Public Accounts Auditor-in-training [Trainee]	12 months
9859	Environmental Administrative Hearing Officer	12 months
9885	Investigator I	12 months

(3) If the length of the initial probationary period for a job classification is changed, an employee serving an initial probationary period on the effective date of the change shall serve the shorter of the initial probationary periods. When the employee is appointed, the employee's appointing authority shall advise the employee of the period of his initial probation.

(4) If an applicant is appointed to a position from a competitive register, the appointment shall be considered an initial appointment.

Section 2. Promotional Probationary Period. (1) An employee who satisfactorily completes the promotional probationary period shall be granted status in the position to which he has been promoted. Unless an employee receives notice prior to the end of his promotional probationary period that he has failed to satisfactorily complete the promotional probationary period and that he is being reverted, the employee shall be deemed to have served satisfactorily and shall acquire status in the position to which he has been promoted.

(2) An employee who fails to satisfactorily complete a promotional probationary period shall be reverted to his former position or to a position in the same job classification as his former position. If an employee fails to satisfactorily complete a promotional probationary period, he shall be notified in writing at least ten (10) working days prior to the effective date of his reversion. The notification shall advise the employee of the effective date of reversion. When the employee is notified, a copy of the notice of reversion shall be forwarded to the Secretary of Personnel on the same date notice is delivered to the employee.

(3) The promotional probationary period shall be computed from the effective date of promotion to the corresponding date in the sixth month following promotion, except as provided in KRS 18A.111.

Section 3. Probationary Period Upon Reinstatement. (1) An employee who is reinstated, except an employee ordered reinstated pursuant to KRS 18A.111(3), to a position in the classified service no later than twelve (12) months after the beginning of a break in the classified service shall be reinstated with status.

(2) An employee who is reinstated to the classified service more than twelve (12) months after a break in service, except an employee ordered reinstated pursuant to KRS 18A.111(3), shall serve an initial probationary period.

MICHELLE M. KELLER, Chairperson

ROBERT A. BOWMAN, General Counsel

APPROVED BY AGENCY: September 10, 1999

FILED WITH LRC: October 14, 1999 at 9 a.m.

Public Hearing: A public hearing on this administrative regulation shall be held on November 22, 1999, at 9 a.m., at 5 Fountain Place, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by November 15, 1999, five (5) working days prior to the scheduled hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on 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: R. Hanson Williams, Executive Director, Commonwealth of Kentucky, Personnel Board, 28 Fountain Place, Frankfort, Kentucky 40601, Telephone: (502) 564-7830, Fax: (502) 564-1693.

REGULATORY IMPACT ANALYSIS

Contact Person: R. Hanson Williams

(1) Type and number of entities affected: This regulation affects all state agencies having probationary periods in excess of 6 months. The proposed amendment changes the title of the following classifications which already have extended probationary periods: Title Code 2001, changed from Fish and Wildlife Law Enforcement Officer Trainee to Wildlife and Boating Officer Recruit; Title Code 2112, changed from DES Duty Officer to DEM Duty Officer I; Title Code 2113, changed from DES Duty Officer Senior to DEM Duty Officer II; Title Code 2301, changed from Arson Investigator to Arson Investigator I; Title Code 2330, changed from MVE Officer to MVE Officer I; Title Code 2401, changed from Police Communications Dispatcher to Police Communications Dispatcher I; Title Code 2403, changed from Police Communications Dispatcher Senior to Police Communications Dispatcher II; Title Code 2493, changed from Mounted Security Officer to Mounted Patrol Officer; Title Code 2494, changed from Mounted Security Sergeant to Mounted Patrol Sergeant; Title Code 2495, changed from Mounted Security Captain to Mounted Patrol Captain; Title Code 2496, changed from Mounted Security Officer Trainee to Mounted Patrol Officer Recruit; Title Code 3254, changed from Boiler Inspector Trainee to Boiler Inspector I; Title Code 3416, changed from Financial Institution Examiner Trainee to Financial Institution Examiner I; Title Code 3550, changed from Insurance Fraud Investigator to Insurance Fraud Investigator I; Title Code 3551, changed from Insurance Fraud Investigator Senior to Insurance Fraud Investigator II; Title Code 3552, changed from Insurance Fraud Investigator Chief to Insurance Fraud Investigator III; Title Code 4051, changed from Questioned Documents Examiner to Questioned Documents Examiner I; Title Code 4056, changed from Firearms and Toolmark Examiner to Firearms and Toolmark Examiner I; Title Code 4061, changed from Forensic Serologist to Forensic Serologist I; Title Code 5120, changed from Student Development Trainee to Student Development Associate; Title Code 6253, changed from Disability Determiner to Disability Determiner I; Title Code 6290, changed from Administrative Hearing Officer to Administrative Hearing Officer I; Title Code 7221, changed from Forester to Forester I; Title Code 7222, changed from Forester Senior to Forester II; Title Code 7224, changed from Forester Chief to Forester III; Title Code 7250, changed from Forest Ranger Technician to Forest Ranger Technician I; Title Code 7251, changed from Forest Ranger Technician Senior to Forest Ranger Technician II; Title Code 7252, changed from Forest Ranger Technician Chief to Forest Ranger Technician III; Title Code 9175, changed from Public Accounts Auditor Trainee to Public Accounts Auditor-in-Training; and Title Code 9885, changed from Investigator to Investigator I. The amendment further deletes the Forester Regional, Title Code 7228, classification and adds the following classifications: Title Code 2302, Arson Investigator II; Title Code 4701, Vocational Rehabilitation Assistant I; and Title Code 8236, Right-of-way Agent I.

(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 ex-

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

tent available from the public comments received. No public comments received. Cost of living and employment not affected.

(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. Cost of doing business not affected.

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

1. First year following implementation: Compliance does not result in increased reporting, paperwork or cost.

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

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue is the respective agency's budget for its employees.

(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. No economic impact.

(b) Kentucky: No public comments received. No economic impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative is to retain the 6 month probationary period which would not provide an adequate period of time to train and evaluate employees before achieving status.

(8) Assessment of expected benefits: By increasing the initial probationary period for these classifications, the affected agencies will be able to adequately train and evaluate employees before achieving status thus allowing the most qualified individuals to be placed into these classifications.

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

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

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect will result.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This administrative regulation does not conflict, overlap or duplicate any statute, administrative regulation or government policy.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not applied. This regulation must apply equally to all classified employees in all state agencies with classified employees.

KENTUCKY BOARD OF PHARMACY (Amendment)

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)

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 in-

terns. This administrative regulation establishes the standards for training, qualifications, and registration of pharmacist interns.

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; and

(3) Credit for internship shall be awarded for not more than twenty (20) hours per week for hours worked in a pharmacy or in related research contemporaneous with the pharmacist interns completion of any academic coursework, however, no credit shall be awarded for hours worked in a pharmacy or in related research contemporaneous with experiential clinical rotations. The maximum credit awarded for this enrolled time is 500 hours.

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.

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.

Section 5. (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.

(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.

(3)(a) Credit shall be given for the following forms of internship:

1. Completion of an academic experience program [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.

(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.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

(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.

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.

(3) Academic experience coursework shall be reported on an "Academic Experience Affidavit, Form IV" which shall be filed with the board upon completion of the academic experience program or prior to certification for examination.

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.

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)"; and

(e) "Academic Experience Affidavit, Form IV (5/99)".

(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: August 18, 1999

FILED WITH LRC: October 12, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held at 2 p.m. on November 29, 1999, at 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 18, 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 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 interns who desire licenses in the Commonwealth. It is unknown the actual number of interns.

(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 other than those required of all interns.

2. Second and subsequent years: None other than those required of all interns.

(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: Annual registrations.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Application for registration.

(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 interns will receive practical education in a uniform manner.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The failure to adopt this proposed administrative regulation could result in a failure to properly document the education and training of pharmacy students.

(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 interns are treated identically by this amended administrative regulation.

KENTUCKY BOARD OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY (Amendment)

201 KAR 17:012. Requirements for licensure.

RELATES TO: KRS 334A.050

STATUTORY AUTHORITY: KRS 334A.080

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes criteria for licensure for speech-language pathologists and audiologists as authorized by KRS 334A.050, as amended.

Section 1. Education and Experience. In addition to the citizenship requirements of KRS 334A.050, each applicant for licensure in speech-language pathology or audiology in Kentucky shall hold the following qualifications:

(1)(a) A master's degree or equivalent with major emphasis in speech-language pathology, audiology, or speech-language and hearing science from a college or university program accredited by the American Speech-Language-Hearing Association.

(b) "Equivalent" is defined as holding:

1. A doctoral degree in speech-language pathology or audiology from a program accredited by the American Speech-Language-Hearing Association; or

2. A bachelor's degree from a regionally accredited college or university, and completion of all coursework and clinical practicum requirements leading to a doctorate or master's degree from a university program accredited by the American Speech-Language-Hearing Association.

(2) Postgraduate professional experience.

(a) After completion of academic coursework and clinical practicum, the applicant then shall successfully complete a period of postgraduate professional experience.

(b) The experience shall consist of at least thirty-six (36) weeks of full-time professional experience to consist of a minimum of thirty (30) work hours a week or its part-time equivalent as follows:

1. Fifteen (15) to nineteen (19) hours/week over seventy-two (72) weeks;

2. Twenty (20) to twenty-four (24) hours/week over sixty (60) weeks; or

3. Twenty-five (25) to twenty-nine (29) hours/week over forty-eight (48) weeks.

(c) The experience shall be completed under the supervision of an individual who holds a Kentucky license or the Certificate of Clinical Competence from the American Speech-Language-Hearing Association in Speech-Language Pathology or Audiology as appropriate.

1. The postgraduate professional experience supervisor shall engage in no fewer than thirty-six (36) supervisory activities during the postgraduate professional experience.

2. This supervision shall include eighteen (18) on-site observations of direct client contact at the interim licensee's work site.

a. One (1) hour shall equal one (1) on-site observation.

b. A maximum of six (6) on-site observations may be accrued in one (1) day.

c. At least six (6) on-site observations shall be accrued during each third of the experience.

d. These on-site observations shall be of the interim licensee providing screening, evaluation, assessment, habilitation, and rehabilitation.

3. The supervision shall include eighteen (18) other monitoring activities.

a. At least six (6) other monitoring activities shall be completed during each of the three (3) segments of the postgraduate professional experience.

b. These other monitoring activities may be executed by correspondence, review of video tapes or audio tapes, evaluation of written reports, phone conferences with the interim licensee, or evaluations by professional colleagues.

4. The supervisor periodically shall conduct a formal evaluation of the applicant's progress in the development of professional skills.

(3) [– and at least forty-two (42) post baccalaureate semester hours from a regionally accredited college or university toward a master's degree, of which at least thirty (30) semester hours must be in the areas of speech-language pathology, audiology, or speech-language and hearing science. At least twenty-one (21) of these forty-two (42) semester hours must be obtained from a single college or university, none may have been completed more than ten (10) years prior to the date of application and no more than six (6) semester hours may be credit offered for clinical practicum.

(2) In evaluation of credits to be used in the computation of an applicant's educational requirements, one-quarter (1/4) hour will be considered the equivalent of two-thirds (2/3) of a semester hour. Transcripts that do not report credit in terms of semester or quarter hours should be submitted for special evaluation.

(3) A total of sixty (60) semester hours of academic credit must have been accumulated from accredited colleges or universities that demonstrate that the applicant has obtained a well-integrated program of course study dealing with the normal aspects of human communication, development thereof, disorders thereof, and clinical techniques for evaluation and management of such disorders. Twelve (12) of these sixty (60) semester hours must be obtained in courses that provide information that pertains to normal development and use in speech, language, and hearing. Thirty (30) of these sixty (60) semester hours must be obtained in courses that provide information relative to communication disorders, and information about and training in evaluation and management of speech, language, and hearing disorders. At least twenty-four (24) of these thirty (30) semester hours must be in courses in the professional area (speech-language pathology or audiology) for which licensure is requested, and at least six (6) must be in audiology for licensure in speech-language pathology or in speech-language pathology for licensure in audiology. Moreover, no more than six (6) semester hours may be in courses that provide credit for clinical practicum obtained during academic training. Credit for study of information pertaining to related fields that augment the work of the clinical practitioner of speech-language pathology and/or audiology may also apply toward the total sixty (60) semester hours. Thirty (30) of the total sixty (60) semester hours that are required for licensure must be in courses that are acceptable toward a graduate degree by the college or university in which they are taken. This requirement may be met by courses completed as an undergraduate providing the college or university in which they are taken specifies that these courses would be acceptable toward a graduate degree if they were taken at the graduate level. Moreover, twenty-one (21) of these thirty (30) semester hours must be within the twenty-four (24) semester hours required in the professional area (speech-language pathology or audiology) for which licensure is requested or within the six (6) semester hours required in the other area.

(4) The applicant must have completed a minimum of 300 clock hours of supervised clinical experience with individuals who present a variety of communication disorders, and this experience must have been obtained with the training institution or in one of its cooperating programs.

(5) The applicant must have obtained the equivalent of not less than nine (9) months of full-time professional experience with full-time employment defined as a minimum of thirty (30) clock hours of work a week. This requirement also may be fulfilled by part-time employment as follows:

(a) Work of fifteen (15) through nineteen (19) hours per week over eighteen (18) months;

(b) Work of twenty (20) through twenty-four (24) hours per week over fifteen (15) months; or

(c) Work of twenty-five (25) through twenty-nine (29) hours per week over twelve (12) months.

In the event that part-time employment is used to fulfill a part of the postgraduate professional experience, 100 percent of the minimum hours of the part-time work per week requirement must be spent in direct professional experience. The postgraduate professional experience must be completed within a maximum period of thirty-six (36) consecutive months. If the experience is not initiated within two (2) years of the date the academic coursework and supervised clinical experience is completed, the applicant must meet the academic and practicum requirements when the experience is begun.

(6) The applicant shall [must] have passed one (1) of the national examinations in speech-language pathology and audiology which are approved by the American Speech-Language-Hearing Association and in effect at the time of application for licensure, either the national examination in speech-language pathology or the national examination in audiology.

(4) [(7)] The applicant shall submit to the board a written description verifying his completion of the required academic coursework and supervised clinical experience on the form provided for that purpose. No credit may be allowed for courses listed on the application unless satisfactory completion is verified by an official transcript. Satisfactory completion is defined as the applicant's having received academic credit (i.e., semester hours, quarter hours, or other unit of credit) with a passing grade as defined by the training institution.

(5) [(8)] Application for approval of academic coursework and

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

supervised clinical experience shall be made as soon as possible after completion of these experiences, and either before or within thirty (30) days after the professional postgraduate experience is begun.

(6) [(9)] Within thirty (30) days after completion of the postgraduate professional experience, the applicant and his supervisor, who shall be a speech-language pathologist or audiologist licensed in Kentucky, shall [must] submit a written report to the board verifying the successful completion of postgraduate professional experience on forms provided for that purpose.

[(10) Any applicant for licensure who has not previously held a license or an interim license in speech-language pathology or audiology in this state, must submit to the board proof of his successful completion of acceptable postgraduate professional experience on forms provided for that purpose.]

GEORGE O. PURVIS, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: September 20, 1999

FILED WITH LRC: September 29, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on November 30, 1999, at 1 p.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 19, 1999, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS

Agency contact: Nancy Black

(1) Type and number of entities affected: Approximately 200 applicants who seek licensure in speech-language pathology or audiology in the Commonwealth of Kentucky.

(2) Direct and indirect costs or savings to those affected: The direct cost is the fee for the license.

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: No additional effects or changes.

(a) Direct or 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 change in reporting and paperwork requirements.

(4) Assessment on anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Not applicable.

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

economic impact, including effects of economic activities arising from administrative regulation on: No comments received.

9a) Geographical area in which administrative regulation will be implemented: This administrative regulation does not affect economic activity.

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits: Increased clarity regarding the education and experience requirements.

(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: Board is not aware of any statute, regulation or government policy which may be in conflict or is duplicated by this proposed regulation.

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

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

(10) Any additional comments: None

(11) TIERING: Is tiering applied? No. The regulation applies equally to all speech-language pathology and audiology interim licensees.

KENTUCKY BOARD OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY (Amendment)

201 KAR 17:030. License fees.

RELATES TO: KRS 334A.160, 334A.170

STATUTORY AUTHORITY: KRS 334A.080

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessitated by KRS 334A.160 and sets forth in detail all fees charged by the board.

Section 1. Fee Schedule. The following fees shall be paid in connection with speech-language pathologist and audiologist applications, [examinations,] renewals, and penalties.

(1) Application fee for a speech-language pathologist license, twenty-five (25) dollars.

(2) Application for an audiologist license, twenty-five (25) dollars.

(3) Combined application fee for a speech-language pathologist and audiologist license, fifty (50) [twenty-five (25)] dollars.

(4) Application fee for a speech-language pathology assistant license, twenty-five (25) dollars.

(5) Initial speech-language pathologist license fee, fifty (50) dollars.

(6) Initial audiologist license fee, fifty (50) dollars.

(7) Combined speech-language pathologist and audiologist license fee, \$100.

(8) Initial speech-language pathology assistant license fee, thirty-five (35) [twenty-five (25)] dollars.

(9) Renewal fee for speech-language pathologist license, thirty-five (35) [twenty-five (25)] dollars.

(10) Renewal fee for audiologist license, thirty-five (35) [twenty-five (25)] dollars.

(11) Combined renewal fee for speech-language pathologist and audiologist license, seventy (70) [fifty (50)] dollars.

(12) Renewal fee for speech-language pathology assistant, ten (10) dollars.

(13) Renewal fee for grace period extending from January 31 to March 2:

(a) For speech-language pathologist license, forty-five (45) [thirty (30)] dollars.

(b) For audiologist license, forty-five (45) [thirty (30)] dollars.

(c) Combined fee for speech-language pathologist and audiologist license, ninety (90) [sixty (60)] dollars.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

(d) For speech-language pathology assistant, fifteen (15) dollars.

(14) Delinquency renewal after March 2 shall be:

(a) For speech-language pathologist license, fifty-five (55) [thirty-five (35)] dollars.

(b) For audiologist license, fifty-five (55) [thirty-five (35)] dollars.

(c) Combined fee for speech pathologist and audiologist license, \$100 [seventy (70)-dollars].

(d) For speech-language pathology assistant, twenty (20) dollars.

(15) Application fee for interim licensure for a speech-language pathologist, twenty-five (25) dollars.

(16) Application fee for interim licensure for an audiologist, twenty-five (25) dollars.

(17) Combined fee for speech-language pathologist and audiologist interim licensure, fifty (50) dollars.

(18) [Application fee for interim licensure for a speech-language pathology assistant, twenty-five (25) dollars:

(+19)] There shall be no renewal fee for interim licensure, and the application fee of twenty-five (25) dollars for full licensure shall be waived for persons who have been duly licensed as interim licensees.

(19) Application fee for interim licensure for a speech-language pathology assistant, twenty-five (25) dollars.

Section 2. A person shall not practice as a speech-language pathologist, speech-language pathology assistant, or audiologist in this state unless the license has been renewed as provided by law and upon payment of the prescribed fee. All licenses not renewed by March 2 following the date of issuance shall be deemed expired and no person shall engage in the [such] practice.

Section 3. (1) Where an application is filed during the period of December 17 to January 30 and a license issued, the board waives the renewal of the license for the ensuing licensing year.

(a) The inactive license fee for a speech-language pathologist for a licensing year shall be, five (5) dollars.

(b) The inactive license fee for an audiologist for a licensing year shall be, five (5) dollars.

(c) The inactive license fee for a speech-language pathologist and audiologist for a licensing year shall be, ten (10) dollars.

(2) The holder of an inactive license shall not actively engage in the practice of speech-language pathology or audiology. Reactivation of an inactive license to practice speech-language pathology or audiology may be obtained by:

(a) Filing the proper application with the board for reactivation; and

(b) Payment of the current renewal fee; and

(c) Compliance with the continuing education requirements found in 201 KAR 17:091, Section 2.

(3) Application for an inactive license shall be made to the board prior to March 2 and be accompanied by the prescribed fee of five (5) dollars or ten (10) dollars for such licensing year.

Section 4. A person who fails to renew his license within the five (5) years after its expiration may not renew it, and it may not be restored, reissued or reinstated thereafter, but such persons may apply for and obtain a new license if he meets the requirements of KRS Chapter 334A and the administrative regulations adopted thereunder including successful passage of an examination.

GEORGE O. PURVIS, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: September 20, 1999

FILED WITH LRC: September 29, 1999 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on November 30, 1999, at 1 p.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 19, 1999, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hear-

ing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

REGULATORY IMPACT ANALYSIS

Agency contact: Nancy Black

(1) Type and number of entities affected: Approximately 1900 licensees in speech-language pathology or audiology in the Commonwealth of Kentucky.

(2) Direct and indirect costs or savings to those affected: The direct cost is the fee for the licenses.

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: No additional effects or changes.

(a) Direct or 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 change in reporting and paperwork requirements.

(4) Assessment on anticipated effect on state and local revenues: No effect.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Not applicable.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on: No comments received.

(a) Geographical area in which administrative regulation will be implemented : This administrative regulation does not affect economic activity.

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits: Fee increases to keep up with rising economic and legal costs. Elimination of examination fees.

(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: Board is not aware of any statute, regulation or government policy which may be in conflict or is duplicated by this proposed regulation.

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

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

(10) Any additional comments: None

(11) TIERING: Is tiering applied? No. The regulation applies equally to all speech-language pathology and audiology licensees.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 1:085. Mussel shell harvesting.

RELATES TO: KRS 150.025, 150.110, 150.170, 150.175, [150.190, 150.510;] 150.520

STATUTORY AUTHORITY: KRS 150.025(1), [150.170, 150.175;] 150.520

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations governing the taking of wildlife. KRS 150.520 grants the department specific authority to regulate the taking, buying and selling of mussels and to require reporting of musseling operations. This administrative regulation establishes licensing requirements, seasons, size limits, waters open, and reporting requirements for musseling. [It is necessary to regulate the manner of taking mussels because of their value and their susceptibility to overharvest. This amendment is necessary to create mussel sanctuaries around Ohio River islands now part of a national wildlife refuge.]

Section 1. Section 1. Definitions. (1) "Brail" means a wood or metal rod with attached hooks which is dragged across the bottom to take mussels.

(2) "East side" means the area in Kentucky Lake or Barkley Lake east of the line of red navigational buoys marking the main channel.

(3) "Mussel" means:

(a) An intact live or dead mussel;

(b) A mussel shell; or

(c) A part of a mussel shell.

(4) "To brail" means to take mussels using a brail.

(5) "To mussel" means to take mussels by means of commercial musseling gear.

(6) "West side" means the area in Kentucky Lake or Barkley Lake west of:

(a) The line of red navigational buoys marking the channel; or

(b) A water depth of fifty-five (55) feet.

Section 2. (1) Except as specified in subsection (2) of this section, a person shall possess a mussel license if he:

(a) Has more than six (6) mussels in his possession, unless he has a mussel buyer's license;

(b) Possesses commercial musseling equipment while on the water; or

(c) Sells or attempts to sell a mussel.

(2) A licensed musseler may be accompanied by one (1) unlicensed helper.

(3) An unlicensed helper shall not perform an act authorized by a mussel license unless he is in the presence of a licensed musseler.

Section 3. A person shall not:

(1) Sell a mussel unless he has a valid:

(a) Mussel license; or

(b) Mussel buyer's license.

(2) Buy a mussel:

(a) Unless he has a valid mussel buyer's license; and

(b) Except from a person holding a valid:

1. Mussel license; or

2. Mussel buyer's license.

Section 4. A musseler [All persons except helpers and those specified in Section 4 of this administrative regulation, who actively participate in the harvesting and sale of mussels or mussel shells; whether or not they own or possess the gear being used in the harvest of mussels or mussel shells; shall have an appropriate license. Each licensed musseler may employ one (1) helper to assist in the harvesting, transporting and sale of mussels. A licensed musseler shall accompany each helper when brailing, transporting or selling shells.]

Section 2. Only persons having a valid musseling license or mus-

sel buyers license may sell mussels or mussel shells. Mussel buyers shall purchase mussels or mussel shells only from individuals possessing a valid musseling license or mussel buyers license.

Section 3. All musselers] shall paint or affix his [their] department issued identification number to his [their] brail boat so it is [as to be] clearly visible to aerial observation. [Boats used in musseling operations shall have a licensed musseler in the boat.]

Section 4. A person shall not possess more than six (6) mussels without having an appropriate musseling license or mussel buyers license. Mussels shall be legal size according to Section 9 of this administrative regulation.]

Section 5. (1) To apply for a mussel license, a person shall:

(a) Complete a Mussel License Application Form;

(b) Submit the completed form to the department during the month of November; and

(c) Include the license fee as stipulated in 301 KAR 3:022.

(2) The department shall not issue more than 500 mussel licenses for a license year.

(a) [Mussel License Application Procedure. (1) The department shall not issue more than 500 mussel licenses per calendar year.

(2) Persons wishing to purchase musseling licenses shall apply during the November before the year they wish to mussel.

(3) Applicants shall complete a musseling license application provided by the department.

(4) If the number of applications exceeds 500, the department shall:

1. Issue [first grant new] licenses to current mussel license holders; and

2. Conduct [then select the remaining applicants by] a random drawing of the remaining applications until 500 licenses have been issued;

3. Return the license fee to a person not selected for a license.

(b) [(5)] If the number of applications is fewer [less] than 500, the department shall grant licenses to:

1. [all] Applicants who apply by November 30; and

2. [shall grant licenses to] Persons applying after November 31 on a first-come, first-served basis until 500 licenses have been issued.

[(6) The appropriate resident or nonresident mussel license fee shall accompany each application. The department shall return the fees of those not drawn.]

Section 6. (1) A person shall not mussel:

(a) Within 200 yards below a dam; or

(b) Except in the waters specified in subsection (2) of this section.

(2) The following waters shall be open to musseling: [Except as specified in Sections 7 and 8 of this administrative regulation, the musseling season is open year around only on the following waters:]

(a) [(1)] Kentucky Lake, except embayments as defined by the Kentucky Lake Musseling Waters Map;

(b) [(2)] Barkley Lake, except embayments as defined by the Barkley Lake Musseling Waters Map;

(c) [(3)] Tennessee River downstream from river mile seventeen and eight-tenths (17.8) [from Kentucky Lake dam to the mouth];

(d) [(4)] Cumberland River downstream from the U.S. Highway 62 bridge [Barkley Lake dam to the mouth];

(e) [(5)] Ohio River, except between river miles:

1. 418 and 419;

2. 965.0 and 974.1;

3. 387.0 at Ruggles Run, Kentucky and 388.7 at Cummins Branch, Kentucky; and

4. 394.6 at Lindseys Creek, Ohio, and 397.1 at Old Ferry Landing, Manchester, Ohio;

(f) [(6)] Green River downstream from the western boundary of Mammoth Cave National Park, except from lock and dam #5 downstream four and eight-tenths (4.8) miles to the confluence of Ivy Creek [from Green River Lake dam to the mouth];

(g) [(7)] Barren River downstream from Barren River Lake dam, except from lock and dam #1 downstream three and five-tenths (3.5) miles to the confluence with Mortar Branch [to the mouth];

(h) [(8)] Kentucky River downstream from Beattyville [downstream

to the mouth];

- (i) [(9)] Rough River downstream from Rough River Lake dam [to the mouth]; and
- (j) Rossling Fork River.

Section 7. (1) Except as otherwise stipulated in this section, a person shall not mussel except between 6 a.m. and 6 p.m.

(2) Musseling hours shall be:

- (a) 8:30 a.m. to 3:30 p.m. during December through February; and
- (b) 8 a.m. to 6 p.m. during the remainder of the year on the following waters:

1. The west side of:

- a. Kentucky Lake; or
- b. Barkley Lake;

2. The canal connecting Kentucky and Barkley Lakes; and

3. From Cumberland River mile 36.2 at Big Horse Ford Light downstream to Barkley Lake Dam.

(3) Musseling hours shall be:

- (a) 9:30 a.m. to 3 p.m. during December through February; and
- (b) 9:30 a.m. to 5 p.m. during the remainder of the year on the east side of:
 - 1. Kentucky Lake; or
 - 2. Barkley Lake.

Section 8. A person may mussel year-round, except:

(1) A person shall not mussel on Saturday or Sunday:

(a) On Kentucky Lake:

- 1. In March; or
- 2. From the Saturday before Memorial Day through Labor Day.

(b) On Barkley Lake, from the Saturday before Memorial Day through September 30.

(2) On Kentucky Lake or Barkley Lake, a person shall not mussel on:

- (a) Memorial Day;
- (b) Independence Day; or
- (c) Labor Day.

Section 9. (1) A person shall:

(a) Determine the size of a mussel by attempting to pass the mussel through a circular opening with an inside diameter equal to the specified size limit.

(b) Immediately return a mussel which passes through the circular opening to the mussel bed from which it was taken.

(2) The mussel size limit shall be two and one-half (2 1/2) inches except as specified in this section.

(3) There shall be no size limit on the Asiatic clam (*Corbicula* sp.)

(4) The size limit for the following species shall be:

[Section 7. Musseling is prohibited in the following designated areas which are established as mussel sanctuaries:

(1) The Tennessee River from Kentucky Dam downstream to river mile seventeen and eight-tenths (17.8);

(2) The stream segments 200 yards below any dam on any stream;

(3) The Cumberland River from Barkley Dam downstream to U.S. Highway 62 bridge;

(4) All embayments on Barkley and Kentucky Lakes as defined by the Kentucky Lake Musseling Waters Map and the Lake Barkley Musseling Waters Map, both of which are hereby incorporated by reference. Maps shall be available for inspection or purchase by contacting the Division of Fiscal Control, Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m. on Monday through Friday, except holidays. The effective date of the maps shall be August 15, 1993.

(5) The Ohio River:

(a) Between river mile 418 and river mile 419;

(b) Between river mile 965.0 and river mile 974.1;

(c) Between river mile 387.0 at Ruggles Run, Kentucky and river mile 388.7 at Cummins Branch, Kentucky; and

(d) Between river mile 394.6 at Lindseys Creek, Ohio, and river mile 397.1 at Old Ferry Landing, Manchester, Ohio.

(6) The Green River from lock and dam #5 downstream four and eight-tenths (4.8) miles to the confluence of Ivy Creek and from the eastern boundary of Mammoth Cave National Park upstream ninety-seven and six-tenths (97.6) miles to the Green River Lake dam;

(7) The Barren River from lock and dam #1 downstream three and five-tenths (3.5) miles to the confluence with Mortar Branch.

Section 8. Musseling is permitted during the hours of 6 a.m. and 6 p.m. daily except in Barkley and Kentucky Lakes where the hours shall be as follows:

(1) West side of each lake as marked by the red navigation buoys or fifty-five (55) feet of water depth.

(a) December - February - 8:30 a.m. to 3:30 p.m.

(b) March - November - 8 a.m. to 6 p.m.

(2) East side of each lake as marked by the red navigation buoys on both lakes:

(a) December - February - 9:30 a.m. to 3 p.m.

(b) March - November - 9:30 a.m. to 5 p.m.

(3) Exception: The brailing hours for the entire canal area connecting Kentucky and Barkley lakes and all of Barkley Lake from Barkley Dam south to Cumberland River mile 36.2 (Big Horse Ford light and day marker) shall be as follows:

(a) December - February - 8:30 a.m. to 3:30 p.m.

(b) March - November - 8 a.m. to 6 p.m.

(4) Saturday and Sunday brailing on Kentucky Lake is prohibited during the month of March and during the period beginning on the Saturday preceding Memorial Day and extending through Labor Day.

(5) Saturday and Sunday brailing on Barkley Lake is prohibited beginning on the Saturday preceding Memorial Day and extending through the 30th day of September. Brailing is further prohibited on Kentucky and Barkley Lakes on Memorial Day, July 4th and Labor Day.

Section 9. The statewide size limits for taking of mussels shall be as follows. All mussels smaller than these minimum sizes shall immediately be returned to the bed from which taken:

(a) [(1)] Washboard mussel [mussels], *Megalania nervosa*:

1. Three and thirteen-sixteenths (3 13/16) inches until February 28, 2000;

2. Three and seven-eighths (3 7/8) inches from March 1, 2000 through February 29, 2001;

3. Three and fifteen-sixteenths (3 15/16) inches from March 1, 2001 through February 28, 2002; and

4. Four (4) inches thereafter. [- shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of three and three-fourths (3 3/4) inches.]

(b) [(2)] Three (3) ridge mussel [mussels], *Amblema plicata*: Two and three-fourths (2 3/4) inches. [- shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of two and three-fourths (2 3/4) inches.]

(5) A person:

(a) May possess mussels that were of legal size when harvested, but which fall below the increased size limits as specified in this section, until the last day of February after the date of the size limit increase.

(b) Shall not possess undersized shells while on the water, no matter when the shells were taken.

Section 10. A person shall not:

(1) Mussel, except by brail.

(2) Use or possess:

(a) On the water:

1. A brail longer than sixteen (16) feet;

2. More than two (2) brails;

3. A brail hook:

a. Made of wire smaller than fourteen (14) gauge; or

b. With a prong larger than one and one-fourth (1 1/4) inch, measured from the tip of the point to where the prongs are joined.

(b) On a licensed brail boat:

1. A dredge; or

2. A compressed air tank.

[(3)] All other mussels, except the Asiatic clam, *Corbicula* sp. shall be large enough so as not to be able to pass through a circular ring or

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

opening having a diameter of two and one-half (2 1/2) inches.

- (4) The Asiatic clam, *Corbicula* sp., may be taken at any size.

Section 10. Method of Harvest. (1) Mussel harvesting, except as provided in Section 11 of this administrative regulation, shall be by brail only:

(2) No more than two (2) brails each sixteen (16) feet or less in length shall be simultaneously operated from any boat.

(3) More than two (2) brails may be carried aboard the boat.

(4) Mussel-brail hooks shall be constructed of wire of at least fourteen (14) gauge; smaller wire is prohibited.

(5) Prongs of hooks shall be no longer than one and one-fourth (1 1/4) inch as measured from the tip of point to place on hook where the prongs are joined.

(6) Persons shall not possess dredges or compressed air tanks while on a licensed-brail boat.]

Section 11. (1) A mussel license holder [Mussel Harvesters' Reporting Requirements. (1) Mussel license holders] shall submit an annual written report [annual written reports] to the department:

(a) By December 31 of each year;

(b) On a form provided by the department furnishing the following information: [

(2) ~~Musselers shall provide the department with the following information:]~~

1. ~~[(a)] Name, address and mussel license number;~~

2. ~~[(b)] Dates of brailing activity;~~

3. ~~[(c)] Waters brailed;~~

4. ~~[(d)] Name or category of mussels taken;~~

5. ~~[(e)] Weight of each type or category;~~

6. ~~[(f)] Price received per pound of each type or category;~~

7. ~~[(g)] Total value of mussels sold;~~

8. ~~[(h)] Name and license number of buyer who bought mussels.~~

(2) ~~[(3)] The department shall not renew the license of a person who does not submit a [musseler who fails to submit a report or does not provide the required information until the] complete report [is submitted].~~

Section 12. (1) A mussel buyer [Mussel Buyers' Reporting Requirements. (1) Mussel buyers] shall:

(a) Complete a mussel transaction report form each time he acquires a mussel [shells are acquired].

~~[(2)(a) Mussel buyers shall use the Mussel Transaction Report form (July 1994) which is incorporated by reference; and~~

~~(b) copies of the form may be inspected, copied, or obtained from the offices of the Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday except holidays.]~~

~~(b) [(3) Mussel buyers shall] Use forms in sequential order.~~

~~(c) [(4) Mussel buyers shall submit voided forms to the department. They shall] Write ["void," their license number, date and signature] on voided forms;~~

1. The word "void";

2. His mussel buyer's license number;

3. The current date; and

4. His signature.

~~(d) Mail completed forms, including voided forms:~~

1. To the department;

2. In time to arrive on the fifteenth of each month.

~~[(5) Mussel buyers shall submit reports on each month's activity. Reports are due by the 15th of the month following the reported transaction.]~~

~~(e) If a shell was not acquired during a month, [(6) Mussel buyers who do not acquire shells during a particular month shall] submit a report stating that no business was conducted.~~

(2) ~~[(7)] The department shall not renew the license of a mussel buyer until:~~

~~(a) All monthly forms are received; and~~

~~(b) The information required on the form is provided, [who fails to submit monthly reports or who does not provide the required information until all completed reports for the year are received.]~~

Section 13. A mussel [4. No mussels] designated as endangered

shall not be taken.

Section 14. The following are incorporated by reference. They may be obtained from or examined at the Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601, from 8 a.m. until 4:30 p.m., Eastern Time, during business days:

(1) Kentucky Lake Musseling Waters Map, 1993;

(2) Barkley Lake Musseling Waters Map, 1993;

(3) Mussel License Application Form, 1996;

(4) Mussel Harvest Report Form, 1990;

(5) Mussel Buyer's Monthly Report Form, 1994. [13. The commissioner may designate as disaster areas waters in which all live mussels have been killed, and may issue a special permit allowing the use of various harvest methods.]

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

TOM BAKER, Chairman

DOUGLAS SCOTT PORTER, Assistant Attorney General

APPROVED BY AGENCY: August 27, 1999

FILED WITH LRC: October 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on November 22, 1999 at 10 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 being heard at this hearing shall notify this agency in writing by November 15, 1999, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jennifer Fetter Fields, Public Affairs/Policy, 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: Jennifer Fields

(1) Type and number of entities affected: There is a maximum of 500 licensed musselers in Kentucky who are governed by this administrative regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. The increased size limits provided for in the amendment to this administrative regulation will temporarily reduce legal harvest and sale of some mussel species. This could have a slight negative impact on cost of living.

(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 imposes no new requirements which would impact 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: Existing requirements that musselers and mussel buyers report their activities are not changed by the amendments to this administrative regulation.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation will impose no additional costs nor create additional savings.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No new paperwork requirements are imposed by the amendments to this administrative regulation. Musselers and mussel buyers must report their activities, and the department must make sure these reports are complete before issuing new licenses.

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

(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: Increasing the size limits of mussels may decrease harvest and sales temporarily. However, increased size limits will improve the long-term health and sustainability of the mussel resource.

(b) Kentucky: Minimal impact, since musseling activities are concentrated in limited areas of the state.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The size limit changes imposed by this administrative regulation were developed with public input from musselers and mussel buyers. They also represent an attempt to create uniform size limits among the states with commercial musseling. Other alternatives were considered and rejected during the public involvement phase of developing these size 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: None

(b) State whether a detrimental effect on environmental and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: Possible overharvest of some mussel species; inability to control interstate commerce in undersized mussels.

(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 was used in creating varying size limits for different mussel species and implementing these size limits over a several year period. Otherwise, tiering is not appropriate because the administrative regulation applies equally to all individuals or entities it regulates. Disparate treatment of any persons of entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U. S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

JUSTICE CABINET Department of Corrections Division of Adult Institutions (Amendment)

501 KAR 6:130. Western Kentucky Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590 and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

Section 1. Incorporation by Reference. (1)(a) Western Kentucky

Correctional Complex policies and procedures, October 13, 1999 [~~September 12, 1996~~], are incorporated by reference.

(b) They may be inspected, copied, or obtained at the Office of the General Counsel, Department of Corrections, State Office Building, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(2) Western Kentucky Correctional Complex policies and procedures include:

WKCC 01-02-01	Public Information and Media Communication (<u>Amended 10/13/99</u>)
WKCC 02-00-03	Invoice and Voucher Processing
WKCC 02-00-04	Monetary Receipts During Nonbusiness Hours
WKCC 02-00-06	Purchasing Procedures (<u>Amended 10/13/99</u>)
WKCC 02-01-01	Inmate Funds (<u>Amended 10/13/99</u>)
WKCC 02-01-02	Inmate Canteen (<u>Amended 10/13/99</u>)
WKCC 02-02-01	Agency Funds and Accounting Procedures
WKCC 02-08-01	Property Receipt and Inventory Procedures
WKCC 04-01-01	Travel Reimbursement for Official Business in Attendance at Professional Meetings (<u>Amended 10/13/99</u>)
WKCC 04-02-01	Employee Training and Development
WKCC 05-01-01	Research, Consultants, and Student Interns
WKCC 06-00-01	Offender Records and Information Access
WKCC 06-00-02	<u>Administrative Process for Inmate Court Orders</u> (<u>Amended 10/13/99</u>) [Court Orders, Orders of Appearance, Warrants, Detainers, Etc.]
[WKCC 09-00-01]	Drug Abuse and Alcohol Testing (Deleted 10/13/99)
WKCC 10-02-01	Special Management Inmates
WKCC 11-00-02	Food Service Inmate Work Responsibilities, Evaluations, and Health Requirements
WKCC 11-00-03	Food Service Inspections, Sanitation, Purchasing, and Storage of Food
WKCC 11-00-04	Food Service Security
WKCC 11-00-05	Food Service General Guidelines
WKCC 11-03-01	Food Service Meals, Menus, Nutrition and Special Diets
WKCC 12-01-01	Inmate Clothing (<u>Amended 10/13/99</u>)
WKCC 13-00-01	Special Health Programs (<u>Amended 10/13/99</u>)
WKCC 13-01-01	Use of Pharmaceutical Products (<u>Amended 10/13/99</u>)
WKCC 13-02-01	Health Care Services (<u>Amended 10/13/99</u>)
WKCC 14-04-01	Legal Services Program
[WKCC 14-06-01]	Inmate Grievance Procedure (Deleted 10/13/99)
WKCC 15-01-01	Hair and Grooming Standards (<u>Amended 10/13/99</u>)
WKCC 16-01-01	Visiting Policy and Procedures (<u>Amended 10/13/99</u>)
WKCC 16-02-01	Inmate Correspondence (<u>Amended 10/13/99</u>)
WKCC 16-03-01	Inmate Access to Telephones
WKCC 16-04-01	Inmate Packages (<u>Amended 10/13/99</u>)
WKCC 17-01-01	Inmate Personal Property (<u>Added 10/13/99</u>)
WKCC 17-02-01	Inmate Reception and Orientation
WKCC 20-01-01	Education Program (<u>Amended 10/13/99</u>) [(Amended 9/12/96)]
WKCC 22-00-01	Inmate Recreation and Leisure Time Activities [(Amended 9/12/96)]
WKCC 22-00-02	Inmate [Clubs and] Organizations (<u>Amended 10/13/99</u>) [(Amended 9/12/96)]
WKCC 23-00-01	Religious Services (<u>Amended 10/13/99</u>)
WKCC 24-00-01	Social Services (<u>Added 10/13/99</u>)
WKCC 25-02-01	Inmate Release Process (<u>Amended 10/13/99</u>)
WKCC 25-03-01	Prerelease Programs

DOUG SAPP, Commissioner

TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: October 8, 1999

FILED WITH LRC: October 14, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on November 22, 1996, at 9 a.m. in the State Office Building Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by November 15, 1999, five (5) days

prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on this administrative regulation. Any disabled person desiring to attend or participate in this public hearing will be provided reasonable accommodation, if requested, at the time of notification of intent to attend. A transcript of the public hearing will not be made unless a written request for a transcript is made, with cost therefore to be borne by the requesting party. If you do not wish to be heard at the public hearing, you may submit comments on the proposed administrative regulation. Send written notification to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, (502) 564-2024, FAX: (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact person: Tamela Biggs

(1) Type and number of entities affected: 176 employees of the correctional institutions, 638 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 Highways Division of Traffic (Amendment)

603 KAR 5:120. Access control of highways.

RELATES TO: KRS 175.450, 176.050, 177.106, 177.230, 177.240, 177.410, 177.440

STATUTORY AUTHORITY: KRS 174.080, 176.050, 177.230, 177.240, 177.410

NECESSITY, FUNCTION, AND CONFORMITY: The need exists to define, design, construct, and maintain highways whereby the access (ingress and egress) is controlled. This administrative regulation sets forth procedures to designate and/or modify the type of control to be utilized.

Section 1. Definitions. (1) "Urban" as used herein means areas of residential, commercial or industrial developments of sufficient concentration that they constitute or are characteristic of a city which necessitates, for safety reasons, reduced highway speed limits to forty-five (45) MPH or less, excluding speed limits on interstate systems.

(2) "Rural" as used herein means all areas other than urban.

(3) "Department's plans" as used herein means the Department of Highways' current plans which are based upon plans made at the time of contract letting together with any subsequent changes in access control made in conformance with applicable laws and administrative regulations.

(4) "Access control" as used herein shall mean the condition where the privilege to access a highway by abutting owners, occupants or other persons is controlled by public authority. Types of control of access are as follows:

(a) "Access by permit" refers to all highways designated as access by permit on the department's plans.

(b) "Fully controlled access" refers to all highways which give preference to through traffic and which shall have access only at selected public roads or streets and which shall have no highway at grade crossings or intersections. The termini for control of access shall be as shown on the department's plans.

(c) "Partially controlled access" refers to all highways which give preference to through traffic. However, access to selected public roads and streets may be provided and there may be some highway at grade intersections and private driveway connections as shown on the department's plans. The termini for control of access shall be as shown on the department's plans.

(5) "Railroad access" as used herein means an approved access point to a highway which is used for railroad maintenance purposes only and which is specifically shown on the department's plans.

Section 2. Title Block. One (1) of the three (3) boxes shown below shall be placed on the title sheet and summary sheet of the plans for all state and federal-aid projects. Applicable notes may be inserted in the box.

THIS PROJECT IS A FULLY CONTROLLED ACCESS HIGHWAY
THE CONTROL OF ACCESS ON THIS PROJECT SHALL BE BY PERMIT
THIS PROJECT IS A PARTIALLY CONTROLLED ACCESS HIGHWAY. ACCESS SHALL BE ALLOWED ONLY WHERE SPECIFICALLY SHOWN ON PLANS

Section 3. Access: Additions and Alterations. (1) On all highways where access control is by permit, the department has established criteria for modifying existing access or allowing additional access points that considers the safety and the interest of the highway users. Permits may be issued by the department for additional access provided they are in conformance with the department criteria in 603 KAR 5:150.

(2) On all highways where access is "fully controlled," additional accesses shall be granted only by constructing new interchanges, with grade separations where applicable. Design of these new interchanges shall be in conformance with the department's current design

standards.

(3) On all highways where access is "partially controlled," the department may permit relocation or shifting of existing access points, addition of new access points, elimination of existing access points, or modification of access points under the following circumstances:

(a) An access point may be relocated, eliminated or shifted by the Transportation Cabinet [department]. The access shall remain on the same side of the highway, cannot go beyond another existing entrance and shall meet minimum spacing as established by KRS 177.315 [within the department's current design standards] and shall be an improvement based on standard engineering practices and safety criteria. In no case will the offset distance between access points located on opposite sides of the highway be less than the minimum spacing distance.

(b) Additional access points may be permitted provided the criteria established by KRS 177.315 are followed and [under the following circumstances after] a permit request is processed as hereinafter set forth in Section 4 of this administrative regulation in accordance with the procedures set forth in Section 5 of this administrative regulation. In no case will the offset distance between access points located on opposite sides of the highway be less than the minimum spacing distance.

~~[1. The original design and/or subsequent revisions represent overly restrictive control in light of current state design criteria for access points on partially controlled access highways; and~~

~~2. The centerline of the requested access shall not be closer than 1,200 feet to the centerline of the nearest existing point of access in rural areas; or the centerline of the requested access shall not be closer than 600 feet to the centerline of the nearest existing point of access in urban areas.]~~

(4) When a previous decision specifying access control is no longer necessary, as determined by the department, the department may change the access control designation to the extent justified in accordance with procedures outlined in Section 5 of this administrative regulation.

(5) In the event that the railroad tracks which justify railroad access to a highway are no longer usable or the property on which the tracks lie has been sold for nonrail purposes, railroad access shall no longer be allowed at that point. In such instances the department shall not be required to alter its plans. If the property owner wishes to apply for access, he may do so in accordance with the provisions of this administrative regulation and 603 KAR 5:150.

Section 4. Processing Requests for Changes in Access by Permit Applicants. (1) Any firm, individual or governmental agency which owns property adjacent to a state-maintained highway may apply for a permit from the Department of Highways for access to that highway. Application shall be made on forms prescribed and furnished by the department. The forms are available at any highway district office.

(2) All permit applications involving access shall be filed with the department's district office for the county in which the requested access point is located.

(3) Permit applications affecting highways where access control is by permit may be approved or disapproved at the district level or submitted to higher authority in accordance with procedures determined by the department. Permit applications affecting highways where access is fully or partially controlled may be disapproved at the district level, or submitted to the State Highway Engineer with or without a recommendation for approval. If the district office disapproves an application for permit, the applicant shall be notified in writing of the reasons for disapproval.

(4) The State Highway Engineer shall review the application for a permit for access to a fully or partially controlled highway and obtain the recommendations of the Directors of the Divisions of Maintenance, Traffic, Construction, Right-of-way and Design of the department in addition to the Federal Highway Administration and Turnpike Engineer Consultant when applicable. The State Highway Engineer shall submit his recommendation, together with the various recommendations received by him, to the Commissioner of Highways.

(5) When the State Highway Engineer recommends approval of a permit request where access control is full or partial, except where the permit would relocate, eliminate or shift an access point as set forth in Section 3(3)(a) of this administrative regulation in which case the recommendation of the State Highway Engineer is final, the Commis-

sioner of Highways shall in accordance with 600 KAR 1:030 provide an opportunity for a public hearing to be conducted. After reviewing the results of the hearing, the Commissioner of Highways shall make the final decision and advise the State Highway Engineer to implement the decision. The department shall then notify the applicant of the final decision on the application.

(6) When approval is given, the department may require the applicant to furnish additional documents, plans, studies and other requisites determined by the department to be a condition of the permit prior to issuing a permit for the construction of the additional access. Also, prior to issuance of the permit, the owner of the property shall compensate the Department of Highways for any increase in value to the affected property attributable to the new access based on before and after value appraisals by the Department of Highways. The property owner shall also reimburse the department for administrative expenses such as expenses incurred in processing the permit, reviews, hearing and appraisals. The cost of construction and maintenance of the new access shall be borne by the property owner(s).

Section 5. Procedures for Changing the Type of Access Control on an Existing Highway Facility. (1) All requests for changing the type of access control on an existing roadway shall be forwarded to the State Highway Engineer.

(2) Access restrictions may be reduced to a level capable of meeting traffic control needs when no significant detriment to highway safety will occur under the following circumstances:

(a) The existing roadway has been replaced by a parallel route which takes traffic away from the existing roadway and the function of the highway has been officially reduced; for example, arterial to collector; or

(b) An analysis of the original traffic projections are made and it is determined that the entire corridor has been constructed and potential land use developments have been accomplished.

(3) More restrictive control of access may be established when necessary to meet highway safety requirements and traffic control needs.

(4) The State Highway Engineer shall review the request and obtain the recommendations of the Directors of the Divisions of Maintenance, Traffic, Construction, Right-of-Way and Design of the department in addition to the Federal Highway Administration and Turnpike Engineer Consultant when applicable. The State Highway Engineer shall submit his recommendation, together with the various recommendations received by him, to the Commissioner of Highways who in accordance with 600 KAR 1:030 shall provide an opportunity for a public hearing to be conducted. After reviewing the results of the hearing, the Commissioner of Highways shall make the final decision and advise the State Highway Engineer to implement the decision.

(5) The department shall modify the plans and deeds when applicable.

(6) In situations where more restrictive access control is imposed, the department shall provide reasonable access or shall compensate the property owner(s) for loss of reasonable access.

(7) The Commissioner of Highways may make any exceptions to the procedures set forth in this section as are deemed necessary in order to comply with all applicable federal laws and regulations.

Section 6. Revised Deed. Every deed of conveyance of property acquired by the department for purposes of right-of-way for any state or federal project shall, in addition to the official order number, show the designation of the type of access highway involved as defined in Section 1 of this administrative regulation. If new access is allowed, the deed of conveyance shall be modified by filing a deed of correction at the expense of the property owner who applied for the permit if deemed necessary by the department.

Section 7. Record Availability. The department shall maintain records for public inspection at its office in Frankfort, Kentucky, of all completed state and federal projects, together with the designation of the type of access to be allowed on the project as defined in Section 1 of this administrative regulation.

Section 8. Request for Reconsideration. Any firm, individual or governmental agency who has had an application for permit disapproved at the district office may file a request for reconsideration of the

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

decision by the State Highway Engineer. The request shall be submitted to the highway district office. The request shall include a copy of the disapproved application, the letter of disapproval from the district office and a listing of the reasons why the applicant believes the district office's decision should be reconsidered. The district office shall then forward the request to the central office. The State Highway Engineer shall issue the department's final approval or disapproval.

J.M. YOWELL, P.E., State Highway Engineer
JAMES C. CODELL, III, Secretary
E. JEFFREY MOSLEY, General Counsel

APPROVED BY AGENCY: September 13, 1999

FILED WITH LRC: September 23, 1999 at 9 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on November 22, 1999, at 10 a.m. local prevailing time in the Transportation Cabinet, 501 High Street, Frankfort, Kentucky 40622. Persons wishing to attend this meeting must notify this agency in writing by November 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 comment hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by November 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 November 22, 1999. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Charles Harman, Staff Assistant, Transportation Cabinet, State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-7650, Fax: (502) 564-5238.

REGULATORY IMPACT ANALYSIS

Contact person: Charles Harman

(1) Type and number of entities affected: All highway users 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 known.

(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 known.

(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 known.

2. Second and subsequent years: None known.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None known.

2. Continuing costs or savings: None known.

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 known.

(b) Kentucky: None known.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Spacing guidelines are now contained in KRS 177.315. This amendment removes spacing requirements from the

regulation.

(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 known.

(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: None known.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 603 KAR 5:150 contains greater detail on permitting procedures.

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

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. Criteria for granting access differs depending on highway type.

TRANSPORTATION CABINET Department of Highways Division of Traffic (Amendment)

603 KAR 5:150. Encroachment permits.

RELATES TO: KRS 176.050, 177.047, 177.103, 177.106

STATUTORY AUTHORITY: KRS 176.050, 177.047, 177.106

NECESSITY, FUNCTION, AND CONFORMITY: KRS 176.050 requires the Department of Highways to prescribe administrative regulations for the care and maintenance of roads after they have been constructed. KRS 177.047 requires that any person who intends to lay conduit, pipes, poles or wires over or under a city street that is part of the state-maintained system of highways do so in accordance with administrative regulations of the Department of Highways. KRS 177.106 requires any person to obtain a permit for any encroachment to the right-of-way of any state highway. This administrative regulation provides the policies and procedures in maintenance of highways to allow encroachments onto a highway or right-of-way.

Section 1. (1) The following manual published by the Kentucky Transportation Cabinet, Department of Highways, is incorporated herein by reference and made a part hereof as fully as if set forth in length: "Kentucky Transportation Cabinet [Department of Highways] Permits Manual," Chapters PE-100 through PE-9900 [One through Nineteen], as revised and effective September 22, 1999, Revision No. 01 [April 4, 1989]. This manual shall govern the issuance of encroachment permits by the Department of Highways.

(2) Copies of the "Kentucky Transportation Cabinet [Department of Highways] Permits Manual" may be obtained from the Office of Policy and Budget, Policy and Procedures Branch, [Division of Management Services], Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622. Or the manual may be reviewed and copied in the Division of Traffic, State Office Building, Frankfort, Kentucky or any of the twelve (12) highway district offices between 8 a.m. and 4:30 p.m. local prevailing time weekdays.

J.M. YOWELL, P.E., State Highway Engineer
JAMES C. CODELL, III, Secretary
E. JEFFREY MOSLEY, General Counsel

APPROVED BY AGENCY: September 13, 1999

FILED WITH LRC: September 23, 1999 at 9 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on November 22, 1999, at 9 a.m. local prevailing time in the Transportation Cabinet, 501 High Street, Frankfort, Kentucky 40622. Persons wishing to attend this meeting must notify this agency in writing by November 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 comment hearing will not be made unless a written request for a transcript is

made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements by November 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 November 22, 1999. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Charles Harman, Staff Assistant, Transportation Cabinet, State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-7650, Fax: (502) 564-5238.

REGULATORY IMPACT ANALYSIS

Contact person: Charles Harman

(1) Type and number of entities affected: All property owners and traveling public on state highway system.

(2) Direct and indirect costs or savings on the: None known.

(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 known.

(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 known.

(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 known.

2. Second and subsequent years: None known.

(3) Effects on the promulgating administrative body: None known.

(a) Direct and indirect costs or savings: None known.

1. First year: None known.

2. Continuing costs or savings: None known.

3. Additional factors increasing or decreasing costs:

(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 known

(b) Kentucky: None known.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The regulation adopts the Kentucky Transportation Cabinet's Permits Guidance Manual. This manual was revised on September 22, 1999, Revision No. 1.

(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 known.

(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: None known.

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

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

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. All affected entities.

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (Amendment)

704 KAR 20:300. Part-time adjunct instructor certificate.

RELATES TO: KRS 161.020, 161.028 [161.025], 161.030, 161.046, 161.048

STATUTORY AUTHORITY: KRS 161.028 [156.070], 161.030, 161.046

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.046 and 161.048 establish [establishes] the position of adjunct instructor and direct [directs] the Education Professional Standards Board [State Board of Education] to establish implementing administrative regulations[-] and KRS 161.020, 161.025, and 161.030 set forth the general certification authority of the state board]. This administrative regulation sets the minimum requirements for adjunct instructor certificates [and sets forth the procedure for making a determination that qualified teachers with regular certificates are not available for positions that might be filled by adjunct instructors. Further provisions require the local school boards to involve adjunct instructors in an appropriate orientation program].

Section 1. Candidate Eligibility Requirements. (1) [In order to comply with KRS 161.046 to establish the need for employing adjunct instructors, the superintendent of the local school district and the board of education shall make the following declaration to the Superintendent of Public Instruction on request forms supplied by his office:

(a) No qualified teachers have applied for the vacant position; and to our knowledge qualified teachers are not available for the position;

(b) Diligent efforts have been made to recruit a qualified teacher for the vacant position; and, furthermore, the vacancy has been made known locally by appropriate means; and

(c) The local school district has been unsuccessful in recruiting teachers for the vacant position either from the listings of teachers supplied by the Department of Education or by means of the placement services of the teacher education institutions.

(2) The declaration of the unavailability of regularly certified and qualified teachers for a particular vacancy shall be sufficient to establish that there is a critical teacher shortage on a local district basis to satisfy the language of KRS 161.046:

(3) Adjunct instructors shall meet the requirements for [minimum age and for] good moral character as required in KRS 161.120 and the following requirements relating to educational and occupational experience:

(a) [161.040:] Adjunct instructors employed in middle school or secondary school [for departmentalized instruction in grades seven (7) through twelve (12)] shall hold a bachelor's degree from a regionally accredited institution with an overall minimum grade point average of 2.50 on a 4.00 scale and a major, minor, or area of concentration in the specialty subject to be taught with a minimum grade point average of 2.50 on a 4.00 scale in this specialty field, or a master's degree in the specialty subject to be taught from a regionally-accredited institution with a minimum grade point average of 3.25 on a 4.00 scale.

(b) Adjunct instructors in elementary school [for the elementary grades kindergarten through eight (8)] shall hold a bachelor's degree from a regionally-accredited institution with a minimum overall grade point average of 2.50 on a 4.0 scale and a major, minor, or area of concentration in a planned program of child development or a related area with a minimum grade point average of 2.50 on a 4.00 scale in this field, or a master's degree in a planned program of child development or a related area from a regionally accredited institution with a minimum grade point average of 3.25 on a 4.00 scale. A candidate for an adjunct instructor certificate in elementary school may substitute documented exceptional volunteer or work experience in the field of early childhood education, child development, or other experience with young children if he possesses a major, minor, or area of concentration in some other field.

(c) Adjunct instructors for vocational education-industrial education shall be high school graduates and shall have at least four (4) years of appropriate occupational experience for the industrial education specialty to be taught.

[(4) Adjunct instructors shall be certified and employed for only

one (1) year at a time.

(5) The Superintendent of Public Instruction, depending upon the condition of teacher shortage and the qualifications of the applicant, shall approve or disapprove a request for certification as an adjunct instructor. The term of validity of the certificate for adjunct instructor may be limited to a period of less than the full school year; however, the beginning date shall be no earlier than the date the request form is received in the Department of Education.]

(2) [(6)] An application form signed by the local district superintendent and approved by the local board of education shall be submitted to the Office of Teacher Education and Certification for each adjunct instructor. The application shall be accompanied by official transcripts of all college credits earned by the prospective adjunct instructor along with documentation of any exceptional [unusual] competencies or experiences submitted in support of the application. Upon receipt of the application and appropriate documentation, a candidate meeting all of the requirements shall be issued a one (1) year adjunct instructor certificate.

Section 2. Orientation Program. Each local board of education shall provide for an orientation program for any adjunct instructors employed within the district. A detailed description of the orientation program shall be a part of the certificate application form. The orientation program shall include an emphasis on student safety, district policies and procedures, and pedagogical assistance commensurate with the New Teacher Standards established in 704 KAR 20:730.

Section 3. Compensation and Contract Requirements. (1) Pursuant to KRS 161.048(6) [For purposes of funding through the foundation law], an adjunct instructor shall be placed on the local district salary schedule for the rank corresponding to the degree held by the adjunct instructor.

(2) [classified no higher than Rank IV. No funding is provided for any persons classified lower than Rank V.] Notwithstanding the rank classification of the adjunct instructor, local school boards shall [may] contract with such certified adjunct instructors for part-time services only. Part-time services may be contracted for on an hourly, daily, or other periodic basis as best meets the needs of the board. A school district that wishes to employ a person in a full-time position who has expertise in a specialty area or exceptional work experience shall seek regular certification pursuant to the requirements of KRS Chapter 161 and 704 KAR Chapter 20.

(3) Pursuant to KRS 161.046(4), an adjunct instructor shall not be employed in a full-time position, or in any position which will result in the displacement of a qualified teacher with a regular certificate who is already employed in the district.

(4) Adjunct instructors shall be certified by the Education Professional Standards Board and employed for only one (1) year at a time.

TIM DEDMAN, Chair

ALLISON C. WEBER, Division of Legal Services

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: October 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation will be held November 23, 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 November 16, 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.

Contact person: Mary Ellen Wiederwohl

(1) Type and number of entities affected: School districts who employ adjunct instructors.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs and savings: None

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Districts must continue to request the adjunct instructor certificate and attest to the "part-time" use of personnel under this certificate. The district must also provide documentation of an orientation program to serve adjunct instructors.

(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 alternative were rejected: None

(8) Assessment of expected benefits: Districts can request this certificate to use an individual with exceptional experience to serve on a part-time basis.

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: 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: This regulation is being amended to reflect statutory changes made during the 1998 General Assembly which made sections of the administrative regulation obsolete. The regulation now conforms to the language and intent of the statute.

(11) TIERING: Is tiering applied? (Explain why tiering was or was not used) Tiering is applied not within this regulation, but if this regulation is compared to other regulations delineating requirements for certification, tiering is in use. The requirements for the use of adjunct instructors are similar to requirements issued to traditional certification candidates. However, the requirements regarding exceptional experience and college training in the content area to be taught are different to reflect the unique requirements for a certification candidate who did not initially pursue certification as a part of their undergraduate program, but who has exceptional abilities that could be utilized by a school district for a specific purpose and on a part-time basis.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (Amendment)

704 KAR 20:475. Probationary certificate for teachers of technology education.

RELATES TO: KRS 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualification for their respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board. Pursuant to KRS 161.028, a teacher education institution is required to be approved for offering the preparation program corresponding to particular certificate on the basis of standards and procedures adopted by the Education Professional Standards Board. This administrative regulation establishes a plan for recruiting certified classroom teachers into a position for teachers of technology education. This administrative regulation is not required by federal law.

Section 1. Definition "Qualified teacher" means a teacher who holds certification as a technology education teacher unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.

Section 2. Requirements for a Probationary Certificate for Teachers of Technology Education. (1) If a qualified teacher is not available for the position of technology education teacher as attested by the local superintendent, the superintendent may request that a one (1) year probationary certificate be issued for a specific technology education offering as approved by the Division of Career and Technical [Secondary-Vocational] Education to a teacher who shall meet the following requirements:

(a) Holds one (1) of the following:

1. A valid classroom teaching certificate for teaching in the middle school or secondary school; or

2. A bachelor's degree in a related area of concentration or major approved by a Division of Career and Technical [Secondary-Vocational] Education technology consultant, and a designated university teacher educator [trainer];

(b) Has a grade point average of 2.5 on a 4.0 scale;

(c) Meets the minimum standards for admission to a teacher education preparation program at an approved institution of higher education;

(d) ~~Completes six (6) clock hours of training in a technology education new teacher institute;~~

(e) ~~Develops a continuous plan for curriculum completion with an approved institution for technology education; and~~

(f) ~~Successfully completes all required assessments identified in 704 KAR 20:305; and~~

(g) ~~Documents 1000 clock hours or six (6) months of full-time employment of work related experience or other exceptional life experience related to teaching technology education.~~

(2) Upon completion of all requirements in Section 1 of this administrative regulation, the candidate shall be issued a probationary certificate for teachers of technology education, valid for one (1) year. The Division of Career and Technical [Secondary-Vocational] Education, in cooperation with a technology education teacher trainer, shall grant approval for each course to be taught by a probationary teacher.

Section 3. Requirements for Renewal of a Probationary Certificate for Teachers of Technology Education. (1) The first renewal of the probationary certificate for teachers of technology education shall be for one (1) year, based upon the successful completion of the following requirements:

(a) Evidence of employment by a participating district;

(b) Completion of eighteen (18) [twelve (12)] clock hours of orientation and management training provided through the technology education new teacher institute, within the first six (6) weeks of employment;

(c) Completion of at least six (6) [twelve (12)] semester hours from

the continuous curriculum plan ~~[; six (6) hours to be completed within the first semester of the technology education teaching assignment]; and~~

(d) Successful completion of the internship program identified in 704 KAR 20:690.

(2) The continued one (1) year renewal of the probationary certificate shall require at least six (6) [twelve (12)] hours of additional credit from the preapproved continuous curriculum plan.

(3) Upon successful completion of all requirements including successful completion of all required assessments identified in 704 KAR 30:305, a professional certificate for industrial technology shall be issued valid for five (5) years.

Section 4. Requirements for Extending the Probationary Certificate. The probationary certificate may be extended to include additional technology education offerings upon recommendation by the Division of Career and Technical [Secondary-Vocational] Education and the technology education teacher educator [trainer].

Section 5. Upon recommendation by the teacher education institution, teaching experience performed in a full-time position requiring certification for technology education teachers may be substituted for the student teaching requirement.

TIM DEDMAN, Chair

ALLISON C. WEBER, Division of Legal Services

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: October 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation will be held November 23, 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 November 16, 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: Mary Ellen Wiederwohl

(1) Type and number of entities affected: Participants in the probationary technology certificate program and school districts interested in recruiting and hiring individuals under this program.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The amendments to this certificate are meant to encourage greater participation in the program and thus allow more employment opportunities for individuals with technology expertise.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs and savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Remain the same as

before amendment.

(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: Will allow easier recruitment and retention of qualified technology teachers, and thus increase student access to technology instruction.

(b) Kentucky: Same as (a)

(7) Assessment of alternative methods; reasons why alternative were rejected: More stringent requirements were rejected because of the severity of the teacher shortage in this area.

(8) Assessment of expected benefits: Same as (6)(a)

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: 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: The amendments to this regulation bring it into alignment with other regulations offering probationary programs for certification in recognized shortage areas.

(11) TIERING: Is tiering applied? Tiering is applied not within this regulation, but if this regulation is compared to other regulations delineating requirements for certification, tiering is in use. The requirements for this probationary program are similar to requirements for adding other types of additional certification to a base teaching certificate, but are set on a slightly different timeline to facilitate the recruitment and retention of qualified candidates who did not initially pursue certification as a technology teacher. This expedited timeline is necessary to fulfill the expanding need for technology teachers in the public schools.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Amendment)

704 KAR 20:590. Alternative training program eligibility requirements for middle school [grade] and secondary school [classroom] teachers.

RELATES TO: KRS 161.028, 161.030, 161.048, 161.049

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048 establishes the basic eligibility requirements for candidates seeking to participate in a local district alternative training program. This administrative regulation establishes the minimum scores required on certain tests and establishes the study or experience required of candidates.

Section 1. (1) A local district or a group of districts may seek approval for a training program that is an alternative to a college teacher preparation program as a means for a candidate to acquire initial teacher certification.

(2) The district superintendent is responsible for development, submission and implementation of the district plan, which shall be submitted over his signature or the signatures of superintendents involved in the consortium.

Section 2. The alternative training program for middle school [grade] teachers and for secondary school [classroom] teachers shall include the district plan, professional support team, formal instruction,

training for the candidate, training for the support team, informal observation and critique, formal observation and evaluation, evaluation report of candidate, program evaluation, and appeals process as defined in 704 KAR 20:600.

Section 3. Prerequisites for Participation. To be eligible to participate in a state approved local district alternative training program for middle school [grade] or secondary school [high-school] teachers, the candidate shall provide evidence of:

(1) A bachelor's degree with an overall grade point average of at least 2.50 on a 4.00 [two and five-tenths (2.5) on a four (4)] point scale. The Education Professional Standards Board may grant a waiver of the grade point average requirement to a candidate having at least a 2.00 on a 4.00 point scale pursuant to the provisions of KRS 161.048(3)(a).

(2) [and a grade point average of at least two and five-tenths (2.5) on a four (4) point scale in the subject area in which the candidate is seeking certification.

(2) Minimum passing scores on the following National Teacher Examinations as established in 704 KAR 20:305:

(a) Communication skills;

(b) General knowledge;

(c) Specialty area test that corresponds to the area in which the candidate is seeking certification.

(3) Study or experience in the area in which the candidate is seeking certification [field]:

(a) A [Thirty (30) semester-hour] major in the subject field. Candidates who do not have a [thirty (30) semester-hour] major in the subject field shall satisfy the experience requirement in paragraph (b) of this subsection.

(b) Experience in lieu of a major in the subject field. Candidates shall provide documentation of five (5) years of experience in the subject field. Documentation shall include the candidate's employment history to include a current position description or, if the candidate is currently unemployed, the position held immediately prior to application for entry to the alternative training program. To be acceptable, the position description shall show a direct relationship to the subject matter of the candidate's teaching field.

~~[(c) Candidates for middle school certification shall show a minimum of a thirty (30) semester-hour major in one (1) of the broad areas of preparation established under 704 KAR 20:080 and TEG 35.0 of the Kentucky Standards for the Preparation-Certification of Professional School Personnel incorporated by reference in 704 KAR 20:005. The Kentucky Department of Education shall determine whether there are deficiencies in breadth of preparation or in experience used in lieu of a subject field major in the middle grade specialty field as specified in TEG 35.0. Where deficiencies are determined to exist, the district plan shall include a curriculum guide sheet from a Kentucky college or university approved to offer middle grade programs showing how the deficiencies will be addressed, along with the anticipated timeline for completing all requirements for the academic specialty.]~~

(3) Written [(4) Candidate shall provide] evidence of an offer of employment in a school district which has an approved training program.

Section 4. Issuance of Provisional Certificate. (1) Upon meeting the requirements established in Section 3 of this administrative regulation, the candidate shall be issued a one (1) year provisional certificate ~~[as established in 704 KAR 15:030].~~

(2) The provisional certificate shall be reissued [issued] for a second year only if the candidate is recommended for reentry to an alternative training program and is employed by a district for participation in its approved training program.

(3) Teachers holding the one (1) year provisional certificate and participating in an approved alternative training program established in 704 KAR 20:600 ~~[15:030]~~ shall be classified in Rank IV for salary purposes.

Section 5. Completion of Training Program. Upon successfully completing the alternative training program and the specialty area tests as established in 704 KAR 20:305 ~~[professional knowledge portion of the core battery of the National Teacher Examination as established in 704 KAR 20:305]~~, and upon receiving a recommendation of

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

approval by the professional support team, the candidate shall be issued a statement of eligibility for participation in the Kentucky teacher internship program established in KRS 161.030 and implemented through 704 KAR 20:690 [20:320].

TIM DEDMAN, Chair

ALLISON C. WEBER, Division of Legal Services

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: October 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation will be held November 23, 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 November 16, 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: Mary Ellen Wiederwohl

(1) Type and number of entities affected: Local school districts operating a local district training program for initial teacher certification, and candidates seeking participation in one of these programs. Currently only one school district in Kentucky operates one of these programs, and it prepares approximately two dozen candidates each year for initial certification.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

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

1. First year following implementation: Cost decrease - candidates seeking participation in this program will no longer have to take the "core battery" tests for entrance to the program.

2. Second and subsequent years: Same as (1)

(3) Effects on promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs and 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: Negligible. If candidates choose to pursue this alternative training program instead of participating in a traditional teacher preparation program at a university, then the university could potentially lose income.

(b) Kentucky: Negligible. The only alternative training program currently operating in Kentucky is in the Jefferson County public schools, and the potential economic effect described in (a) would likely only affect the Louisville area.

(7) Assessment of alternative methods; reasons why alternative

were rejected: The "core battery" tests are being eliminated as an entrance requirement because they are no longer offered by the Education Testing Service (ETS), and it was determined that replacing these tests with another entrance exam was not necessary to determine the strength of the candidate.

(8) Assessment of expected benefits: Elimination of the entrance testing requirement may assist in the recruitment of qualified individuals to the alternative training program.

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: 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: The language that is being deleted references requirements or prerequisites which were valid and relevant at the implementation of this administrative regulation in 1990. Certification requirements have changed in the ten years since, and the amendments offered to this regulation bring the requirements for this training program in line with the traditional routes to certification.

(11) TIERING: Is tiering applied? Tiering is applied not within this regulation but if this regulation is compared to other regulations delineating requirements for certification, tiering is in use. The requirements for this alternative training program are similar to requirements for participation in traditional teacher preparation programs, but are more flexible to facilitate the recruitment and retention of qualified candidates who did not initially pursue certification as a part of their undergraduate program.

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (Amendment)

704 KAR 20:610. Kentucky primary alternative certification program.

RELATES TO: KRS 161.028, 161.030, 161.048, 161.049

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048, 161.049

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048 directs the Education Professional Standards Board to adopt administrative regulations establishing standards for local district training programs and the approval and evaluation process for an alternative training program for primary teachers. This administrative regulation establishes the required elements of a local district program, outlines the training and responsibilities required of the professional support team, the candidate eligibility requirements, the procedures for admission, the professional growth [development] plan, the candidate training program, a candidate appeals process, and a program evaluation. The alternative training program as defined in KRS 161.048 is an alternative program to prepare a candidate for initial teacher certification. A local district or a group of districts may seek approval to offer the program to prepare teachers [of primary-school programs as defined in KRS 158.030(2)] for the [early] elementary or interdisciplinary early childhood education, birth to primary, certificate established in 704 KAR 20:670 [20:605], except for the preparation of teachers of exceptional children.

Section 1. School District Plan. (1) Submission and approval. A local school district or group of districts may seek approval for an alternative certification program to prepare candidates in all instructional fields except special education for initial teacher certification. The district plan must be approved by the Education Professional Standards Board prior to employment of candidates in the program. School district alternative certification plans must be submitted to the Office of

Teacher Education and Certification in the Kentucky Department of Education for review. The Office of Teacher Education and Certification shall forward all plans that meet review criteria to the Education Professional Standards Board for approval. District plans must be signed by the superintendent of each participating district. The district plan shall include the following:

- (a) Written evidence that the district has sought joint sponsorship of the program with a college or university.
- (b) The names and qualifications of the individuals who will provide formal instruction to participants.
- (c) A description of the required training program for members of the professional support team.
- (d) A tentative budget to include anticipated personnel costs for the period of time for which approval is requested.
- (e) The name, title, work address, and telephone number of the program director.
- (f) A description of the candidate appeals process.
- (g) Professional support team roles and expectations for each stage of the candidate training program.
- (h) Time and personnel allocations for permitting Phase 3 (as defined in Section 6 of this administrative regulation) candidates to observe an experienced teacher (as defined in Section 6 of this administrative regulation) at least one (1) class period per week.

(2) Review criteria and procedures.

(a) [Staff in the] Office of Teacher Education and Certification staff shall review each plan in terms of compliance with established alternative certification program administrative regulations; adequacy of financial and personnel resources; and qualifications of training program staff, particularly in the areas of instruction and supervision.

(b) Office of Teacher Education and Certification staff shall recommend acceptance or denial of the plan to the Education Professional Standards Board along with a rationale for the recommendation. The board shall review the staff recommendations, approve or deny each plan, and transmit the decision and rationale for the decision to the district or group of districts. Approval decisions granted by the board shall specify the period for which approval is granted. The approval period shall not exceed five (5) years. If the plan is denied approval, it may be revised and resubmitted.

(3) Extension of approval. The superintendent of a district or superintendents of a group of districts may request an extension of program approval for an additional period not to exceed five (5) years. The request shall include results of program evaluation and a financial impact analysis. Additional assurances of program quality as requested by the Education Professional Standards Board shall be provided.

(4) Program revisions. Significant deviations in program components shall be submitted to the Education Professional Standards Board for approval prior to implementation of program changes. The proposed revision along with the corresponding section of the original plan and a rationale for the revision are to be sent to staff in the Office of Teacher Education and Certification for review and presentation to the Education Professional Standards Board for approval.

Section 2. Professional Support Team. The school district shall assign a professional support team to each candidate. The professional support team shall be composed of a school principal, an experienced teacher, a college or university faculty member, and an instructional supervisor. If an instructional supervisor or college or university faculty member is not available, the district shall assign a member with comparable experience. The school principal shall serve as the chair of the team.

(1) Principal. The principal of the school where the candidate is initially assigned to teach shall chair the professional support team. The chair shall keep records of the following:

- (a) All informal classroom observations and critiques.
- (b) All formal classroom observations and evaluations.
- (c) Documented changes made in the candidate's professional growth [development] plan.
- (d) At regular intervals, the chair shall convene the candidate and the team to discuss professional progress and modifications in the professional growth [development] plan if needed.

(2) Experienced teacher. The experienced teacher shall hold current Kentucky certification valid for teaching in the primary grades at

Rank I or II levels and shall have at least four (4) years of full-time teaching experience. At least one (1) year of the teaching experience shall be in the district that has employed the candidate and at least one (1) year shall be in a primary school program.

(3) Instructional supervisor. The instructional supervisor shall hold a valid Kentucky certificate for supervision of instruction and shall have at least one (1) year of prior experience in the employing school district. If an instructional supervisor is not available, the district shall assign a person who holds a valid Kentucky certificate for supervision of instruction and who has held the full-time position of supervisor of instruction for at least one (1) year within the three (3) preceding years.

(4) College or university faculty member. The college or university representative shall be a full-time or part-time faculty member who has credentials or experiences in child development, early childhood education, or a closely related field. If a faculty member is not available, the district shall assign a person approved by a college or university who has held the position of college faculty member within the preceding three (3) years and whose credentials or experiences are in child development, early childhood education, or a closely related field.

(5) Training for professional support team. Each member of the professional support team shall successfully complete the Kentucky Teacher Internship Program (KTIP) training for classroom observers. Each member of the support team shall successfully complete the written and coding tests for the KTIP prior to service on a professional support team. Training for a team member shall not occur after Phase 1 of the candidate training begins.

Section 3. Candidate Eligibility Requirements. (1)(a) A bachelor's degree with a minimum grade point average of 2.50 on a 4.00 [two and five-tenths (2.5) on a four (4.0)] point scale.

(b) [~~Kentucky teacher certification passing scores on the Communication Skills and General Knowledge Tests of the National Teacher Examinations (NTE) Core Battery.~~]

(c) [~~Completion of a major [at least twenty-one (21) semester hours of credit] in a planned program of child development or a related area or at least five (5) years of volunteer or work experience in the field of early childhood education, child development, or other experience with young children.~~]

(2) Waiver of grade point average and experience requirements. The Education Professional Standards Board may grant a waiver of the grade point average or experience requirements to candidates having at least a 2.00 on a 4.00 [two (2.0) on a four (4.0)] point scale pursuant to the provisions of KRS 161.048(3)(a). [~~provided the candidate has attained exceptional experience working with young children.~~]

Section 4. Procedures for Admission. All candidates for entry into an alternative certification program must receive a one (1) year provisional teaching certificate prior to program participation. Candidates must apply to the Office of Teacher Education and Certification in the Kentucky Department of Education for the one (1) year provisional teaching certificate and shall be classified as Rank IV for salary purposes. The following are to be submitted with the application:

- (1) Official transcripts of all college work.
- (2) [~~Official National Teacher Examinations scores.~~]
- (3) [~~Written evidence of an offer of employment by a school district with an approved alternative certification program.~~]
- (3) [(4)] Evidence of a criminal record review.
- (4) [(5)] Three (3) recent letters of reference from persons not related to the candidate who are familiar with the candidate's professional work.
- (5) [(6)] Documentation of the candidate's employment history with a current position description. Unemployed candidates are to submit the description of the position held immediately prior to application for entry into the alternative certification program or other evidence of work with young children.

Section 5. Professional Growth [Development] Plan. (1) An individual professional growth [development] plan consistent with the district plan for assisting a teacher toward proficiency as described in KRS 156.101(6)(c)6, with the requirements of the New Teacher Stan-

dards established in 704 KAR 20:730, and with the district's approved alternative certification proposal shall be developed for each candidate. The professional growth [development] plan shall be discussed with the candidate prior to the beginning of the program and shall address all phases of the training program and shall include a minimum of 250 hours of formal instruction. Formal instruction shall be for the purpose of ensuring that the candidate meets the requirements of the New Teacher Standards [acquires the competencies] established in 704 KAR 20:730 [20:290, TEG 22:1] and shall relate directly to the candidate's professional growth [development] plan and to the knowledge base of the Kentucky Teacher Internship Program (KTIP).

(2) Approval of professional growth [development] plan. Each candidate's professional growth [development] plan shall be submitted to the Education Professional Standards Board for review and approval. If the board judges that the professional growth [development] plan is not consistent with the approved district plan, the board may deny approval of the individual plan and may deny the candidacy until an appropriate professional growth [development] plan is approved. For each candidate seeking certification through an approved alternative training program, the district shall submit the following to the Office of Teacher Education and Certification:

- (a) Identification of the school or an accurate description of another location, in which the candidate shall be trained during the first eight (8) weeks of the program. Reasons for selecting a nonschool site shall be provided.
- (b) Identification of the school or an accurate description of another location, in which the candidate shall teach and be trained during the two (2) subsequent eighteen (18) week periods of training.
- (c) The proposed daily work load appropriate for Rank IV and a schedule of the candidate for each phase of the training.
- (d) A copy of the official letter offering employment to the candidate.
- (e) Evidence that the candidate has accepted the offered employment.
- (f) The names and positions of the members of the four (4) person professional support team to include evidence that each member has successfully completed training and testing for participation in the Kentucky Teacher Internship Program or the required update as established in 704 KAR 20:690 [20:320].

Section 6. Candidate Training Program. The candidate training program shall provide essential knowledge and skills in three (3) phases.

(1) Phase 1 training. The four (4) member professional support team and the candidate shall meet before the candidate begins Phase 1 training for orientation to the approved training program and to the responsibilities and expectations for each team member and the candidate. Phase 1 training shall include a full-time seminar and practicum of not less than eight (8) weeks. Phase 1 training shall occur prior to the time the candidate assumes responsibility for a classroom and shall include the following:

- (a) An introduction to basic teaching strategies through supervised teaching experiences with students.
- (b) Integration of the candidate's supervised teaching experience with formal instruction in child development and learning, basic teaching strategies, classroom management, dealing with diverse learning styles of diverse student populations, student assessment with emphasis on methods of continuous program assessment and authentic assessment tasks, an understanding of school governance including school-based decision-making, and the knowledge base for the Kentucky Teacher Internship Program.
- (c) A formal orientation to the policies, organization, curriculum, and student characteristics of the employing district. The orientation shall be supervised or provided by one (1) or more members of the professional support team.

(2) Phase 2 training. Phase 2 training shall include eighteen (18) weeks of formal instruction, informal observations, and critiques of the candidate's performance. During this period the candidate shall have responsibility on a one-half (1/2) time basis for a classroom assignment. Formal instruction, informal observations, critiques, and evaluations shall relate directly to the candidate's professional growth [development] plan and to the New Teacher Standards [competencies] established in 704 KAR 20:730 [20:290] and subsection (1)(b) of this

section. Phase 2 training shall comply with the following:

(a) Prior to or during the first week of Phase 2 training, the professional support team shall discuss with the candidate the purpose and expectations of informal observations, critiques, formal observations, and evaluations.

(b) The candidate shall be visited, informally observed, and critiqued at least once per week by one (1) or more members of the professional support team. During the eighteen (18) week period, each member of the support team shall visit, informally observe, and critique the candidate at least five (5) times.

(c) Each team member shall schedule a formal observation of the candidate at least once during the first five (5) weeks, once during the second five (5) weeks, and once during the last eight (8) weeks.

(d) The support team shall meet to formally evaluate the candidate at the end of five (5) weeks, at the end of ten (10) weeks, and at the end of eighteen (18) weeks. After each set of formal evaluations, the support team shall meet with the candidate to discuss evaluation results. Modifications of the candidate's professional growth [development] plan may be needed as a result of the formal evaluations.

(3) Phase 3 training shall include eighteen (18) weeks of formal instruction, informal visits and critiques of classroom performance, and at least two (2) formal observations and evaluations. During Phase 3 training, the candidate shall have a full-time classroom assignment. Phase 3 training shall comply with the following:

(a) Each member of the professional support team shall informally visit and critique the candidate at least once per month. Each informal observation shall last at least one (1) hour.

(b) The candidate shall spend at least one (1) class period per week observing an experienced teacher. Teachers selected for observation shall represent a variety of models of primary classrooms and shall be chosen for their ability to demonstrate a variety of exemplary teaching techniques and strategies.

(c) Each member of the professional support team shall formally observe and evaluate the candidate at least twice. No more than eight (8) weeks shall elapse without a formal observation.

(d) Formal instruction shall continue during this period.

(4) Completion of training program.

(a) The candidate shall take [the professional knowledge test of the Core Battery of the National Teacher Examinations (NTE) and] the specialty area test identified in 704 KAR 20:305 no earlier than the Phase 3 training period. The scores required of the candidate shall be those established in 704 KAR 20:305. The professional support team shall not recommend approval for a candidate until passing scores are achieved on all required [on both] tests.

(b) Upon [successfully] completing the alternative training program, obtaining a passing score on [the Professional Knowledge Test of the Core Battery of the National Teacher Examinations, and] the specialty area test as established in 704 KAR 20:305, and upon receiving a recommendation of approval by the professional support team, the candidate shall be issued a statement of eligibility for participation in the Kentucky Teacher Internship Program established in KRS 161.030 and implemented through 704 KAR 20:690 [20:320].

(5) Informal observation and critique.

(a) During an informal observation each support team member shall record observations of the candidate's performance in relation to the Kentucky Teacher Internship Program knowledge base and the performance of students in the classroom. Team members may use the classroom observation instrument of the Kentucky Teacher Internship Program. Each informal observation leading to a critique shall be no less than twenty (20) minutes. Visits for informal observations shall be announced and unannounced and shall include the range of times and activities for which the candidate has classroom responsibilities.

(b) A conference shall be held with the candidate following each informal observation to discuss results. The conference shall occur as soon as possible after the observation in order to assist the candidate in improving classroom performance and the performance of students.

(6) Formal observation and evaluation.

(a) Formal observations shall be scheduled in advance with the candidate and shall last no less than one (1) hour each. Team members shall use the classroom observation instrument of the Kentucky Teacher Internship Program during each formal observation and shall provide observation results to the candidate as soon as possible after the end of the formal observation.

(b) As a part of the formal evaluation, team members shall review the candidate's progress as recorded on observation instruments, notes, and other documents relating to the candidate's classroom performance.

(c) Each formal evaluation shall consist of the team's written assessment of the candidate's performance as measured through formal and informal observations.

(d) Following each set of formal evaluations, the team shall meet with the candidate to discuss evaluation results which may lead to modification of the candidate's professional growth [development] plan. The team and the candidate shall plan together for the candidate's professional growth over the following training periods.

(7) Evaluation report of the candidate.

(a) At the conclusion of the alternative training program, the chair of the support team shall prepare a comprehensive evaluation report on the candidate's performance. This report shall be submitted to the Education Professional Standards Board and shall contain a recommendation as to whether the teacher candidate should be issued a statement of eligibility to complete the internship pursuant to KRS 161.030. The support team shall make one (1) of the following recommendations:

1. Approved: recommends issuance of certificate to complete the internship;

2. Insufficient: recommends the candidate be allowed to seek reentry into a teacher preparation program; or

3. Disapproved: recommends the candidate not be allowed to enter a teacher preparation program.

(b) All team members shall vote on the final recommendation. If the professional support team fails to achieve a majority vote (3-1 or 4-0) for any recommendation, the decision shall be interpreted as falling under the insufficient category. The team chair shall prepare a narrative describing the vote. Team members may attach an individual position statement to any recommendation. All documents shall be forwarded by the chair to the Education Professional Standards Board for review.

Section 7. Candidate Appeals Process. (1) The sponsoring district or consortium shall establish an appeal process for candidates in the alternative training program and shall notify the Education Professional Standards Board of this process at the time of application for approval of the program.

(2) Complaints relative to failure of the sponsoring district or consortium or the professional support team to comply with and follow all prescribed statutory and regulatory requirements and procedures of an approved alternative training program shall be directed to and assessed by the superintendent or designee of the sponsoring district or consortium. The district shall notify the Education Professional Standards Board of all appeals and actions taken as a result of appeals.

Section 8. Program Evaluation. (1) The district or consortium proposal for an alternative teacher preparation program shall include a schedule for short-range program evaluation to include, but not be limited to, an evaluation of the effectiveness of the formal instruction in relation to acquisition by the candidate of the knowledge and competencies specified in this administrative regulation, the supervised teaching, the assistance provided by the professional support team, and the effectiveness of the candidate in the classroom during the two (2) eighteen (18) week training sessions. The plan shall include a schedule for long-range program evaluation to include, but not be limited to, the goals of the alternative preparation program and the effectiveness of the program in meeting these goals.

(2) The Education Professional Standards Board shall conduct, or cause to be conducted, periodic reviews of the district training programs which shall include on-site evaluations to verify the quality of the programs. The on-site evaluations shall be scheduled in advance with the district to allow sufficient time for the district to provide evaluation results and other necessary records and documents, ensure availability of program staff and candidates, and provide other facilities for the conduct of evaluation. The Education Professional Standards Board shall provide a copy of its evaluation report to the district within thirty (30) working days of receipt of the board's evaluation report. The board shall review the report and response and shall take appropriate action. If in the judgement of the board an alternative training program

exhibits continuing and insurmountable weaknesses, the board may direct termination of the program at the end of the school year.

TIM DEDMAN, Chair

ALLISON C. WEBER, Division of Legal Services

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: October 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation will be held November 23, 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 November 16, 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: Mary Ellen Wiederwohl

(1) Type and number of entities affected: Local school districts operating a local district training program for initial teacher certification, and candidates seeking participation in 1 of these programs. Currently only 1 school district in Kentucky operates 1 of these programs, and it prepares approximately 2 dozen candidates each year for initial certification.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

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

1. First year following implementation: Cost decrease - candidates seeking participation in this program will no longer have to take the "core battery" tests for entrance to the program.

2. Second and subsequent years: Same as (1)

(3) Effects on promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs and 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: Negligible. If candidates choose to pursue this alternative training program instead of participating in a traditional teacher preparation program at a university, then the university could potentially lose income.

(b) Kentucky: Negligible. The only alternative training program currently operating in Kentucky is in the Jefferson County public schools, and the potential economic effect described in (a) would likely only affect the Louisville area.

(7) Assessment of alternative methods; reasons why alternative were rejected: The "core battery" tests are being eliminated as an entrance requirement because they are no longer offered by the

Education Testing Service (ETS), and it was determined that replacing these tests with another entrance exam was not necessary to determine the strength of the candidate.

(8) Assessment of expected benefits: Elimination of the entrance testing requirement may assist in the recruitment of qualified individuals to the alternative training program.

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: 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: The language that is being deleted references requirements or prerequisites which were valid and relevant at the implementation of this administrative regulation in 1990. Certification requirements have changed in the 10 years since, and the amendments offered to this regulation bring the requirements for this training program in line with the traditional routes to certification.

(11) TIERING: Is tiering applied? Tiering is applied not within this regulation but if this regulation is compared to other regulations delineating requirements for certification, tiering is in use. The requirements for this alternative training program are similar to requirements for participation in traditional teacher preparation programs, but are more flexible to facilitate the recruitment and retention of qualified candidates who did not initially pursue certification as a part of their undergraduate program.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(Amendment)

704 KAR 20:690. Kentucky Teacher Internship Program.

RELATES TO: KRS 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.030 requires that all new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. This administrative regulation serves to implement the statutory provisions for the beginning teacher internship by establishing the uniform state-wide procedures and processes necessary to carry out the intent of the legislation.

Section 1. Definitions. (1) "Instructional day" means a day that school is in session and the teacher intern is performing regular teaching responsibilities in an instructional setting, or is completing professional development. An instructional day shall not include annual leave, sick leave, or other authorized or unauthorized leave time.

(2) "Half-time basis" means teaching five (5) days a week for at least three (3) hours each day.

Section 2. Basis for Professional Judgment by the Teacher Intern Committee. (1) In arriving at its professional judgment, the beginning teacher committee shall take into consideration the progress of the teacher intern throughout the school year and, particularly, the level of performance that has been achieved near the end of the intern period. The beginning teacher committee shall determine the progress and improvement of the teacher intern, pursuant to KRS 161.030, by:

(a) A systematic observation of classroom performance;

(b) A review of portfolio materials that shall be developed by the teacher intern; and

(c) A review of the response of the teacher intern to the suggestions and recommendations made by the beginning teacher committee

during its meetings with the teacher intern throughout the period of internship.

(2) As a significant part of the process, the beginning teacher committee shall utilize the New Teacher Standards for Preparation and Certification adopted by the Education Professional Standards Board and specified in 704 KAR 20:730 [20:730].

Section 3. [2.] Committee Membership Appointment. (1) School districts shall recruit a pool of resource teachers to complete the Kentucky Teacher Intern Program training in order to establish eligibility for appointment to teacher intern committees.

(2) Principal members and resource teachers shall be recommended by the employing school district for appointments by the Office of Teacher Education and Certification to teacher intern committees.

(3) When the internship is established at a nationally or regionally accredited nonpublic school in which a certified principal is not employed, the guidelines of the accrediting organization for designating the school head or school leader shall be used by the employing school in making the recommendation for appointment of the principal member. If no guidelines exist, a written rationale for appointment of the person to serve as the principal member shall be sent to the Office of Teacher Education and Certification for approval.

(4) The Office of Teacher Education and Certification shall consult with representatives of the teacher training institutions with respect to the school districts and the geographical area to be served by teacher educator members on teacher intern committees.

Section 4. [3.] Requirements for Time in the Internship and Classroom Assignment. (1) The one (1) year internship may be completed during one (1) of the following:

(a) No less than 140 instructional days of employment in a certified position for which the teacher intern receives compensation during one (1) school year; or

(b) Two (2) semesters of no less than seventy (70) instructional days each of employment in a certified position for which the teacher intern receives compensation in more than one (1) school year.

(2) The internship shall be established for each teacher intern whose initial employment begins at any time during the school term except when the date of employment does not allow for completion of at least seventy (70) instructional days of employment during the school year. In such instances, where the period of employment is less than seventy (70) instructional days in a school year, the local school district shall [may] declare an emergency as provided in KRS 161.100, authorizing the superintendent to request an emergency teaching certificate. The employing school district shall be responsible for providing assistance and supervision to the new teacher during such period of employment under an emergency certificate.

(3) The school district shall submit the confirmation of employment form for each teacher intern to the Office of Teacher Education and Certification on or before October 15 for an intern participating in the internship for the fall semester or on or before March 15 for an intern participating in the internship for the spring semester. If the district fails to report verification of enrollment in the internship by these dates, the district shall declare an emergency as provided in KRS 161.100 and referenced in Section 4(2) of this administrative regulation, and the teacher intern shall enroll in the internship in the next semester of employment when seventy (70) instructional days are available.

(4) A teacher intern shall be allowed to participate in the internship if he is teaching on a half-time basis as defined in this administrative regulation. A school district offering employment to a new teacher for part-time services which do not conform to the definition of half-time basis as defined in this administrative regulation may request a waiver from the Education Professional Standards Board for the new teacher to participate in the Kentucky Teacher Internship Program. The waiver request shall detail how the part-time employment offered by the district is commensurate with the half-time basis requirement of this administrative regulation.

(5) Termination or resignation of the internship shall be prohibited unless a written request of such action is approved by the Education Professional Standards Board. A teacher intern who terminates or resigns the internship without the approval of the Education

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

Professional Standards Board shall be recorded as unsuccessfully completing the internship for that school year.

(6) The internship shall be established in a classroom which corresponds to the certificate of the teacher intern.

Section 5. [4:] Designation and Duties of Chair, Responsibilities of Resource Teacher, Responsibilities of Teacher Intern, and Requirements for Timing and Content of Intern Committee Meetings. (1) The principal member of the three (3) person intern committee shall serve as chair and shall be responsible for convening the committee and coordinating its efforts by scheduling observations and committee meetings. The chair shall be responsible for collecting and filing reports of the intern committee as required by this administrative regulation.

(2) The resource teacher shall be a mentor to the teacher intern and assess the teacher intern's progress in the internship. The resource teacher shall complete at least twenty (20) hours of observation of the teacher intern in an instructional setting. The resource teacher shall complete fifty (50) additional hours of out-of-class time identified in KRS 161.030 in consultation with the intern to:

(a) Assist the teacher intern in the development of his professional growth plan;

(b) Assist the teacher intern in areas identified in the professional growth plan;

(c) Assist the teacher intern with instructional activities such as planning, management techniques, assessment, and parent conferences;

(d) Arrange activities such as attendance at seminars, conferences, or lectures offering educational assistance commensurate with the teacher intern's professional growth plan or the New Teacher Standards. It shall not be appropriate for the resource teacher to spend this required consultation time with the teacher intern at regular school extracurricular activities, unless these activities are part of the teacher intern's teaching responsibilities and the resource teacher relates the time spent to the teacher intern's professional growth plan or the New Teacher Standards; and

(e) Continually assess the intern's progress in the internship in relation to each of the New Teacher Standards established in 704 KAR 20:730.

(3) The teacher intern shall:

(a) Complete all requirements of the Kentucky Teacher Internship Program as established in KRS 161.030 and this administrative regulation;

(b) Attend all intern committee meetings;

(c) Participate with the resource teacher in the fifty (50) hours of consultation time to be spent outside of an instructional setting;

(d) Cooperate with the resource teacher in completing the twenty (20) hours of instructional observation;

(e) Complete a professional growth plan (PGP); and

(f) Complete other requirements in accordance with the New Teacher Standards and this administrative regulation.

(4) The chair shall establish a schedule that provides the following sequence of meetings for full-year assignments. [This schedule shall be observed except in those circumstances which warrant change and in which the change is agreed to by all parties:]

(a) The orientation meeting shall be held prior to the conduct of any formal classroom observations of the teacher intern;

(b) The second meeting shall be held between one (1) and [within] sixty (60) instructional days following the orientation meeting and shall have been preceded by classroom observations by all committee members;

(c) The third meeting shall be held between sixty-one (61) and 110 [within 120] instructional days following the orientation meeting and shall have been preceded by a second set of classroom observations by all committee members; and

(d) The fourth meeting shall be held between 111 and [within] 140 instructional days following the orientation meeting and shall have been preceded by a third set of classroom observations by all committee members.

(5) [(3)] The resource teacher, upon appointment, shall begin to render assistance to the intern.

(6) [(4) Second semester] Committees formed during the spring semester shall establish a meeting schedule that observes the time

sequences identified above for the full-year interns but which shall span the spring and fall semesters of two (2) school years.

(7) [(5)] Classroom observations conducted by committee members shall be of at least one (1) hour or one (1) class period in duration and in the classroom or at the work station of the teacher intern. Additional classroom observations may be conducted at the option of the committee. All classroom observations shall be scheduled in advance in order to provide adequate time for preparation by the teacher intern.

(8) [(6)] All members of the committee shall attend all four (4) meetings of the committee.

(9) [(7)] At the orientation meeting of the intern committee, the following items shall be addressed:

(a) [Establishment of] Expectations on the part of the teacher intern and each committee member;

(b) [Review of the] Procedures and materials for classroom observations;

(c) [Explanation of the] Use of classroom observation data in designing the teacher intern's professional growth [development] plan;

(d) [Explanation of] Requirements for the intern portfolio [to be developed by the teacher intern];

(e) [Identification of a] General schedule for the events to take place during the internship program; and

(f) [Discussion of suggestions for the] Work of the resource teacher with the teacher intern.

(10) [(8)] The primary purpose of the second and third committee meetings shall be to provide the teacher intern with information based on classroom observations, review of the portfolio, and reports of the resource teacher that shall support the growth of the teacher intern. The committee shall provide the teacher intern at the second, third, and fourth meetings with a consensus assessment of the teacher intern's progress in the internship in a relation to each of the New Teacher Standards.

(11) [(9)] The professional growth [development] plan (PGP [PDP]) shall be initiated at the second committee meeting. [The PDP shall reflect the intern's views and the committee's suggestions from classroom observations, portfolio review, and informal data.]

(12) [(10)] The third meeting shall include a review [restatement] of expectations for the performance of the teacher intern, [restatement of suggestions by the committee members for the assistance by the resource teacher,] taking into account the reflections of the intern and the committee members, and incorporating [incorporation of] these expectations and reflections [suggestions for assistance] into the PGP [a modified PDP].

(13) [(11)] The fourth meeting shall include a professional judgment by the committee members on the satisfactory completion of the one (1) year internship. This judgment shall be based upon the teacher intern's ability to meet the requirements of all New Teacher Standards.

Section 6. [5:] Decision by the Intern Committee, Reporting, and Certification Actions. (1) The decision of the intern committee as to satisfactory completion of the internship for all full-year interns shall be reported by the chair to the local school superintendent or other employer and to the Office of Teacher Education and Certification by May 1 [April 15] or no later than two (2) weeks following the final committee meeting, whichever occurs first. The final report shall be accompanied by the resource teacher time sheets.

(2) If a teacher intern's performance is judged by the intern committee to be unsatisfactory, the intern shall have the opportunity to repeat the internship during one (1) additional year contingent upon employment within the period of validity of the statement of eligibility for internship. However, if the teacher does not successfully complete the internship during the period of validity of the statement of eligibility, the teacher shall requalify for admission to the remaining one (1) year of internship by meeting the requirements in effect at the time of reapplication for certification.

(3) If the teacher intern is initially employed during the second semester of a school year, an interim [a progress] report based upon the orientation meeting and at least one (1) set of classroom observations and report of subsequent committee meeting shall be sent by the committee chairperson to the local school superintendent or other employer and to the Office of Teacher Education and Certification no later than May 15. The teacher intern may continue the internship with

employment for a semester during a subsequent school year if employed in any public or nonpublic accredited school.

Section 7. [6:] Payments to Committee Members. Within the provisions of the budgetary act, the Office of Teacher Education and Certification shall contract with the local school district, or make other appropriate arrangements, for the direct service of a resource teacher to each teacher intern and for participation in classroom observations and committee meetings. A resource teacher shall not work with more than one (1) intern concurrently. A resource teacher shall be paid a stipend not to exceed \$1,000 for a year of service. This stipend shall be disbursed to the school district or nonpublic school employing the resource teacher on a biannual basis corresponding to the semester in which mentoring occurred. If the school or school district where the internship takes place fails to submit time sheets by the date stipulated in Section (6)(1) of this administrative regulation, the Education Professional Standards Board reserves the right to refuse payment of the stipend. The stipend may be prorated if the required number of hours are not performed and documented in legitimate and appropriate pursuit of successful completion of the internship pursuant to the requirements of Section (5)(2) of this administrative regulation. [In recognition of service outside the normal working hours, a stipend not to exceed \$1,000 for a year of service shall be paid to the resource teacher. Any services for less than one (1) year or for less than the required number of hours outside the normal working hours shall be reimbursed on a pro-rata basis for the actual services performed.] The contract with local school districts shall also provide for the employment of substitute teachers to provide at least twenty (20) clock hours of released time for the resource teacher to observe and assist the intern teacher during normal working hours.

Section 8. Appeals. (1) Appeals [7-Complaints-(1)-Complaints] by teacher interns shall be reviewed by a committee of four (4) persons named on an annual basis by the Education Professional Standards Board. The appeals [review] committee shall include one (1) teacher, one (1) principal, one (1) teacher educator, and be facilitated by the Executive Secretary of the Education Professional Standards Board, or his designee [one (1) employee of the Office of Teacher Education and Certification]. No appeals committee member shall take part in any decision in which the member has an interest or is biased.

(2) The teacher intern shall file the appeal within thirty (30) calendar days of written notice of failure of the internship.

(3) The appeals committee shall review the written appeal [complaint] by the teacher intern, all teacher intern committee reports and additional documentation, and other written information requested by the appeals committee. The appeals committee may request verbal testimony from the appellee, or his designee, and a member of the intern committee, or its designee. To the extent necessary for the full disclosure of all relevant facts and issues, the appeals committee shall afford all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence. Its decision shall be based upon demonstration [limited to written information] of compliance with the following [procedural] requirements:

(a) Evidence of the teacher intern's ability to meet the requirements of the New Teacher Standards;

(b) Appropriate documentation of at least twenty (20) hours in the instructional setting and fifty (50) hours outside normal working hours spent by the resource teacher in assisting the teacher intern;

(c) [(b)] Assignment of intern committee members in accordance with legal requirements;

(d) [(c)-Compliance with] Specified procedures for the timing, content, reporting, and signing of classroom observation forms, intern committee meeting forms, and time forms; and

(e) [(d)-Substantial] Agreement between classroom observation reports, professional growth [development] plans, intern committee meeting reports, and the final decision of the committee [on-satisfactory completion of the internship, with particular emphasis on correlations between the third and fourth meetings of the intern committee].

(4) [(3)] At least three (3) members of the appeals committee shall be present, or have reviewed all materials and provided a written opinion on the appeal [complaint], in order for a decision to be made.

(5) [(4)] The committee shall make a recommendation to the Edu-

cation Professional Standards Board [decision] on the appeal [complaint] within sixty (60) days following the receipt of such appeal [complaint], unless good cause exists for additional time. The Education Professional Standards Board shall issue a final decision in each appeal reviewed by the appeals committee. The Education Professional Standards Board may consider the appeals committee recommendation and the records reviewed by the appeals committee in issuing its decision.

(6) [(5)] If the decision of ["unsuccessful"-by] an intern committee is not upheld, the Office of Teacher Education and Certification shall issue the appropriate certificate to the teacher intern.

(7) [(6)] If the decision of ["unsuccessful"-by] an intern committee is upheld, the Office of Teacher Education and Certification shall issue the statement of eligibility for Internship, unless the intern has exhausted the two (2) year provision for participation in the Kentucky Teacher Internship Program or the period of validity of the statement of eligibility has expired.

(8) A decision entered under this section of this administrative regulation shall be a final order of the Education Professional Standards Board. An appeal from a final order of the Education Professional Standards Board issued under this section of this administrative regulation shall be filed in Franklin Circuit in accordance with KRS Chapter 13B.

Section 9. A teacher intern who has not successfully completed the internship and has exhausted the two (2) year provision for participation in the Kentucky Teacher Internship Program shall not be eligible for a Kentucky teaching certificate under this administrative regulation.

Section 10. [8:] Incorporation by Reference. (1) "Guiding and Assessing Teacher Effectiveness: A Handbook for Kentucky Teacher Internship Program Participants," June 2000 [1998] edition, is incorporated by reference.

(2) Copies of the Handbook may be inspected, or obtained at the Division of Testing and Internship, Office of Teacher Education and Certification, Kentucky Department of Education, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

TIM DEDMAN, Chair

ALLISON C. WEBER, Division of Legal Services

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: October 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation will be held November 23, 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 November 16, 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: Mary Ellen Wiederwohl

(1) Type and number of entities affected: Participants in the Kentucky Teacher Internship Program and the members of the intern committee - resource teacher, principal, and teacher educator.

(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

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

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: New reporting requirements regarding the resource teacher's out-of-class time (no cost increase for teacher, but additional time required for completion of paperwork).

2. Second and subsequent years: Same as (1)

(3) Effects on promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: New reporting requirements regarding the resource teacher's out-of-class time (no cost increase for agency, but additional staff time to be allotted for review)

2. Continuing costs and savings: Same as (1)

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 alternative were rejected: Numerous alternative were discussed with constituent and stakeholder groups regarding the amendments to this regulation. The policies and language adopted within this amendment represent the consensus agreement of these groups and meet their diverse needs.

(8) Assessment of expected benefits: The new controls added to this regulation will provide the agency with greater oversight for the state funds used in the implementation of this program. The additional new requirements will bring greater continuity to the internship experience across the state.

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: 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:

(11) TIERING: Is tiering applied? No; this is the only regulation implementing the Kentucky Teacher Internship Program and all its participants must adhere to the same guidelines.

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) "ABS" means acrylonitrile-butadiene-styrene pipe.

(2) "APML" means the "Approved Parts or Materials List."

(3) "ASTM" means American Society for Testing Materials.

(4) "Code" is defined by KRS 318.010(11).

(5) "Committee" means the State Plumbing Code Committee.

(6) "Department" is defined by KRS 318.010(1).

(7) "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.

(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 specify methods of installation or restrictions applicable to a particular part or material.

Section 3. Amending the APML. (1) A person may petition the committee, in writing, no later than fourteen (14) days prior to the committee's next scheduled meeting for the purpose of amending the APML. The request shall include:

(a) A description of the part or material for which approval is sought;

(b) Available technical data;

(c) A listing of other authorities which have approved the use of the part or material; and

(d) Any other pertinent information requested by the committee.

(2)(a) The committee shall consider all parts or materials for which approval is sought and shall forward its recommendations within thirty (30) days to the department.

(b) A hearing shall be held before the committee if requested, by a person having an interest in the subject matter within thirty (30) days following the determination of the committee.

(c) Upon approval of a recommendation by the department, the APML shall be amended by listing the new part or material in Section 5 of this administrative regulation.

Section 4. Custody of the APML. The Director, Division of Plumbing, shall maintain an up-to-date APML and make it available for inspection during regular office hours. Copies of the APML may be obtained by mailing a self-addressed stamped envelope to the Division of Plumbing, Department of Housing, Buildings and Construction, Frankfort, Kentucky 40601.

Section 5. Content of Approved Parts or Materials List. The following list of parts or materials have been approved by the Kentucky Plumbing Code Committee and the Division of Plumbing and shall be allowed for installation in Kentucky.

(1) Flexible three-fourths (3/4) inch hot and cold water connectors for hot water heaters, minimum wall thickness, .032.

(2)(a) Flushmate water closet tank.

(b) Microphor company. Two (2) quart flush toilets.

(c) Jomar 3 and 4 water conserver water closets to operate efficiently on three and one-half (3 1/2) gallons of water per flush.

(d) Superinse toilet that operates on one (1) gallon of water per flush as manufactured by Universal Rundle for the Thetford Wastewater Treatment Systems.

(e) IFO Sanitar AB Model-3160 and 3180 China Water Closet equipped with a Fluidmaster 4003A-F77 Ballcock.

(f) 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.
- (e) Little Giant Pump Company, Drainsaur Water Removal System, Model #WRS-6. This approval shall be limited to two (2) drainage fixture units since it has a one and one-half (1 1/2) inch drain.
- (f) Add A Drain (Waste Discharge System) as manufactured by Lunsford and Associates.
- (g) Sta-Rite Pump Corporation, laundry tray system approved for residential and light commercial use.
- (h) Electric Drain System as manufactured by Myers for light commercial and household usage.
- (5)(a) No-caulk roof flashing. No-caulk roof flashing shall be eighteen (18) inch by eighteen (18) inch galvanized iron base with a neoprene boot forming a water tight seal with the stack that it serves.
- (b) Polyethylene roof flashing. Polyethylene roof flashing shall have a base which shall extend six (6) inches in all directions from the base of a stack and shall have a boot with a preformed thermoplastic rubber gasket.
- (c) Dektite pipe flashing system to be used on metal building decks for plumbing vent stacks as manufactured by Buildex Corporation.
- (d) Oatey eighteen (18) inch by eighteen (18) inch no caulk thermoplastic flashing, one (1) piece construction, positive double seal in three (3) inch only.
- (e) Carlisle syntec systems. Vent flashings for sureseal and Brite-Ply roofing systems as required by Carlisle Corporation.
- (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 be surrounded by six (6) inches of sand grillage.
- (8) Floor drains, shower drains, urinal drains and clean-outs manufactured by Plastic Oddities, Inc.
- (9) Tubular plastic components conforming to ASTM F409-75, bathtub waste and overflow, traps, continuous sink wastes and extension tubes as manufactured by J & B Products Corporation.
- (10)(a) Water heaters. Heat pump water heaters as manufactured by Dec International, Inc., Therma-Stor Products Group.
- (b) Water heaters, point of use or instantaneous.
 1. In-Sink-Erator's Ultra System. For instant hot water to serve individual fixtures, Model #777W, W, WH, WA and WHA, W-152 and W-154.
 2. Eemax Electric Tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve; the pressure type with the requirement that the temperature and pressure relief valve be of a one-half (1/2) inch short shank valve and shall be installed with the product.
 3. Vitaclimate Control Systems, Inc. - Heatrae Instantaneous

Water Heaters Models 7000 and 9000, pressure type, point of use water heater and shall be equipped with an approved temperature and pressure relief valve installed so that the thermo couple of the relief valve extends into the heat chamber discharge.

4. Paloma Automatic Instantaneous Gas Water Heaters Numbers PH-6DN, PH-6DP, PH-12A-DN, PH-12A-DP, PH-12M-DN, PH-12M-DP, PH-16A-DN, PH-16A-DP, PH-16M-DN, PH-16M-DP, PH-24A-DN, PH-24A-DP, PH-24M-DN and PH-24M-DP.

5. Rinnai Gas Fired Instantaneous Water Heaters Model Numbers REU-95GS-2R, REU-95GS-3R, REU-90, REU-130 pressure type and shall be equipped with an approved temperature and pressure relief valve.

6. Elkay Aqua-Temp tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve.

7. International Technology Sales Corporation AEG Telefunken MDT instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve.

8. International Technology Sales Corporation Zanker Faucet Model W05U without a temperature and pressure relief valve.

9. Amtrol hot water maker model numbers WH7P, WH7 and WH7C with a minimum three-fourths (3/4) inch inlet and outlet.

10. Chronomite Laboratories, Inc. - instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve.

11. Chronomite Instant-Flow Tankless Water Heater without a temperature and pressure relief valve.

12. Nova Hot Water Generator Models: VES5/10, VES6/12, VES7/14, VES8/16, VES9/18 and VES11/22 as manufactured by Hot Water Generators, Inc.

13. Aqua Star tankless gas water heaters, model numbers 125 VP and 80 VP and shall be equipped with an approved temperature and pressure relief valve.

14. Ariston electric water heaters, model numbers P-15S and P-10S and shall be equipped with an approved temperature and pressure relief valve.

15. Vaillant Corporation gas fired point of use water heater.

16. Trinom Hot Man Tankless Water Heater as manufactured by Siemens.

17. Field Controls Company Power Venter - Models PVAE and SWG for use in conjunction with gas and oil fired water heaters.

18. Acutemp Instantaneous Water Heater as manufactured by Keltech, Inc., Model #100/208; #100/240; #150/208; #150/240; #180/208; #180/240; #153/208; #153/240; #183/208; #183/240; #183/480 and #C183/480.

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 Slone Manufacturing Company. Fuseal mechanical joint for the connection of polypropylene and waste piping.

(14) Johns Manville Flex I drain roof drain system.

(15) Hydrocide liquid membrane (HLM) to be used as a shower pan material conforming to ASTM C836-76. The density of the material shall be at least one-sixteenth (1/16) inch thick.

(16) Scotch-Clad brand waterproofing system as manufactured by the 3M Company for thin-set installation of ceramic and quarry tile in shower stalls, bathrooms, janitorial closets limited to those applications on concrete floors and using metallic soil and waste piping.

(17) Elkay Aqua-chill water dispensers.

(18) Flexible connectors for hot and cold potable water supply in plumbing fixture connections as manufactured by Aqua-Flo Corporation limited to thirty (30) inch length except dishwashers which shall be forty-eight (48) inches maximum.

(19)(a) Delta Faucet Company's quick-connect fitting known as "grabber" to be used with hot and cold potable water installations above ground only.

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

(b) REMCO Angle Stop Quick connect valve for use with hot and cold potable water installations above ground only.

(20) Interceptors.

(a) Town and Country plastic interceptors to be used as a grease trap.

(b) Grease recovery unit (GRU) as manufactured by Lowe Engineering, Lincoln Park, NJ.

(c) Scienco, Inc., models SI-101-20G, SI-104-35G, SI-102-50G and SI-103-100G with PVC solvent connections.

(d) Rockford separators for grease, oil, hair and solids in various styles and sizes and being more specifically model series G, G LO, G M, G LOM, GF, GFE, GAS, GPS, GSS, OS, RHS, GSC, RMS, RSD, SD, SDE, GTD, and RTD that are used for their intended purpose and installed in accordance to the manufacturer's specification and the plumbing code.

(e) Grease interceptors as manufactured by Enpoco, Inc. of St. Charles, IL.

(f) Grease Traps U.S.A.: Polypropylene grease trap, model number GT-25, as certified by the Plumbing and Drain Institute.

(21) Plastic Oddities Srv (sewer relief vent) clean-out.

(22) Contech A-2000 - a PVC corrugated pipe with smooth interior meeting or exceeding all the material and service test requirements of ASTM D-3034-74 except dimensions at the time of manufacture.

(23) Nonchemical water treatment to control lime scale and corrosion buildup superior water conditioners as manufactured by Kemtune, Inc.

(24) Eljer plumbing ware - Elgers ultra one/G water closet.

(25)(a) "Power Flush" and "Quik Jon" as manufactured by Zoeller Company; shall have a three (3) inch vent; alternate additional waste openings to be located in pump chamber above top of base chamber.

(b) Hydromatic JB-1 System as manufactured by Hydromatic Pumps, Inc.

(26) Exemplar Energy garden solar water heater.

(27) ProSet systems for pipe penetrations in fire rated structures. System A for copper and steel pipe. System C using solvent weld joints only. ProSet E-Z flex coupling is approved for similar or dissimilar materials.

(28)(a) ABS and PVC backwater valves, Models 3281, 3282, 3283 and 3284 for solvent cement joints only as manufactured by Canplas Industries.

(b) Flood-Gate Automatic Backwater Valve as manufactured by Bibby-Ste-Croix.

(29) Clamp-All Corporation Pipe Coupling Systems is approved size for size on dissimilar materials on new or existing installations. Snap-All Increaser/Reducer transition bushings are approved for repairs using dissimilar materials or sizes.

(30) Mission Rubber Company "Band-Seal Specialty Coupling" is approved as a transition between any combination of the following materials: cast iron, copper, galvanized steel, schedule 40 PVC and ABS and SDR 35.

(31)(a) Laticrete 9235 Waterproof Membrane to be used as a safing material for floors and walls in showers, bathtubs and floor drain pans.

(b) Ultra-Set as manufactured by Bostik Construction Products to be used as a water proofing material.

(32) DFW Elastomeric PVC coupling manufactured by DFW Plastics, Inc. for use on building sewers.

(33)(a) Fernco Lowflex Shielded Couplings, approved for connecting extra heavy, no-hub and service weight cast iron pipe, DWV PVC and ABS pipe, SDR 35 sewer pipe, galvanized steel pipe and copper pipe or as a transition between any of these materials in soil waste and vent systems above or below grade.

(b) Fernco Proflex Shielded Couplings: Series 3000 for service weight cast iron to plastic, steel or extra cast iron in sizes one and one-half (1 1/2) inch to four (4) inch, Series 3001 for cast iron, plastic or steel to copper in sizes one and one-half (1 1/2) inch to two (2) inch, Series 3003 for copper to copper in one and one-half (1 1/2) inch.

(34) TBA drain, waste and vent pipe, schedule 40 PVC piping marked "meets dimensional specifications of ASTM D-2665". This pipe has been tested for the tensile strength, durability, etc., of ASTM D-2665 except that it is made from recycled, unused plastics rather than virgin materials.

(35) Blucher-Josam stainless steel pipe, fittings and drains for

disposal of corrosive wastes.

(36) Paul Panella Industries Hostalen GUR UHMW Polymer Cleanout approved for use on sewers of Schedule 40 PVC, ABS and SDR in four (4) inch and six (6) inch sizes.

(37) Advanced Drainage Systems, Inc., Series 35 polyethylene corrugated sewer pipe with a smooth interior in sizes four (4) inch through twenty-four (24) inches for underground storm water drainage within a building.

(38) "Flowguard Gold" one (1) step CPVC cement for joining copper tube size CPVC piping systems through two (2) inches without the requirement of a cleaner or primer.

(39) E-Z Trap Adapter as manufactured by S & S Enterprises to be used as connection between chrome plated P trap and PVC waste line.

(40) Canplas Industries LTD Specialty DWV Fittings: Part #3628 ABS or PVC forty-five (45) degree Discharge Closet Flange, Part #2321 Appliance (dishwasher) Wye, Part #3650A Closet Flange Kit for Concrete Installations.

(41) Conbraco 78-RV Series In-Line Water Heater Shut-Off Thermal Expansion Control Valve preset at 125 psi to relieve thermal expansion.

(42) Plastic Productions PVC "Quick Stub" approved as a solvent weld transition between tubular PVC and schedule 40 PVC.

This is to certify that the State Plumbing Code Committee has reviewed and approved this administrative regulation, prior to its filing by the Department of Housing, Buildings and Construction with the Legislative Research Commission, as required by KRS 318.130.

Frank Phieffer, Chairman
State Plumbing Code Committee

JUDITH G. WALDEN, General Counsel

CHARLES A. COTTON, Commissioner

RONALD MCCLOUD, Secretary

APPROVED BY AGENCY: September 20, 1999

FILED WITH LRC: October 7, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on November 23, 1999 at 10 a.m., EST, 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 November 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

Contact person: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden

(1) Type and number of entities affected: 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
Office of State Fire Marshal
(Amendment)

815 KAR 35:015. Certification of electrical inspectors.

RELATES TO: KRS 227.450, 227.489, 227.490, 227.4901

STATUTORY AUTHORITY: KRS 227.489, 227.490(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.489 requires the Commissioner of the Department of Housing, Buildings and Construction to certify electrical inspectors based on standards of the National Electrical Code. This administrative regulation establishes the procedures for achieving and maintaining the certification. This amendment is necessary to establish a minimum number of continuing education hours each inspector shall attend each year and clarify that the use of a temporary sticker is at the discretion of the inspector.

Section 1. Definitions. (1) "Applicant" means the person seeking to be certified as an electrical inspector.

(2) "Authority having jurisdiction" means the Department of Housing, Buildings and Construction.

(3) "Certified electrical inspector" means a person who has:

(a) Met the requirements established in this administrative regulation; and

(b) Received a certificate of compliance.

(4) "Code" means the National Electrical Code (NEC), which is incorporated by reference in 815 KAR 7:105 as part of the Kentucky Building Code.

(5) "Commissioner" means the Commissioner of the Department of Housing, Buildings and Construction.

(6) "Department" is defined by KRS 227.450(5).

(7) "Electrical" is defined by KRS 227.450(3).

(8) "Electrical industry" means the industry engaged in the generation, transmission and distribution of electricity and the design, manufacture, construction, installation, alteration or repair of electrical wiring facilities and apparatus for the utilization of electricity.

(9) "Employee" means a person who is employed on a full-time, part-time, or contractual basis.

(10) "Temporary certification" means a certificate issued by the department under the provisions of Section 4 of this administrative regulation which is valid for a limited period of time.

(11) "NCPCCI" means National Certification Program for Construction Code Inspectors which administers examinations developed by national code enforcement organizations in collaboration with the Educational Testing Service for the purpose of providing nationally recognized evidence of competence in construction code enforcement.

Section 2. Applicability. This administrative regulation shall apply to an electrical inspector in Kentucky and to an applicant for certification as an electrical inspector.

Section 3. Categories of Certified Electrical Inspectors. A certified electrical inspector shall be classified as an electrical inspector one (1) and two (2) family or an electrical inspector general.

(1) An electrical inspector one (1) and two (2) family shall:

(a) Be a person who:

1. Has passed the applicable NCPCCI examination; or

2. Was classified as a residential inspector; and

(b) Be qualified to perform an electrical inspection and approve an electrical installation related to a:

1. One (1) or two (2) family dwelling; or

2. Manufactured or mobile homes [Mobile home].

(2) An electrical inspector general shall:

(a) Be a person who:

1. Has passed the applicable NCPCCI examination; or

2. Was classified as a commercial inspector; and

(b) Be qualified to inspect and approve all types of residential, commercial, industrial, or other property which requires electrical inspection.

Section 4. Applications Requirements for Temporary Certification.

(1) Before an applicant may sit for the examination for temporary certification as an electrical inspector, the applicant shall:

(a) 1. Have at least five (5) years of experience immediately preceding the application in the installation and design of all types of:

a. Residential wiring systems installed in accordance with the National Electrical Code, if the applicant is applying for certification as an electrical inspector one (1) and two (2) family; or

b. Residential, commercial, and industrial wiring systems installed in accordance with the National Electrical Code, if the applicant is applying for certification as an electrical inspector general; or

2. Be a registered professional electrical engineer engaged in his profession for at least three (3) years;

(b) Possess:

1. The ability to read and write the English language; and

2. A general educational level satisfactory to perform his duties;

(c) Submit a completed Form SFM-EL-1, Application for Electrical Inspector, which shall be:

1. Notarized; and

2. Received by the department at least thirty (30) days prior to the next scheduled Electrical Advisory Committee meeting; and

(d) Submit with the application:

1. A written statement of need for certification from the local official responsible for the electrical or building inspection program; and

2. A fee of twenty-five (25) dollars in the form of a check or money order payable to the State Treasurer, Commonwealth of Kentucky.

(2) If an applicant is not able to demonstrate compliance with the experience requirements established in subsection (1)(a) of this section, the applicant may request to appear before the Electrical Advisory Committee to establish his background in electrical construction familiarity through other means. The Electrical Advisory Committee shall:

(a) Review the documentation; and

(b) Approve the applicant if it is satisfied that the level of exposure to construction practices is substantially equivalent.

(3) An applicant shall receive credit earned for an electrical course satisfactorily completed from an accredited vocational school or college on a year-for-year basis. Credit for education to replace an applicant's experience requirements shall be limited to a total of two (2) years.

(4) The electrical advisory committee shall review an applicant for temporary certification to determine his eligibility to sit for the examination.

(5) Temporary certification shall expire at the end of nine (9) months from the time of initial certification and shall not be reissued.

Section 5. Examinations for Temporary Certification. (1) Following the review and acceptance of the applicant's qualifications by the electrical advisory committee, the applicant shall pass the department's written examination for the class of temporary certification.

(2) An examination shall be:

(a) Administered within thirty (30) days after acceptance by the Electrical Advisory Committee at the department's office in Frankfort, Kentucky, unless another location is specifically designated; and

(b) Open book based on the National Electrical Code, which is incorporated by reference in 815 KAR 7:105 as part of the Kentucky Building Code.

(3) A grade of seventy (70) percent shall be considered passing. An applicant, otherwise qualified, who fails to make a passing score may reapply to be scheduled for the next examination date upon payment of an additional fee of ten (10) dollars.

(4) An applicant shall not be permitted to retake the examination more than three (3) times.

Section 6. Requirements for Full Certification as an Electrical Inspector: General and One (1) and Two (2) Family. (1) An applicant for full certification as an electrical inspector shall:

(a)1. Have at least five (5) years of experience immediately preceding the application in the installation and design of all types of residential, commercial and industrial wiring systems installed in accordance with the National Electrical Code:

2. Be a registered professional electrical engineer engaged in his profession for at least three (3) years;

(b) Possess:

1. The ability to read and write the English language; and

2. A general educational level satisfactory to perform his duties;

(c) Submit a completed Form SFM-EL-1, Application for Electrical Inspector, which shall be:

1. Notarized; and

2. Received by the department at least thirty (30) days prior to the next scheduled Electrical Advisory Committee meeting; and

(d) Submit with the application:

1. A fee of twenty-five (25) dollars in the form of a check or money order payable to the State Treasurer, Commonwealth of Kentucky; and

2. Proof of successful completion of the NCPCCI examination for:

a. Electrical inspector general; or

b. Electrical inspector one (1) and two (2) family.

(2) If an applicant is not able to demonstrate compliance with the experience requirements established in subsection (1)(a) of this section, the applicant may request to appear before the Electrical Advisory Committee to establish his background in electrical construction familiarity through other means. The Electrical Advisory Committee shall:

(a) Review the documentation; and

(b) Approve the applicant if it is satisfied that the level of exposure to construction practices is substantially equivalent.

(3) Following the review and approval of an applicant's qualifications and examination results by the electrical advisory committee, the department shall issue certification for the appropriate electrical inspector classification and the inspector shall be authorized to conduct inspections as specified in Section 3 of this administrative regulation.

(4) A certificate issued pursuant to this section shall be valid from July 1 to June 30.

(5) A fully-certified inspector shall, upon request, be placed on "inactive" status upon payment of fees and otherwise complying with this administrative regulation, including keeping current with continuing education hours. A person holding an inactive certificate shall not make an electrical inspection while his certificate is in inactive status.

(6) Each certified electrical inspector holding a valid certification under a previous law shall be exempt from the testing requirements of this administrative regulation.

Section 7. Renewals of "General" and "One (1) and Two (2) Family" Certificates. (1) Certification shall:

(a) Be issued to an individual; and

(b) Not issued to a corporation, partnership, company, or other entity.

(2) Each applicant seeking to renew his electrical inspector certification shall submit the Renewal Application for Electrical Inspector Certification on Form SFM-EL-1A.

(3) Each electrical inspector certification, except a temporary certificate, shall expire on June 30 every year. The department shall mail each certified inspector, prior to the date of expiration, a renewal application form and the certification shall be renewed subject to the provisions of this administrative regulation.

(4) A renewal fee of twenty-five (25) dollars shall be paid by each certified electrical inspector before June 30 in each succeeding year to maintain certification.

(5) Delinquent renewal fee. A certified electrical inspector who fails to submit the application for renewal on or before July 1 of each year shall pay a delinquent fee of fifty (50) dollars in addition to the renewal fee. If both fees are not paid and all required continuing education completed by January 1 of the following year, the certification shall be canceled and shall not be renewed.

(6) Reinstatement. A certificate that has been revoked or canceled may be reinstated upon petition to the commissioner for good reason.

(7) An applicant for reinstatement shall pay a reinstatement fee of \$100; and shall:

(a)1. Pay the delinquent renewal fees; and

2. Submit proof of continuing education for each year the certificate was revoked or cancelled; or

(b) Pass the NCPCCI examination within the current year.

Section 8. Duties and Responsibilities of a Certified Electrical Inspector. (1) Each certified electrical inspector shall attend at least one (1) continuing education program of a minimum of twelve (12) hours each year. The program shall be approved by the electrical advisory committee.

(2) Each electrical inspection shall be made in compliance with the edition of the National Electrical Code, which is incorporated by reference in 815 KAR 7:105 as part of the Kentucky Building Code.

(3) In addition to the National Electrical Code, the electrical inspector shall familiarize himself with the applicable building codes or fire safety codes governing buildings in the area in which he performs an inspection to determine the occupancy load of a facility.

(4) The electrical inspector shall make an inspection upon request of the electrical contractor.

(5) Temporary construction service approvals shall receive a green sticker and a certificate of compliance; except that, for installations subject to KRS 211.350, the electrical inspector shall not issue a certificate of compliance or otherwise release the property for the supply of electricity until he has received the local health department's "Initial Notice of Release" (Notice of Release for Temporary Electrical Service, Form PHPS-001) and has recorded its number upon the certificate of compliance.

(6) Except for manufactured homes, [Temporary service approval shall require a red sticker.

(5) the electrical inspector shall make a rough-in and final inspection on a building's electrical system installation and other inspections

necessary to approve the installation.

(a) Upon completion of the rough-in inspection, the inspector shall attach a red sticker with his signature and certification number on the main service equipment or at some other appropriate location.

(b) A "service only" approval may be issued by the inspector to provide temporary power for heating and lighting for the building during completion of construction and shall not authorize occupancy of the facility. The sticker issued for "service only" approval shall be yellow.

(c) Upon final approval of an electrical installation, the inspector shall:

1. Attach a green sticker to the main service equipment:

a. With his signature and certification number, name of the project and location; and

b. Stating that the system has been inspected for compliance with the National Electrical Code; and

2. Provide the owner or the owner's agent with a certificate of compliance; except that, for installations subject to KRS 211.350, the electrical inspector shall not issue a certificate of compliance or otherwise release the property for the supply of electricity until he has received the local health department's "Final Notice of Release" (Notice of Release for Permanent Electrical Service, Form PHPS-002) and has recorded its number upon the certificate of compliance.

(7) [(6)] A red, yellow or green sticker or a certificate of compliance to be used by the electrical inspector shall be issued or approved by the department.

(8) [(7)] Each electrical inspector shall make and retain for a minimum of three (3) years a complete record of each inspection and make them available to the department upon request. The record shall contain, as a minimum, the following information:

(a) Sufficient information to identify the location of the structure inspected;

(b) The date of the inspection;

(c) The type of structure, whether residential, commercial, industrial or other;

(d) The designation of a required permit and the agency granting the permit;

(e) The size and complexity of the structure;

(f) Deficiencies in meeting code requirements and the action required to comply; and

(g) Other pertinent information considered necessary to allow for a review of the inspection.

(9) [(8)] Violation of KRS 211.350(4) by a certified electrical inspector shall constitute misconduct.

Section 9. Complaints and Grievance Procedures. (1) A person may file a complaint against a certified electrical inspector if the person believes that an act or omission of the inspector in the performance of his duties caused an undue hardship to the person.

(2) A complaint or allegation of misconduct shall be submitted in writing to the commissioner and shall:

(a) Include the nature of the alleged misconduct, with specific details as to acts, names, dates and witnesses; and

(b) Specify the action requested of the commissioner.

(3) Following an investigation, the commissioner shall:

(a) Cause the matter to be heard and recommendation rendered by the Electrical Advisory Committee;

(b) Set the matter for public hearing; or

(c) Take other appropriate action to resolve or correct the matter.

Section 10. Suspension and Revocation of Certification. The commissioner shall revoke, suspend or refuse to renew the certificate of an electrical inspector who is determined, by the commissioner after a departmental hearing, to have:

(1) Engaged in an activity which constitutes a conflict of interest, including:

(a) Work as an electrical contractor or electrician;

(b) Involvement in an activity in the electrical industry; or

(c) Having a pecuniary or associational interest;

(2) Engaged in fraud, deceit or misrepresentation in obtaining certification;

(3) Been guilty of negligence, incompetence or misconduct as

established by this administrative regulation in the field of electrical inspection;

(4) Affixed or caused to be affixed a seal of approval or issued a certificate of approval for an electrical installation subject to his inspection if he has not personally inspected the installation and found it to be satisfactory in accordance with the code;

(5) Operated as an electrical inspector in a locality where a court of competent jurisdiction has adjudged him to be in conflict with state or local laws, ordinances, or regulations;

(6) Knowingly overruled the proper findings of another electrical inspector or attempted to supplant, overrule or otherwise invalidate the judgment of another electrical inspector without first obtaining express written consent from the original inspector; or

(7) Maintained inaccurate or inadequate recordkeeping as required by Section 8 of this administrative regulation.

Section 11. Electrical Inspections by State Employed Certified Electrical Inspectors. (1) State-owned property including each building being constructed by the state under the authority of the Finance and Administration Cabinet shall be inspected by a certified electrical inspector who is an employee of the state.

(2) A state employed certified electrical inspector shall inspect, for a fee, if a certified electrical inspector has not been made available by the local government.

(3) A state employed certified electrical inspector shall assert jurisdiction for the electrical inspection of a project subject to state plan review under the Kentucky Building Code.

(4) A state employed certified electrical inspector may inspect a state leased facility, upon request.

Section 12. Interpretations. If a provision of the National Electrical Code can be shown to be unreasonable or impractical as applied to a particular installation and if deviation from strict compliance would not create a safety hazard because of a particular use or condition, an individual may request to appear before the electrical advisory committee of the Department of Housing, Buildings and Construction to request a variance from the code. Upon advice from the committee, the department shall render its decision in the matter and the decision shall be appealable to the Board of Housing, Buildings and Construction.

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

(a) Form SFM-EL-1, "Application for Electrical Inspectors (April 1996 Edition)", Department for Housing, Buildings and Construction; [and]

(b) Form SFM-EL-1A, "Renewal Application for Electrical Inspector Certification (April 1996 Edition)", Department for Housing, Buildings and Construction;

(c) Form PHPS-001, "Notice of Release for Temporary Electrical Service", (May 1998 Edition), Department for Public Health; and

(d) Form PHPS-002, "Notice of Release for Permanent Electrical Service", (May 1998 Edition), Department for Public Health.

(2) This material may be inspected, copied, or obtained at the Department of Housing, Buildings and Construction, Electrical Section, 1047 US 127 South, Suite 1, Frankfort, Kentucky 40601, between 8 a.m. and 4:30 p.m., Monday through Friday.

JUDITH G. WALDEN, General Counsel

CHARLES A. COTTON, Commissioner

RONALD B. MCCLOUD, Secretary

APPROVED BY AGENCY: September 20, 1999

FILED WITH LRC: October 7, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, November 23, 1999 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by November 16, 1999, (five work days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regula-

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

tion. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to: Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-6799.

REGULATORY IMPACT ANALYSIS

Contact person: Judith G. Walden

(1) Type and number of entities affected: There are approximately 283 certified electrical inspectors 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: This amendment will have no impact on either cost of living or employment in the state.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: This administrative regulation is implemented statewide but does not affect the cost of doing business within the state.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: The amendment itself will not increase costs or paperwork. The paperwork is the same as before; a green sticker and a certificate of compliance is required.

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: If the property owner fails to obtain approval for a subsurface sewage system when one is required by law, the owner may incur additional costs or delay in obtaining electrical services.

1. First year: No monetary effect.

2. Continuing costs or savings: No monetary effect.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional paperwork requirements created by this amendment.

(4) Assessment of anticipated effect on state and local revenues: State or local revenues should not be affected with the implementation of this amendment.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Certification fees will cover the administrative costs of this amendment.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on: There will be no economic impact with implementation of this amendment.

(a) Geographical area in which administrative regulation will be implemented: Affects rural areas without sewers and building inspectors.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Allowing electrical inspectors to not make inspections unless KRS 211.350 is complied with is too costly in delays and contractors cannot get paid timely.

(8) Assessment of expected benefits: This method will assure that the health department requirements for subsurface sewage disposals system are met while allowing electrical inspections to be made, contractors paid and electricity withheld until the subsurface sewage disposal system is approved.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Enforce KRS 211.350 and protect rivers from sewage by prohibiting electricity until septic tanks are installed.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes, if electrical inspectors do not enforce.

(c) If detrimental effect would result, explain detrimental effect:

Homes in rural areas could be occupied without adequate sewage treatment.

(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 statute, regulation or policy in conflict with this proposed amendment.

(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. Applies only in rural areas that do not have building officials.

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, OCTOBER 15, 1999

JUSTICE CABINET
Department of Corrections
(New Administrative Regulation)

501 KAR 4:001. Repeal of 501 KAR 4:010, 501 KAR 4:020, 501 KAR 4:030, 501 KAR 4:040, 501 KAR 4:050, 501 KAR 4:060, 501 KAR 4:070, 501 KAR 4:080, 501 KAR 4:090, 501 KAR 4:100, 501 KAR 4:110, 501 KAR 4:120, 501 KAR 4:130 and 501 KAR 4:140, Ninety-six (96) hour local confinement facilities.

RELATES TO: KRS Chapter 441

STATUTORY AUTHORITY: KRS 196.035, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: 501 KAR 4:010, 501 KAR 4:020, 501 KAR 4:030, 501 KAR 4:040, 501 KAR 4:050, 501 KAR 4:060, 501 KAR 4:070, 501 KAR 4:080, 501 KAR 4:090, 501 KAR 4:100, 501 KAR 4:110, 501 KAR 4:120, 501 KAR 4:130 and 501 KAR 4:140, are being repealed as the Jail Standards Commission voted to do away with this classification of facility. Other standards and administrative regulations now apply to facilities currently in use.

Section 1. The following administrative regulations are hereby repealed:

- (1) 501 KAR 4:010, Definitions;
- (2) 501 KAR 4:020, Administration; management;
- (3) 501 KAR 4:030, Fiscal management;
- (4) 501 KAR 4:040, Personnel;
- (5) 501 KAR 4:050, Physical plant;
- (6) 501 KAR 4:060, Security; control;
- (7) 501 KAR 4:070, Safety; emergency procedures;
- (8) 501 KAR 4:080, Sanitation; hygiene;
- (9) 501 KAR 4:090, Medical services;
- (10) 501 KAR 4:100, Food services;
- (11) 501 KAR 4:110, Classification;
- (12) 501 KAR 4:120, Admission; release;
- (13) 501 KAR 4:130, Inmate programs; services; and
- (14) 501 KAR 4:140, Inmate rights.

DOUG SAPP, Commissioner
 TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: October 8, 1999

FILED WITH LRC: October 14, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on November 22, 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 November 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. The 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, Telephone Number (502) 564-2024, Facsimile Number (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact Person: Tamela Biggs, Staff Attorney

- (1) Type and number of entities affected: Counties which operate secure detention facilities.
- (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

tent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

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

1. First year following implementation: None
2. Second and subsequent years: None
- (3) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 1. First year: None
 2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Policy revisions

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funds budgeted for this 1998 - 2000 biennium.

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

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

JUSTICE CABINET
Department of Corrections
(New Administrative Regulation)

501 KAR 9:001. Repeal of 501 KAR 9:010, 501 KAR 9:025, 501 KAR 9:030, 501 KAR 9:040, 501 KAR 9:050, 501 KAR 9:060, 501 KAR 9:070, 501 KAR 9:080, 501 KAR 9:090, 501 KAR 9:100, 501 KAR 9:110, 501 KAR 9:120, 501 KAR 9:130, 501 KAR 9:140 and 501 KAR 9:150, Juvenile holding facilities.

RELATES TO: KRS Chapter 441

STATUTORY AUTHORITY: KRS 196.035

NECESSITY, FUNCTION, AND CONFORMITY: 501 KAR 9:010, 501 KAR 9:025, 501 KAR 9:030, 501 KAR 9:040, 501 KAR 9:050, 501 KAR 9:060, 501 KAR 9:070, 501 KAR 9:080, 501 KAR 9:090, 501 KAR 9:100, 501 KAR 9:110, 501 KAR 9:120, 501 KAR 9:130, 501 KAR 9:140 and 501 KAR 9:150, are being repealed as the Department of Corrections no longer has authority to govern the

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

management of juvenile facilities and to permit the Department of Juvenile Justice to promulgate its own regulations and assume responsibility for these facilities.

Section 1. The following administrative regulations are hereby repealed:

- (1) 501 KAR 9:010, Definitions;
- (2) 501 KAR 9:025, Administration; management;
- (3) 501 KAR 9:030, Fiscal management;
- (4) 501 KAR 9:040, Personnel;
- (5) 501 KAR 9:050, Physical plant;
- (6) 501 KAR 9:060, Security; control;
- (7) 501 KAR 9:070, Safety; emergency procedures;
- (8) 501 KAR 9:080, Sanitation; hygiene;
- (9) 501 KAR 9:090, Medical services;
- (10) 501 KAR 9:100, Food services;
- (11) 501 KAR 9:110, Classification;
- (12) 501 KAR 9:120, Admission; release;
- (13) 501 KAR 9:130, Juvenile programs; services;
- (14) 501 KAR 9:140, Juvenile rights; and
- (15) 501 KAR 9:150, Hearings, procedures, disposition.

DOUG SAPP, Commissioner

TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: October 8, 1999

FILED WITH LRC: October 14, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on November 22, 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 November 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. The 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, Telephone Number (502) 564-2024, Facsimile Number (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact Person: Tamela Biggs, Staff Attorney

(1) Type and number of entities affected: Counties which operate secure detention facilities.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Policy revisions

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funds budgeted for this 1998

- 2000 biennium.

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

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

EDUCATION, ARTS & HUMANITIES CABINET Kentucky Board of Education Department of Education (New Administrative Regulation)

704 KAR 5:051. Repeal of 704 KAR 5:050.

RELATES TO: KRS 156.160, 157.320, 157.360, 158.030, 158.031, 158.032, 158.035, 161.030

STATUTORY AUTHORITY: KRS 156.070, 156.160, 158.031

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education to promulgate standards which school districts shall meet in student program, services and operational performance. KRS 158.031 establishes the "primary school program", defined as that part of the elementary school program in which children are enrolled from the time they begin school until they are ready to enter the fourth grade. Current administrative regulations for the primary program include kindergarten and are promulgated in 704 KAR 3:440, Primary Program guidelines. 704 KAR 3:304, Kentucky Program of Studies, covers curriculum content for primary students, including kindergartners. Current teacher certification requirements for primary teachers are covered in 704 KAR Chapter 20; facility requirements are in 702 KAR 4:170. Other content in 704 KAR 5:050 is redundant with or superseded by KRS 157.360, 158.030, 158.032, and 158.035. Therefore, 704 KAR 5:050 is redundant of other legal provisions and is being repealed.

Section 1. 704 KAR 5:050, Public school kindergarten programs and accreditation of nonpublic programs, is hereby repealed.

WILMER S. CODY, Commissioner of Education

HELEN MOUNTJOY, Chairperson

KEVIN M. NOLAND, Attorney

APPROVED BY AGENCY: October 8, 1999

FILED WITH LRC: October 11, 1999 at 4 p.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on November 29, 1999, at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing by November 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 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 Mr. Kevin M. Noland, Associate Commissioner, Office of Legal Services, Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky, 40601, phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS

Agency Contact: Kevin M. Noland

- (1) Type and number of entities affected: 176 school districts.
- (2) Direct and indirect costs or saving 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 comments received: None
- (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None
- (c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:
 1. First year following implementation: None
 2. Second and subsequent years: None
- (3) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 1. First year: None
 2. Continuing costs or savings: None
 3. Additional factors increasing or decreasing costs: None
- (b) Reporting and paperwork requirements: None
- (4) Assessment of anticipated effect on state and local revenues: None
- (5) Source of revenue to be used for implementation and enforcement of administrative regulation: None
- (6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on:
 - (a) Geographical area in which administrative regulation will be implemented: None
 - (b) Kentucky: None
- (7) Assessment of alternative methods; reasons why alternatives were rejected: None
- (8) Assessment of expected benefits:
 - (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: None
 - (b) State whether a detrimental effect on environment and public health would result if not implemented: None
- (c) If detrimental effect would occur, explain detrimental effect: None
- (9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplicative: None
 - (a) Necessity of proposed regulation, if in conflict: None
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None
- (10) Any additional information or comments: None
- (11) Tiering: Was tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

CABINET FOR HEALTH SERVICES Department for Medicaid Services Division of Children's Health Programs (New Administrative Regulation)

907 KAR 4:020. Kentucky Children's Health Insurance Program Medicaid Expansion Title XXI of the Social Security Act.

RELATES TO: KRS Chapter 45A, 205.510 through 205.645, 42 USC 1397aa, et seq.

STATUTORY AUTHORITY: KRS 194A.030, 205.6485, 42 USC 1397aa, et seq.

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Kentucky Children's Health Insurance Program. KRS 205.6485 authorizes the cabinet, by administrative regulations, to establish the Kentucky Children's Health Insurance Program (KCHIP) to provide health care coverage and other coordinated health care services to children of the Commonwealth who are uninsured and otherwise not eligible for health insurance coverage. This administrative regulation establishes the KCHIP eligibility criteria, covered services, the approval process, grievance and appeal rights, and the requirements for delivery of health services for providers who wish to participate with the Commonwealth to provide health care coverage to KCHIP members through an expansion of the Title XIX Medicaid Program.

Section 1. Definitions. (1) "Cabinet" means the Kentucky Cabinet for Health Services or its designee.

(2) "Child" means an individual under age nineteen (19).

(3) "Creditable coverage" is defined in KRS 304.17A-005(6)(a)1-3 and 5-10.

(4) "Department" means the Department for Medicaid Services or its designee.

(5) "Excepted benefits" is defined in KRS 304.17A-005.

(6) "Health insurance" is defined in KRS 304.5-040.

(7) "KCHIP" means the Kentucky Children's Health Insurance Program in accordance with 42 USC 1397aa, et seq.

(8) "Presumptive eligibility" means eligibility which is predetermined by a qualified entity based on the family's declaration that its income is equal to or less than the KCHIP income eligibility guidelines.

(9) "Presumptive eligibility period" means the period of time:

(a) Not to exceed sixty (60) days, that begins on the date that a qualified entity makes a determination that a child is certified for presumptive eligibility; and

(b) Ending on the last day of the month following the month in which presumptive eligibility was determined if the child is determined ineligible or if no application is made.

(10) "Qualified entity" means an entity that is eligible for a payment pursuant to 907 KAR Chapters 1 and 3, and 42 USC 1397aa, et seq. and is determined by the department to be capable of making KCHIP eligibility determinations.

Section 2. Eligibility Criteria. (1) A child shall be eligible for KCHIP if the child:

(a) Meets the technical and income requirements of 907 KAR 1:011, Section 2(17); and

1. Provides to the department the information required in Section 4(4) of this administrative regulation;

2. Meets the continuing eligibility requirement established in 907 KAR 1:605, Section 3;

3. Meets the relative responsibility requirements of 907 KAR 1:660; and

4. Is not eligible for Medicaid; or

(b) Is an optional targeted low-income child as defined in 42 USC 1397jj(b); and

1. Has family income which does not exceed 150 percent of the federal poverty guidelines, updated annually in the Federal Register by the United States Department of Health and Human Services under authority of 42 USC 9902(2);

2. Does not have creditable coverage and may be covered by excepted benefits; and

3. Did not have creditable coverage within six (6) months prior to applying for KCHIP, unless the coverage was terminated for other than voluntary reasons or the coverage was Medicaid.

(2) A qualified entity may determine a child to be presumptively eligible for KCHIP benefits for a period not to exceed sixty (60) days.

(3) Eligibility for KCHIP shall be determined by the department. Upon receipt of eligibility information defined in subsection (1) of this section, the department shall determine if a child is eligible for benefits pursuant to 42 USC 1396 or 1397aa, et seq.

Section 3. Covered Services. (1) Health services shall be considered medically necessary if services are:

(a) Reasonable and necessary to diagnose and provide preventive, palliative, curative, or restorative treatment for physical or mental conditions;

(b) In accordance with professionally recognized standards of health care generally accepted at the time services are provided; and

(c) In accordance with 42 CFR 440.230.

(2) Amount and duration of benefits covered by KCHIP shall be as established in 907 KAR Chapters 1 and 3.

(3) A medical service shall be covered through KCHIP if an individual is determined eligible or presumptively eligible for KCHIP benefits in accordance with Section 2 of this administrative regulation.

(4) Preventive and remedial public health services shall be provided to KCHIP members in accordance with 907 KAR 1:360.

(5) KCHIP shall be the payor of last resort.

Section 4. KCHIP Approval Process. (1) The department shall provide instructions to a qualified entity on how to assist parents, guardians, or others when submitting information necessary to apply for KCHIP.

(2) A qualified entity shall notify the department of a determination that a child is presumptively eligible within five (5) working days after the date on which a determination is made.

(3) The qualified entity shall inform a parent or custodian of a child if:

(a) A family's income meets KCHIP criteria established in Section 2 of this administrative regulation; and

(b) Information as described in subsection (4) of this section is required and should be submitted to the department.

(4) The following information shall be required from a child or responsible party for KCHIP enrollment:

(a) A child's demographics shall include name, address, sex, date of birth, race, and Social Security number; and

(b) Monthly gross earned income, if any, of a parent and a child for whom information is being submitted, an employer type and address, if any, and frequency of income;

(c) Name and address of a health insurance provider who currently provides creditable coverage; or who provided creditable coverage during the six (6) months prior to the date the information in subsection (4) of this section is submitted to the department;

(d) Creditable coverage policy number, policy holder's name, Social Security number and individuals covered by the plan;

(e) Unearned income, if any, received weekly, biweekly, bi-monthly, quarterly, or annually;

(f) Name and age of a child or disabled adult for whom care is purchased in order for a parent or responsible person to work; and

(g) Signature, date, and telephone number of a person submitting the information for a child.

Section 5. Covered Service During Presumptive Eligibility. A Medicaid provider shall be eligible for payments pursuant to 907 KAR Chapters 1 and 3 when a Medicaid-covered service is furnished to a KCHIP presumptively eligible child.

Section 6. Provider Participation Requirements. A provider's enrollment, disclosure, and documentation for participation in KCHIP shall meet the requirements of 907 KAR 1:671, 907 KAR 1:672, and 907 KAR 1:320.

Section 7. Complaint, Grievance, and Appeal Rights. (1) If dis-

satisfied with an action taken by the cabinet, a child, his parent or guardian shall be entitled to a complaint, grievance, or appeal with the cabinet, to be conducted in accordance with 907 KAR 1:560 or 907 KAR 1:563.

(2) If a service is provided by a managed care organization, a dispute resolution between a provider and a child, his parent or guardian shall be in accordance with KRS 211.46; through 211.466 and 907 KAR 1:563.

(3) A KCHIP-eligible child or a responsible party shall be informed, in writing, of his rights to and procedures for due process by the cabinet:

(a) At the time information to obtain KCHIP approval is submitted;

(b) If there is a change in eligibility; or

(c) As required by federal and state laws.

Section 8. Quality Assurance and Utilization Review. The department shall evaluate, on a continuing basis, access, continuity of care, health outcomes, and services arranged or provided as established in 907 KAR 1:705 and 907 KAR 1:710.

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: October 12, 1999

FILED WITH LRC: October 14, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on November 22, 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 November 15, 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: Kevin Devlin, 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: Neville Wise or Karen Doyle

(1) Type and number of entities affected: Uninsured children through age 18 between 100 to 150% federal poverty level; health insurers; health care providers.

(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 comment was received at the Notice of Intent public hearing concerning this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comment was received at the Notice of Intent public hearing concerning this issue.

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

1. First year following implementation: encounter data will be submitted to the department to support monitoring and accountability processes by the contracting entities. These requirements are similar to requirements currently being submitted by these entities and are no more onerous than current Medicaid reporting requirements, nor filing necessary paperwork for commercial plans. Every state agency will be required to do outcome reporting to support the department's goals, develop baseline health status data for the department and develop strategies for improving the health status of

the uninsured population.

2. Second and subsequent years: Same impact for second and subsequent years as additional geographic regions are affected in the second and third years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$63,000,000 (cost)

2. Continuing costs or savings: \$63,000,000 (cost)

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Federal financial and service reporting as required by the Health Care Financing Administration (HCFA).

(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 79% equaling \$50,000,000 and state matching funds of 21% equaling \$13,000,000. State revenues will come from funds appropriated in the 1998-2000 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: To be implemented statewide.

(b) Kentucky: No public comment was 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: Provides health insurance benefits to uninsured children through age 18 between 100-150% of the Federal Poverty Level.

(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 public health, safety, or welfare of uninsured children by preventing access to affordable and comprehensive health care coverage.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to the Balanced Budget Act of 1997 the Commonwealth of Kentucky has exercised the option to establish the Kentucky Children's Health Insurance Program for children who are currently uninsured and have family incomes between 100-150% of the federal poverty level. Having elected to offer KCHIP coverage, the state must comply with federal requirements contained in the Balanced Budget Act of 1997.

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 addi-

tional 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

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of October 12, 1999

The October meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, October 12, 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 September 14, 1999 meeting were approved.

Present were:

Members: John Arnold, Chairman; Senators Marshall Long and Joe Pendleton; Representatives James Bruce, Jimmy Lee, and Woody Allen.

LRC Staff: Dave Nicholas, Donna Little, Stephen Lynn, Susan Wunderlich, Angela Phillips, Donna Valencia, Edna Lowery, Ellen Benzing, Biff Baker, Barbara Baker, Robert Jenkins.

Guests: Robert Jones, OAG/Treasury; John Kennedy Hamilton, Stan Salchi, Department of Treasury; Larry O'Nan, Jennifer Hays, Paul D. Jones, Charlotte Quarles, Revenue Cabinet; Dan Tuttle, Robinil Jameson, Tim Sturgill, Bob Arnold, Department of Local Government; Dwight Price, Gordon Mullis, Office of Financial Management and Economic Analysis; James J. Grawe, OAG/Veterinary Board; Nancy L. Black, Board of Veterinary Examiners; Katie Ashcraft, Mark Mangeot, Natural Resources and Environmental Protection Cabinet; Kevin Noland, Board of Education; Tim Chancellor, Kembra Taylor, Bill Ralston, Labor Cabinet; Colleen Keefe, Department of Financial Institutions; David Klee, Missy Adkisson, Ann Gordon, Julie Watts McKee, Trish Howard, Mike Littlefield, Charles Kendell, Rice Leach, Jim Carreer, Mark Hooks, John Gray, David Nichols, Cabinet for Health Services; Thelma Cornett, Shirley Eldridge, Joyce Metts, Rosanne Barkley, Cabinet for Families and Children; Ned Fitzgibbons, Bullitt County Health Department; Anita Simmons, Christian County Health Department; Kendra G. Palmer, Wesley J. Clark, Franklin County Health Department; Lamone Mayfield, Green Rural District Health Department; Greg Bolin, WEDCO - Harrison County Health Department; Jeffrey L. Gosser, Lake Cumberland District Health Department; Larry Trussell, WEDCO - Nicholas County District; Tony Hall, WEDCO - District Health Center; Deborah Acker, Woodford County Health Department; Bart Baldwin, Children's Alliance; Ronny Pryor, Capitol Solutions; Robert Barnett, Kentucky Pharmacists Association; Ted Bradshaw, IIAK; Greg Higdon, AIK; Dandridge F. Walton, Ruby Jo Cummins, Donna G. Brown, KAHCF; Nancy Galvagni, Kentucky Hospital Association; Michael D. Baker, Hargrove Baker, P.S.C.; Carl W. Breeding, Greenebaum, Doll and McDonald; Margaret M. Young; Mike Helton, KPMA; Jim Carloss, Kentucky Association of Realtors; Jan Gould, Kentucky Retail Federation; Ed Ceal.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Kentucky State Treasurer: State Treasury

20 KAR 1:040. Unclaimed properties; claims. Stanley Salchli, Principal Assistant; John Kennedy Hamilton, State Treasurer, and Rob Jones, Assistant Attorney General, represented the Treasury.

In response to questions by Chairman Arnold, Mr. Jones stated that: (1) KRS Chapter 393 was amended to provide that accounts held by financial institutions would: (a) be held by the institution for a period of ten (10) years; and (b) escheat to the state after that time period; (2) 20 KAR 1:040, 20 KAR 1:070, and 20 KAR 1:080: (a) were amended to conform to the statutory changes to KRS Chapter 393; and (b) did not change the manner, established by statute, in which money would escheat to the state; and (3) unclaimed property held by a financial institution would escheat to the state after seventeen years, rather than after seven years.

In response to questions by Representative Bruce, Mr. Jones stated that: (1) KRS Chapter 393 was amended to provide that accounts held by financial institutions would: (a) be held by the institution for a period of ten (10) years; and (b) not be paid to the Treasury until after that time period; (2) this administrative regulation was amended to include financial institutions in the claims procedure

previously established by the Treasury; and (3) while the Treasury previously used provide auditors to audit financial institutions, KRS Chapter 393 now provided that the audits shall be performed by auditors from the Department of Financial Institutions.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to 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 5 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

20 KAR 1:070. Unclaimed property; administrative hearing, appeals process. In response to a question by Chairman Arnold, Mr. Salchli stated that this administrative regulation conformed the existing hearing and appeals procedures to the requirements of KRS Chapter 13B.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4); and (4) Section 2 was amended to delete provisions that repeated or summarized statute, as required by KRS 13A.120(2)(e) and (f).

20 KAR 1:080. Reports to be filed by holders of unclaimed property. 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 and 2 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 3 was amended to: (a) delete language that repeated or summarized statute, in violation of KRS 13A.120(2)(e) and (f); and (b) delete language that modified statute, in violation of KRS 13A.120(2)(i); and (5) Section 5 was amended to comply with the requirements for incorporation by reference established in KRS 13A.225(2).

Kentucky Revenue Cabinet: Department of Law: Division of Tax Policy: Corporate License Tax

103 KAR 20:020. Items of capital for corporation license tax. Jennifer Hays, Director, Division of Compliance and Taxpayer Assistance, and Paul Jones, Division of Tax Policy, represented the Cabinet.

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) Section 1(2) was amended to correct statutory citations; and (3) Sections 1, 6, 7, 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).

Department For Local Government: Training Incentives

109 KAR 2:020 & E. Training incentive. Bob Arnold, Commissioner; Tim Sturgill, General Counsel, and Robinil Jameson, Manager, Training Branch, Training and ADD Services, represented the Department.

Subcommittee staff stated that: (1) while KRS Chapter 64 did not provide explicit authority for the promulgation of this administrative regulation, the authority was implicit in KRS 64.5275(6), which provided that each training unit shall be approved and certified by the Department for Local Government; (2) an administrative regulation was necessary to establish the criteria for approval and certifi-

cation of the training units; (3) because the statute did not explicitly state that the Department shall promulgate an administrative regulation, the General Assembly may want to amend the statute to explicitly establish the authority for administrative regulations; and (4) the Subcommittee may want to request that LRC refer this issue to the appropriate interim joint committee for recommendations to the General Assembly at its next Regular Session.

Representative Lee stated that if there was a question regarding the statutory authority for this administrative regulation, he would make a motion to request LRC to refer the issue to the appropriate interim joint committee for that committee to determine whether the statute should be changed to give explicit authority to the Department.

In response to a question by Representative Bruce, Subcommittee staff stated that: (1) the Department had the authority to promulgate this administrative regulation because KRS Chapter 13A required the promulgation of an administrative regulation if an administrative body wanted to establish requirements necessary to implement a program; (2) an issue had been raised as to whether the Department had the authority to promulgate this administrative regulation because KRS 64.5275(6): (a) did not specifically require that the department promulgate an administrative regulation to establish the criteria; and (b) stated that training units shall be approved and certified by the Department; (3) the Department was authorized to promulgate this administrative regulation; and (4) the question was whether the Subcommittee believed the statute should be amended to specifically state the authority that was implied for the promulgation of administrative regulations.

Representative Bruce stated that he believed the Department had the authority for this administrative regulation.

Representative Lee stated that he would withdraw his motion because the Subcommittee determined that the Department had the authority to promulgate this administrative regulation.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs were amended to: (a) correct statutory citations; (b) remove officials not included in the enabling statute; and (c) comply with KRS Chapter 13A drafting requirements; (2) Section 1 was amended to correct definitions; (3) Sections 2 and 3 were amended to comply with the formatting and drafting requirements of KRS Chapter 13A; and (4) Sections 4, 5, and 6 were amended to substitute the word "officer" for "official."

Finance And Administration Cabinet: Office of the Secretary: State Investment Commission

200 KAR 14:011. Qualified investments. Don Mullis, Executive Director, Office of Financial Management, and Dwight Price, Portfolio Manager, represented the Commission.

In response to questions by Representative Bruce, Mr. Mullis stated that: (1) the majority of the Commission funds were sent out of state because the Commission transferred money to the actual vendor to pay for the purchase of securities; (2) the Kentucky Bank Repurchase Agreement program: (a) gave Kentucky banks access to Kentucky capital at competitive rates; and (b) had operated about \$200 million a year for at least four years; (3) current statutes required the Commission to maximize the rate of return on the state's money; (4) one-fourth of one percent of the volume of money invested would represent a substantial amount of money over time; (5) because the Commission operated the program in accordance with statutory requirements, if the statute was amended to require that offers be made to Kentucky banks at not less than one-fourth of one percent less than the prevailing rate, the program would include that requirement; and (6) he was not aware of many opportunities in which local banks were not able to participate in the repurchase agreement program, which: (a) was the method by which funds were made available; and (b) included in the agreement a requirement to offer the prevailing treasury rate.

This administrative regulation was amended as follows: Sections 1, 2, 4, 5, 8, and 9 were amended to correct subdivision numbering and simple drafting errors.

200 KAR 14:081. Repurchase agreement. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct a statutory citation; and (2) the NECES-

SITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 5, 6, and 8 were amended to correct subdivision numbering and simple drafting errors.

200 KAR 14:091. Guidelines for money market instruments. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 were amended to correct simple drafting errors.

Kentucky Board of Veterinary Examiners

201 KAR 16:015. Fees. Nancy Black, Director; Dr. Caroline Bevins-Taylor, Board member; and Jim Grawe, Assistant Attorney General, represented the Board.

In response to questions by Chairman Arnold and Representative Bruce, Mr. Grawe stated that: (1) legislation enacted during the 1998 Regular Session of the General Assembly: (a) authorized animal control agencies to euthanize animals; and (b) required licensure; and (2) this administrative regulation: (a) established a new licensing fee of \$50; and (b) did not increase existing fees.

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 3 was amended to specify the license renewal requirement of KRS 321.211.

201 KAR 16:080. Certified animal control agencies. In response to questions by Chairman Arnold and Representative Bruce, Dr. Bevins-Taylor stated that: (1) certified animal control agencies included local humane societies that had a need to euthanize animals without a veterinarian on the premises; (2) humane societies, shelters, and dog pounds existed throughout each city of the state; and (3) this administrative regulation allowed the humane society to have controlled drugs to euthanize animals without an on-site veterinarian.

In response to a question by Chairman Arnold, Ms. Black stated that: (1) the Board would inspect facilities before a certificate was issued; and (2) a facility was required to meet all the Drug Enforcement Agency requirements, including those for drug storage.

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); and (3) Section 3(4) was amended to clearly state the records of purchase and administration.

201 KAR 16:090. Certification as an animal euthanasia specialist. In response to questions by Chairman Arnold, Dr. Bevins-Taylor stated that: (1) the requirements for disposal of euthanized animals varied by county; (2) Franklin County allowed local shelters to bury the animals at the landfill; (3) some counties required the animals be cremated; and (4) the animal control agencies were required to conform to the applicable laws for disposal.

Mr. Grawe stated that this administrative regulation was amended to require that the disposal be in accordance with KRS 257.160.

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 4(1)(g) was amended to require disposal in the same manner as established by KRS 257.160.

Education, Arts And Humanities Cabinet: Board of Education: Department of Education: Office of Management Support Services: School Administration and Finance

702 KAR 3:075. Substitute teacher's salary scheduling. Kevin Noland, General Counsel, represented the Department.

In response to a question by Chairman Arnold, Mr. Noland stated that this administrative regulation: (1) required that the salary schedules for substitute teachers be prepared and kept locally by

the boards of education; and (2) was amended to delete the requirement that the schedules be filed with the Department.

This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 were amended to comply with the drafting requirements of KRS 13A.222(4).

702 KAR 3:120. Uniform school financial accounting system. Mr. Noland stated that this administrative regulation was amended to delete the requirement that a specified form be used because that form was not needed now that school districts used computer programs for financial accounting.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 were amended to comply with the drafting requirements of KRS 13A.222(4); (2) Section 1 was amended to specify that a local board of education shall follow the uniform financial system detailed in the Chart of Accounts and the Chart of Accounts Description; and (3) Section 3 was amended to comply with the incorporation by reference requirements established in KRS 13A.2251.

702 KAR 3:244. Repeal of 702 KAR 3:245, school council allocation formula: Kentucky Uniform School Financial Accounting System. Mr. Noland stated that this administrative regulation repealed an administrative regulation that: (1) addressed how school districts manually distributed funds to individual schools; and (b) was no longer needed because the distribution was now done by computer.

This administrative regulation was amended as follows: (1) the TITLE was amended to comply with KRS 13A.310(3)(a)1.; and (2) Section 1 was amended to accurately state the title of the administrative regulation being repealed.

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 2:300 & E. General. Kembra Taylor, General Counsel; Bill Ralston, Safety Standards Specialist; and Tim Chancellor, Health Standards Specialist, represented the Cabinet.

This administrative regulation was amended as follows: Sections 1(3), 1(4), 1(5), and 1(6) were amended to delete definitions that repeated statutory definitions.

803 KAR 2:301 & E. Adoption and extension of established federal standards. This administrative regulation was amended as follows: Sections 1(3), 1(4), 1(5), and 1(6) were amended to delete definitions that repeated statutory definitions.

803 KAR 2:306 & E. Occupational health and environmental control. This administrative regulation was amended as follows: (1) Sections 1(3), 1(4), 1(5), and 1(6) were amended to delete definitions that repeated statutory definitions; and (2) various sections were amended to comply with the drafting requirements of KRS 13A.222(4).

803 KAR 2:307 & E. Hazardous materials. This administrative regulation was amended as follows: Sections 1(3), 1(4), 1(5), and 1(6) were amended to delete definitions that repeated statutory definitions.

803 KAR 2:309 & E. General environmental controls. This administrative regulation was amended as follows: (1) Sections 1(3), 1(4), 1(5), and 1(6) were amended to delete definitions that repeated statutory definitions; and (2) various sections were amended to comply with the drafting requirements of KRS 13A.222(4).

803 KAR 2:313 & E. Materials handling and storage. This administrative regulation was amended as follows: Sections 1(3), 1(4), 1(5), and 1(6) were amended to delete definitions that repeated statutory definitions.

Department of Financial Institutions: Securities

808 KAR 10:400. Examination fees and criteria. Colleen Keefe, Director, Division of Securities, represented the Department.

In response to a question by Representative Allen, Ms. Keefe stated that: (1) this administrative regulation reduced the amount of fees the Department charged for examinations; (2) the Department had charged the same fee for examinations of banks, credit unions, and other entities; and (3) because security firms tended to be

smaller than those other entities, the Department reduced the fees charged for those examinations.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct a statutory citation; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 were amended to comply with the drafting requirements of KRS 13A.222(4); and (3) Section 3 was amended to cite the applicable federal statutes.

Cabinet For Health Services: Certificate of Need

900 KAR 6:050 (& E). Certificate of need administrative regulation. John Gray, Director, CON Office, represented the Cabinet.

Representative Bruce stated that while he had prepared an amendment to remove the hearing officers from the merit system, he had decided not to propose the amendment.

Senator Pendleton stated that the Cabinet had agreed to insert language into this administrative regulation to include personal care homes in the certificate of need and state health plans.

Mr. Gray stated that: (1) the definition of long-term care beds established in this administrative regulation did not include personal care beds; (2) Senator Pendleton had recommended that the Cabinet accept an amendment to the definition of long-term care beds to include personal care beds; (3) under this amendment, an application for a certificate of need to add personal care beds would go through formal review rather than nonsubstantive review; and (4) the Cabinet was prepared to accept this amendment.

Senator Pendleton stated that: (1) he also wanted to amend this administrative regulation to restore the deleted language regarding the letters of intent; and (2) the Cabinet had agreed to this amendment.

Mr. Gray stated that the Cabinet had agreed to this amendment.

The Subcommittee approved a motion by Senator Pendleton, seconded by Representative Bruce, to reinsert the deleted language regarding letters of intent.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph and Section 1(12) were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 23 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 23 was amended to specify that Form #8 shall be completed and filed to give notice of an intent to acquire a health facility; (4) Section 24 was amended to: (a) comply with the requirements for incorporation by reference established by KRS 13A.2251; and (b) specify the correct names of the forms incorporated by reference; (5) Sections 2 and 3 were amended to restore deleted language regarding Letters of Intent; and (6) Section 1(10) was amended to include personal care homes in the definition of long-term care facilities.

Subcommittee staff stated that because the Subcommittee determined this administrative regulation was deficient at its April 1999 meeting, the Subcommittee needed a separate motion to remove the finding of deficiency.

The Subcommittee approved a motion by Senator Pendleton, seconded by Representative Bruce, to remove the finding of deficiency.

Department for Public Health: State Health Plan

902 KAR 17:041. State health plan for facilities and services. Senator Pendleton stated that he wanted to amend this administrative regulation to restore the deleted language regarding the plan for indigent care.

The Subcommittee approved a motion by Senator Pendleton, seconded by Representative Bruce, to amend this administrative regulation to restore the deleted language regarding indigent care.

Subcommittee staff stated that: (1) KRS 194A.050(2) required the Secretary of the Cabinet for Health Services to utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations; (2) the statutory phrase "contemplated administrative regulations" was not clear as to whether that required approval: (a) solely of Department for Public Health administrative regulations; or (b) all administrative regulations promulgated by the Cabinet for Health Services; (3) Cabinet and Subcommittee staff had interpreted the language as requiring Coun-

cil approval for administrative regulations promulgated by the Department for Public Health; and (4) the Subcommittee might want to request that LRC refer this issue to the appropriate interim joint committee for recommendations to the General Assembly at its next Regular Session.

The Subcommittee approved a motion by Representative Lee, seconded by Representative Bruce, to request LRC to refer this issue to the appropriate interim joint committee for recommendations to the General Assembly at its next Regular Session.

This administrative regulation was amended as follows: (1) the 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 necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 1 was amended to specify when the 1999 Update to the 1998-2000 State Health Plan shall be used; (4) Section 2 was amended to: (a) comply with the drafting requirements of KRS 13A.222(4); and (b) create a new Section 3 to incorporate by reference the State Health Plan; (5) four pages of the material incorporated by reference were amended to: (a) correct: 1. statutory citations; and 2. the listed Website address; and (b) clarify requirements and definitions; (6) Page 11 of the material incorporated by reference, relating to surgical services, was amended to insert language regarding the relocation of surgical services, to make this administrative regulation consistent with the certificate of need administrative regulation (900 KAR 6:050); (7) Page 18 of the material incorporated by reference, relating to magnetic resonance imaging, was amended to allow rural hospitals to obtain certificate of need approval to use mobile MRI services on a part-time basis by prorating the number of procedures to the use of the mobile scanner; (8) a new Page 32, relating to New Technology, was added to the material incorporated by reference to establish criteria for review of new technology over \$500,000; and (9) the Purpose, Authority, and Technical Notes section of the material incorporated by reference was amended to reinsert deleted language that provided that where applicable, an applicant shall set forth its plan of care for patients without private insurance coverage and its plan for care of medically underserved populations within the applicant's proposed service area.

Cabinet For Families And Children: Department for Community Based Services: Division of Policy Development: Child Support

921 KAR 1:390. Child Support Program paternity establishment. Kathy Adams, Division of Child Support, and Joyce Metts, Internal Policy Analyst, Division of Policy Development, represented the Department.

This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 2(7) were amended to correct statutory citations.

The Subcommittee determined that the following administrative regulations complied with statutory authority:

Kentucky Revenue Cabinet: Department of Law: Division of Tax Policy: Sales and Use Tax; General Exemptions

103 KAR 30:096. Repeal of 103 KAR 30:095. Charlotte Quarles, Director, Division of Tax Policy, represented the Cabinet.

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 2:414 & E. Motor vehicles, mechanized equipment, and marine operations. Kembra Taylor, General Counsel; Bill Ralston, Safety Standards Specialist; and Tim Chancellor, Health Standards Specialist, represented the Cabinet.

803 KAR 2:500 & E. Maritime employment.

The Subcommittee and promulgating administrative bodies agreed to defer consideration of the following administrative regulations to the November 9, 1999 meeting of the Subcommittee:

Finance And Administration Cabinet: Office of the Controller: Travel Expense and Reimbursement

200 KAR 2:006E. Employees' reimbursement for travel.

Board of Pharmacy

201 KAR 2:020E. Examinations.

201 KAR 2:095. Dispensing responsibilities.

Board of Medical Licensure

201 KAR 9:175. Physician assistants; certification and supervision.

201 KAR 9:310. Continuing medical education.

Kentucky Lottery Corporation

202 KAR 3:020. Procurement procedures. Representative Bruce stated that: (1) at the September 14, 1999, Subcommittee meeting, he had requested that the Lottery Corporation explain its position on whether the Corporation had authority regarding slot machines; and (2) in another meeting two weeks ago, the attorney for the Corporation: (a) was asked the same question by Senator Buford; and (b) responded that the Corporation had the right to put in gambling devices anywhere in the state as determined by the Corporation.

Subcommittee staff stated that: (1) Corporation staff: (a) had attempted unsuccessfully to reach Representative Bruce by telephone; and (b) was not able to attend the meeting because of a scheduling conflict; (2) the Corporation attorney: (a) was asked if the Corporation felt it had the legal right to install video gambling devices; and (b) responded that the Corporation: 1. thought it had the legal right; and 2. did not intend to install them without specific approval from the General Assembly.

Natural Resources And Environmental Protection Cabinet: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:002. Definitions for 401 KAR Chapter 5.

401 KAR 5:026. Designation of uses of surface waters.

401 KAR 5:029. General provisions.

401 KAR 5:030. Antidegradation policy implementation methodology.

401 KAR 5:031. Surface water standards.

Justice Cabinet: Department of Corrections: Division of Local Facilities: Jail Standards for Full-Service Facilities

501 KAR 3:010. Definitions.

501 KAR 3:040. Personnel.

501 KAR 3:060. Security; control.

501 KAR 3:070. Safety; emergency procedures.

501 KAR 3:110. Classification.

501 KAR 3:120. Admission; release.

501 KAR 3:140. Inmate rights.

Restricted Custody Center

501 KAR 7:010. Definitions.

501 KAR 7:020. Administration; management.

501 KAR 7:040. Personnel.

501 KAR 7:050. Physical plant.

501 KAR 7:060. Security; control.

501 KAR 7:080. Sanitation; hygiene.

501 KAR 7:120. Admission; release.

501 KAR 7:140. Inmate rights.

Direct Supervision for Full-Service Jails

501 KAR 10:010. Definitions.

501 KAR 10:040. Personnel.

501 KAR 10:060. Security; control.

501 KAR 10:070. Safety; emergency procedures.

501 KAR 10:110. Classification.

501 KAR 10:120. Admission; release.

501 KAR 10:140. Inmate rights.

Department of State Police: Sex Offender Registration System

502 KAR 31:020 & E. Sex offender registration system.

Kentucky Law Enforcement Council

503 KAR 1:110E. Department of Criminal Justice Training basic training; graduation requirements; records.

Law Enforcement Foundation Program Fund

503 KAR 5:090E. Participation: requirements; application; withdrawal.

Education Professional Standards Board

704 KAR 20:210E. Substitute teachers and emergency school personnel.

Kentucky Community And Technical College System: Board of Regents

739 KAR 1:010E. Acquisition and disbursement of funds, accounting system - records and annual report.

739 KAR 1:020E. Delegation of financial management responsibility.

739 KAR 1:030E. Annual audit.

739 KAR 1:040E. Purchase - inventories - sale of surplus property procedures.

739 KAR 1:050E. Affiliated corporations.

Department of Insurance: Health Insurance Contracts

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

806 KAR 17:205E. High-cost condition codes and severity questionnaire.

Department of Housing, Buildings and Construction: Office of State Fire Marshal: Electrical Inspectors

815 KAR 35:015E. Certification of electrical inspectors.

Department of Charitable Gaming

820 KAR 1:015. Permanent licensure.

Cabinet For Health Services: Department for Public Health: Health Services and Facilities

902 KAR 20:240. Comprehensive physical rehabilitation hospital services.

902 KAR 20:275. Mobile health services.

Department for Medicaid Services: Medicaid Services

907 KAR 1:011E. Technical eligibility requirements.

907 KAR 1:013E. Payments for hospital inpatient services.

907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services.

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

907 KAR 1:640E. Income standards for Medicaid.

Kentucky Children's Health Insurance Program

907 KAR 4:020E. Kentucky Children's Health Insurance Program Title XXI of the Social Security Act.

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.

OTHER BUSINESS:

1. Cabinet for Health Services - On-site Sewage Disposal Systems

902 KAR 10:081. Construction standards for components of on-site sewage disposal systems.

902 KAR 10:085. Kentucky on-site sewage disposal systems. Dr. Rice Leech, Commissioner, and Mark Hooks, Assistant Director, Division of Public Health Protection and Safety, represented the Cabinet.

Dr. Leech stated that the Department: (1) agreed at the Sep-

tember 14, 1999, Subcommittee meeting to meet with Representative Allen to discuss his concerns regarding on-site sewage disposal; (2) had a good faith discussion with Representative Allen; and (3) needed additional time to resolve a few remaining issues and continue the discussions.

Representative Allen stated that: (1) he had agreed to an additional thirty (30) days to work on the remaining issues with the Department; (2) while he still had some problems with these administrative regulations, including issues related to soil compaction, he believed those problems could be worked out over the next month; (3) as a farmer, he frequently listened to the University of Kentucky for information from its agriculture schools and technology; (4) because of soil differences and resource limitations, his farm, livestock, or grass did not respond the same as the farm, livestock, or grass at the University; (5) while the information he received from the University was valuable, he needed to: (a) use common sense; and (b) make changes needed to apply that information to his situation; (6) the inspectors needed experience in septic tank installations; (7) because the state had different soils, one administrative regulation that covered the entire state was not appropriate; (8) the costs of the septic system added to the cost of the homes; (9) one point of disagreement involved the compaction of the soil because the soil: (a) would go down fourteen to eighteen inches; (b) expanded when the soil was frozen; and (c) retracted when the soil was thawed; and (10) he: (a) wanted to continue to work with the Department on the issue of soil compaction and other issues; (b) believed the issues would be resolved by the November 9, 1999 Subcommittee meeting; and (c) was upset to learn that Subcommittee members had been contacted by local health department members who had attempted to railroad the issues without his approval.

Without objection, consideration of these administrative regulations were deferred until the November 9, 1999, Subcommittee meeting.

2. Cabinet for Families and Children, Department for Community-Based Services, Protection and Permanency, Day Care

922 KAR 2:090. Child care facility licensure.

Subcommittee staff stated that: (1) this administrative regulation was withdrawn by the Cabinet in July 1999, but it raised several issues that should be resolved by the appropriate interim joint committee prior to the 2000 Regular Session; (2) the Cabinet had filed an emergency administrative regulation scheduled for review at the November 9, 1999 Subcommittee meeting; (3) given the interim committee schedule, several issues raised by this administrative regulation should be referred to the appropriate committee prior to review of this administrative regulation by the Subcommittee; (4) there was a conflict between KRS 17.165(4) and KRS 199.986(2), regarding employment practices in child care centers, and KRS 199.986(15) and 199.640(6); and (5) the Subcommittee may want to request that LRC refer these issues to the appropriate interim joint committee for recommendations to the General Assembly at its next Regular Session.

Without objection, the Subcommittee approved a motion to request LRC to refer these issues to the appropriate interim joint committee for recommendations to the General Assembly at its next Regular Session.

3. Chairman Arnold introduced and welcomed Dave Nicholas, new committee staff administrator for the Subcommittee.

The Subcommittee adjourned at 11:30 a.m. until November 9, 1999, at 10:30 a.m. in Room 149 of the Capitol Annex.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT
Meeting of September 22, 1999

The following administrative regulations were available for consideration by the Interim Joint Committee on State Government during its meeting of September 22, 1999, and were approved by the Committee, having been referred to the Committee on September 17, 1999, pursuant to KRS 13A.290(6):

32 KAR 1:180 (24-hour gubernatorial slate reporting)
101 KAR 2:160 (Kentucky Employee Assistance Program)
101 KAR 3:050 (Unclassified service; promotion, transfer & disciplinary actions)

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 regulation was deferred pursuant to KRS 13A.300, at the request of the agency (letter attached):

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

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the September 22, 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 October 11, 1999

The following administrative regulations were available for consideration by the Interim Joint Committee on Education during its meeting of October 11, 1999, having been referred to the Committee on September 15 and 17, 1999, pursuant to KRS 13A.290(6):

11 KAR 12:020
505 KAR 1:080
703 KAR 5:070
704 KAR 20:011
704 KAR 20:021
704 KAR 20:305
704 KAR 20:670
704 KAR 20:730
725 KAR 1:071E

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:

703 KAR 5:070
704 KAR 20:305

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 October 11, 1999 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON
AGRICULTURE AND NATURAL RESOURCES
Meeting of October 13, 1999

Administrative regulations were available for consideration by the Interim Joint Committee on Agriculture and Natural Resources during its meeting of October 13, 1999 having been referred to the Committee on September 17, 1999 pursuant to KRS 13A.290(6) or, having previously been referred but review by the Committee having been deferred by agreement with the agency:

The following administrative regulations were found to comply with KRS Chapter 13A:

Department for Environmental Protection: Division for Air Quality

401 KAR 68:010
401 KAR 68:048
401 KAR 68:065
401 KAR 68:090
401 KAR 68:150

Public Protection and Regulation Cabinet: Department for Mines and Minerals

805 KAR 7:010
805 KAR 7:020
805 KAR 7:030
805 KAR 7:040
805 KAR 7:050
805 KAR 7:060
805 KAR 7:070
805 KAR 7:090

Public Protection and Regulation Cabinet: Office of Petroleum Storage Tank Environmental Assurance Fund

415 KAR 1:080
415 KAR 1:120

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:

Department for Environmental Protection: Division for Air Quality
401 KAR 68:020

VOLUME 26, NUMBER 5 – NOVEMBER 1, 1999

401 KAR 68:100

401 KAR 68:200

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulation was deferred pursuant to KRS 13A.300: None

The following administrative regulation was reviewed but no action was taken: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the October 13, 1999 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON
LICENSING AND OCCUPATIONS
Meeting of October 15, 1999**

The following administrative regulation was available for consideration by the Interim Joint Committee on Licensing and Occupations during its meeting of October 15, 1999, having been referred to the Committee on September 17, 1999, pursuant to KRS 13A.290(6):

Kentucky State Board of Licensure for Professional Engineers and Land Surveyors

201 KAR 18:050; 201 KAR 18:071; 201 KAR 18:080; 201 KAR 18:091;

201 KAR 18:100; 201 KAR 18:110; and 201 KAR 18:120

Kentucky Board of Veterinary Examiners

201 KAR 16:015; 201 KAR 16:080; and 201 KAR 16:090

Department of Charitable Gaming

820 KAR 1:001; 820 KAR 1:010; 820 KAR 1:025; 820 KAR 1:030

820 KAR 1:040; 820 KAR 1:070; and 820 KAR 1:081

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the September 14, 1999 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates E - 2

The Locator Index lists all administrative regulations published in VOLUME 26 of the Administrative Register from July, 1999 through June, 2000. 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 25 are those administrative regulations that were originally published in Volume 25 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1999 bound Volumes were published.

KRS Index E - 12

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 26 of the Administrative Register.

Subject Index E - 18

The Subject Index is a general index of administrative regulations published in VOLUME 26 of the Administrative Register, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	25 Ky.R. Page No.	Effective Date	Regulation Number	25 Ky.R. Page No.	Effective Date
----------------------	----------------------	-------------------	----------------------	----------------------	-------------------

VOLUME 25

The administrative regulations listed under VOLUME 25 are those administrative regulations that were originally published in Volume 25 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1999 bound Volumes were published.

EMERGENCY ADMINISTRATIVE REGULATIONS:

12 KAR 4:170E	2813	4-22-99
Expired		11-18-99
109 KAR 2:020E	2814	4-19-99
109 KAR 15:020E	2816	4-19-99
Replaced		10-7-99
200 KAR 30:010E	2311	2-26-99
Replaced		9-16-99
200 KAR 30:020E	2312	2-26-99
Replaced		9-16-99
200 KAR 30:030E	2313	2-26-99
Replaced		9-16-99
200 KAR 30:040E	2314	2-26-99
Replaced		9-16-99
200 KAR 30:050E	2315	2-26-99
Replaced		9-16-99
200 KAR 30:060E	2316	2-26-99
Replaced		9-16-99
200 KAR 30:070E	2316	2-26-99
Replaced		9-16-99
201 KAR 2:020E	2818	4-22-99
201 KAR 38:010E	2317	3-4-99
Replaced		9-15-99
201 KAR 38:020E	2318	3-4-99
Replaced		9-15-99
201 KAR 38:030E	2319	3-4-99
Replaced		9-15-99
201 KAR 38:040E	2320	3-4-99
Replaced		9-15-99
201 KAR 38:060E	2322	3-4-99
Replaced		9-15-99
415 KAR 1:080E	2529	4-12-99
Replaced		10-13-99
500 KAR 13:020E	2534	4-5-99
Replaced		9-16-99
501 KAR 6:020E	2819	5-14-99
Replaced		9-16-99
501 KAR 6:999E	2821	5-14-99
Replaced		9-16-99
806 KAR 17:066E	2323	3-12-99
900 KAR 6:050E	2536	3-26-99
908 KAR 3:160E	2353	3-9-99
Replaced		9-15-99

ORDINARY ADMINISTRATIVE REGULATIONS:

11 KAR 15:040		
Amended	2923	9-1-99
200 KAR 5:340	2709	(See Volume 26)
201 KAR 2:010		
Amended	2925	(See Volume 26)
201 KAR 2:095		
Amended	2926	
201 KAR 9:175		
Amended	2423	
201 KAR 9:310		
Amended	2427	
201 KAR 9:320	687	
As Amended	2834	

201 KAR 18:010		
Amended	2928	
Withdrawn		9-13-99
201 KAR 18:050		
Amended	2929	(See Volume 26)
201 KAR 18:071	2983	10-15-99
201 KAR 18:080		
Amended	2930	(See Volume 26)
201 KAR 18:091	2983	10-15-99
201 KAR 18:100		
Amended	2931	(See Volume 26)
201 KAR 18:110		
Amended	2931	(See Volume 26)
201 KAR 18:120		
Amended	2932	(See Volume 26)
202 KAR 3:020		
Amended	2933	
401 KAR 47:110		
Amended	2433	(See Volume 26)
401 KAR 48:320	2476	(See Volume 26)
401 KAR 68:010	1747	
Amended	2400	
As Amended	2857	10-13-99
401 KAR 68:020	1748	
Amended	2401	
As Amended	2858	(See Volume 26)
401 KAR 68:048	1750	
Amended	2402	
As Amended	2858	10-13-99
401 KAR 68:065	1751	
Amended	2404	
As Amended	2859	10-13-99
401 KAR 68:090	1753	
Amended	2405	
As Amended	2859	10-13-99
401 KAR 68:100	1754	
Amended	2407	
As Amended	2859	(See Volume 26)
401 KAR 68:150	1756	
Amended	2408	
As Amended	2860	10-13-99
401 KAR 68:200	1757	
Amended	2409	
As Amended	2860	(See Volume 26)
415 KAR 1:120		
Amended	1122	(See Volume 26)
418 KAR 1:020		
Amended	2938	(See Volume 26)
418 KAR 1:030		
Amended	2940	(See Volume 26)
418 KAR 1:040		
Amended	2942	(See Volume 26)
418 KAR 1:050		
Amended	2944	(See Volume 26)
418 KAR 1:060		
Amended	2946	(See Volume 26)
418 KAR 1:070		
Amended	2948	(See Volume 26)
505 KAR 1:080	2985	(See Volume 26)

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	25 Ky.R. Page No.	Effective Date	Regulation Number	25 Ky.R. Page No.	Effective Date
601 KAR 14:010			907 KAR 1:019		
Amended	2952	(See Volume 26)	Amended	1248	
703 KAR 5:070	2731	(See Volume 26)	Amended	1937	(See Volume 26)
802 KAR 1:010			907 KAR 1:021		
Amended	434		Amended	1252	
Amended	880	(See Volume 26)	Amended	1940	(See Volume 26)
902 KAR 20:160			907 KAR 3:035	2732	(See Volume 26)
Amended	2967	(See Volume 26)	908 KAR 1:310		
902 KAR 20:240			Amended	2017	
Amended	2971		Amended	2632	
907 KAR 1:002			908 KAR 1:311	2484	(Volume 24)
Amended	1731		908 KAR 1:370	2485	(Volume 24)
Withdrawn		9-10-99	Amended	355	
			922 KAR 7:251	2996	9-15-99

*Statement Of Consideration Not Filed By Deadline

VOLUME 26

Regulation Number	26 Ky.R. Page No.	Effective Date	Regulation Number	26 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)			ORDINARY ADMINISTRATIVE REGULATIONS:		
200 KAR 2:006E	341	7-1-99	11 KAR 3:100		
301 KAR 2:225E	703	8-31-99	Amended	847	
502 KAR 31:020E	24	5-26-99	11 KAR 5:001		
503 KAR 1:110E	536	8-10-99	As Amended	367	8-2-99
503 KAR 5:090E	538	8-10-99	11 KAR 12:010		
704 KAR 20:210E	345	7-6-99	Amended	85	
725 KAR 1:071E	346	6-28-99	As Amended	557	9-1-99
Expired		1-18-2000	11 KAR 12:020		
739 KAR 1:010E	348	6-22-99	Amended	86	
739 KAR 1:020E	349	6-22-99	Amended	626	
739 KAR 1:030E	350	6-22-99	As Amended	714	10-11-99
739 KAR 1:040E	351	6-22-99	11 KAR 12:060		
739 KAR 1:050E	352	6-22-99	Amended	88	9-1-99
803 KAR 2:300E	26	6-15-99	11 KAR 12:070		
803 KAR 2:301E	27	6-15-99	Amended	89	
803 KAR 2:306E	29	6-15-99	As Amended	558	9-1-99
803 KAR 2:307E	31	6-15-99	20 KAR 1:040		
803 KAR 2:309E	33	6-15-99	Amended	409	
803 KAR 2:313E	35	6-15-99	Amended	790	
803 KAR 2:414E	37	6-15-99	As Amended	987	
803 KAR 2:500E	38	6-15-99	20 KAR 1:070		
806 KAR 17:205E	353	6-24-99	Amended	411	
815 KAR 35:015E	541	7-30-99	As Amended	989	
902 KAR 4:040E	958	9-30-99	20 KAR 1:080	491	
902 KAR 55:020E	705	8-20-99	As Amended	989	
902 KAR 55:025E	706	8-20-99	32 KAR 1:180	492	
907 KAR 1:011E	355	7-2-99	As Amended	714	9-22-99
907 KAR 1:013E	544	7-21-99	101 KAR 1:325		
907 KAR 1:025E	548	7-21-99	Amended	1021	
907 KAR 1:155E	359	7-2-99	101 KAR 2:020		
907 KAR 1:640E	361	7-2-99	Amended	90	
907 KAR 4:020E	364	6-23-99	As Amended	558	8-25-99
921 KAR 2:006E	964	10-1-99	101 KAR 2:034	257	
921 KAR 2:016E	971	10-1-99	As Amended	559	8-25-99
921 KAR 2:017E	979	10-1-99	101 KAR 2:036		
921 KAR 2:370E	982	10-1-99	Repealed	562	8-25-99
921 KAR 4:120E	708	8-10-99	101 KAR 2:037	260	
922 KAR 2:090E	710	9-8-99	As Amended	526	8-25-99
			101 KAR 2:046		
			Amended	91	
			As Amended	526	8-25-99

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	26 Ky.R. Page No.	Effective Date	Regulation Number	26 Ky.R. Page No.	Effective Date
101 KAR 2:056			200 KAR 14:091		
Amended	93		Amended	422	
As Amended	564	8-25-99	As Amended	996	
101 KAR 2:066			200 KAR 21:010		
Amended	95		As Amended	41	6-23-99
As Amended	565	8-25-99	200 KAR 21:030		
101 KAR 2:076			As Amended	42	7-14-99
Amended	96		200 KAR 30:010	270	
As Amended	566	8-25-99	As Amended	584	9-16-99
101 KAR 2:095			200 KAR 30:020	271	
Amended	97		As Amended	584	9-16-99
As Amended	566	8-25-99	200 KAR 30:030	273	
101 KAR 2:100			As Amended	585	9-16-99
Repealed	562	8-25-99	200 KAR 30:040	274	
101 KAR 2:102	261		As Amended	586	9-16-99
As Amended	569	8-25-99	200 KAR 30:050	274	
101 KAR 2:105			As Amended	586	9-16-99
Amended	100		200 KAR 30:060	275	
As Amended	572	8-25-99	As Amended	586	9-16-99
101 KAR 2:120			200 KAR 30:070	276	
Amended	101		As Amended	587	9-16-99
As Amended	573	8-25-99	201 KAR 2:010		
101 KAR 2:140			As Amended	718	7-18-99
Amended	103		201 KAR 2:020		
As Amended	575	8-25-99	Amended	866	
101 KAR 2:150			201 KAR 2:040		
Amended	105		Amended	1023	
As Amended	576	8-25-99	201 KAR 6:020		
101 KAR 2:160			Amended	867	
Amended	412		201 KAR 6:060		
As Amended	715	9-22-99	Amended	868	
101 KAR 3:010			201 KAR 9:041		
Repealed	577	8-25-99	As Amended	370	8-16-99
101 KAR 3:011	265		201 KAR 9:084		
As Amended	577	8-25-99	As Amended	370	8-16-99
101 KAR 3:015	266		201 KAR 9:330		
As Amended	577	8-25-99	As Amended	371	8-16-99
101 KAR 3:045			201 KAR 9:335		
Amended	106		As Amended	371	8-16-99
As Amended	581	8-25-99	201 KAR 9:340		
101 KAR 3:050			As Amended	372	8-16-99
Amended	413		201 KAR 16:015		
As Amended	716	9-22-99	Amended	423	
103 KAR 20:020	665		As Amended	996	10-15-99
As Amended	990		201 KAR 16:080	498	
103 KAR 30:091			As Amended	997	10-15-99
Amended	415		201 KAR 16:090	499	
*Expired		9-10-99	As Amended	997	10-15-99
103 KAR 30:096	493		201 KAR 17:011		
109 KAR 2:020	494		Amended	869	
As Amended	991		201 KAR 17:012		
109 KAR 9:010			Amended	1024	
As Amended	368	8-16-99	201 KAR 17:013	918	
109 KAR 15:020	496	10-7-99	201 KAR 17:015		
200 KAR 2:006			Amended	871	
Amended	862		201 KAR 17:025		
200 KAR 5:340			Amended	871	
As Amended	717		201 KAR 17:027		
200 KAR 14:011			Amended	873	
Amended	418		201 KAR 17:030		
As Amended	993		Amended	1026	
200 KAR 14:081			201 KAR 17:041		
Amended	420		Amended	874	
As Amended	994		201 KAR 17:070		
			Amended	877	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	26 Ky.R Page No.	Effective Date	Regulation Number	26 Ky.R. Page No.	Effective Date
201 KAR 17:090 Amended	879		301 KAR 2:140 Amended	116	9-8-99
201 KAR 18:050 As Amended	718	10-15-99	301 KAR 2:178 As Amended	44	7-14-99
201 KAR 18:070 Repealed		10-15-99	301 KAR 2:179 As Amended	48	7-14-99
201 KAR 18:080 As Amended	719	10-15-99	301 KAR 2:181 Repealed by 301-2:182		8-16-99
201 KAR 18:090 Repealed		10-15-99	301 KAR 6:060 As Amended	48	7-14-99
201 KAR 18:100 As Amended	719	10-15-99	401 KAR 5:002 Amended	118	
201 KAR 18:110 As Amended	719	10-15-99	Amended	792	
201 KAR 18:120 As Amended	720	10-15-99	401 KAR 5:026 Amended	130	
201 KAR 20:420 As Amended	372	8-16-99	Amended	804	
201 KAR 20:430 As Amended	373	8-16-99	401 KAR 5:029 Amended	141	
201 KAR 20:440 As Amended	374	8-16-99	Amended	815	
201 KAR 23:075 As Amended	277		401 KAR 5:030 Amended	145	
201 KAR 32:010 Amended	109		Amended	819	
As Amended	722		401 KAR 5:031 Amended	150	
201 KAR 32:020 Amended	425		Amended	824	
As Amended	723		401 KAR 47:110 Amended	73	
201 KAR 32:025 As Amended	500		As Amended	374	
201 KAR 32:041 As Amended	501		As Amended	730	9-8-99
201 KAR 32:045 As Amended	279		401 KAR 48:320 Amended	75	
201 KAR 32:050 Amended	111		As Amended	376	
As Amended	726		As Amended	732	9-8-99
201 KAR 32:060 Amended	426		401 KAR 57:002 As Amended	49	7-14-99
As Amended	728		401 KAR 57:005 Repealed by 401 KAR 57:019		7-14-99
201 KAR 36:060 As Amended	280		401 KAR 57:015 Repealed by 401 KAR 57:019		7-14-99
201 KAR 38:010 As Amended	282	9-15-99	401 KAR 57:021 Repealed by 401 KAR 57:019		7-14-99
201 KAR 38:020 As Amended	283	9-15-99	401 KAR 57:025 Repealed by 401 KAR 57:019		7-14-99
201 KAR 38:030 As Amended	284	9-15-99	401 KAR 57:030 Repealed by 401 KAR 57:019		7-14-99
201 KAR 38:040 As Amended	285	9-15-99	401 KAR 57:035 Repealed by 401 KAR 57:019		7-14-99
201 KAR 38:050 Withdrawn	285	8-10-99	401 KAR 57:040 Repealed by 401 KAR 57:019		7-14-99
201 KAR 38:060 As Amended	286	9-15-99	401 KAR 57:045 Repealed by 401 KAR 57:019		7-14-99
301 KAR 1:015 Amended	428		401 KAR 57:050 Repealed by 401 KAR 57:019		7-14-99
*Expired		9-10-99	401 KAR 57:055 Repealed by 401 KAR 57:019		7-14-99
301 KAR 1:085 Amended	1028		401 KAR 57:130 Repealed by 401 KAR 57:019		7-14-99
301 KAR 1:201 Amended	113	9-8-99	401 KAR 57:270 Repealed by 401 KAR 57:019		7-14-99
301 KAR 1:400	288	9-8-99	401 KAR 57:300 Repealed by 401 KAR 57:019		7-14-99
301 KAR 2:049 As Amended	43	7-14-99	401 KAR 59:450 Repealed by 401 KAR 57:019		7-14-99
			401 KAR 59:455 Repealed by 401 KAR 57:019		7-14-99

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	26 Ky.R. Page No.	Effective Date	Regulation Number	26 Ky.R. Page No.	Effective Date
401 KAR 59:460			401 KAR 60:170		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:465			401 KAR 60:180		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:485			401 KAR 60:190		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:490			401 KAR 60:250		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:495			401 KAR 60:260		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:500			401 KAR 60:330		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:505			401 KAR 60:340		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:535			401 KAR 60:370		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:540			401 KAR 60:380		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:545			401 KAR 60:390		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:550			401 KAR 60:400		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:555			401 KAR 60:420		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:570			401 KAR 60:440		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:575			401 KAR 60:450		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:580			401 KAR 60:460		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:585			401 KAR 60:470		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:590			401 KAR 60:480		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:595			401 KAR 60:490		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:635			401 KAR 60:500		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:705			401 KAR 60:540		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:725			401 KAR 60:560		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:740			401 KAR 60:580		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:745			401 KAR 60:590		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:750			401 KAR 60:600		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:755			401 KAR 60:620		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:005			401 KAR 60:630		
As Amended 50		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:042			401 KAR 60:640		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:043			401 KAR 60:680		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:100			401 KAR 60:700		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:110			401 KAR 60:730		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:111			401 KAR 60:750		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:150			401 KAR 63:002		
Repealed by 401 KAR 57:019		7-14-99	As Amended 53		7-14-99
401 KAR 60:160			401 KAR 63:070		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	26 Ky.R. Page No.	Effective Date	Regulation Number	26 Ky.R. Page No.	Effective Date
401 KAR 63:100			415 KAR 1:120		
Repealed by 401 KAR 57:019		7-14-99	As Amended	738	10-13-99
401 KAR 63:101			418 KAR 1:020		
Repealed by 401 KAR 57:019		7-14-99	As Amended	590	9-8-99
401 KAR 63:104			418 KAR 1:030		
Repealed by 401 KAR 57:019		7-14-99	As Amended	592	9-8-99
401 KAR 63:110			418 KAR 1:040		
Repealed by 401 KAR 57:019		7-14-99	As Amended	593	9-8-99
401 KAR 63:160			418 KAR 1:050		
Repealed by 401 KAR 57:019		7-14-99	As Amended	594	9-8-99
401 KAR 63:190			418 KAR 1:060		
Repealed by 401 KAR 57:019		7-14-99	As Amended	595	9-8-99
401 KAR 63:300			418 KAR 1:070		
Repealed by 401 KAR 57:019		7-14-99	As Amended	597	9-8-99
401 KAR 63:320			500 KAR 13:020	289	
Repealed by 401 KAR 57:019		7-14-99	As Amended	597	9-16-99
401 KAR 63:340			501 KAR 3:010		
Repealed by 401 KAR 57:019		7-14-99	Amended	158	
401 KAR 63:360			501 KAR 3:040		
Repealed by 401 KAR 57:019		7-14-99	Amended	159	
401 KAR 63:400			501 KAR 3:060		
Repealed by 401 KAR 57:019		7-14-99	Amended	160	
401 KAR 63:420			501 KAR 3:070		
Repealed by 401 KAR 57:019		7-14-99	Amended	162	
401 KAR 63:460			501 KAR 3:110		
Repealed by 401 KAR 57:019		7-14-99	Amended	163	
401 KAR 63:520			501 KAR 3:120		
Repealed by 401 KAR 57:019		7-14-99	Amended	164	
401 KAR 63:541			501 KAR 3:140		
Repealed by 401 KAR 57:019		7-14-99	Amended	166	
401 KAR 63:560			501 KAR 4:001	1053	
Repealed by 401 KAR 57:019		7-14-99	501 KAR 6:020		
401 KAR 63:640			Amended	168	9-16-99
Repealed by 401 KAR 57:019		7-14-99	501 KAR 6:030		
401 KAR 63:680			Amended	170	9-16-99
Repealed by 401 KAR 57:019		7-14-99	Amended	882	
401 KAR 63:701			501 KAR 6:040		
Repealed by 401 KAR 57:019		7-14-99	Amended	884	
401 KAR 63:741			501 KAR 6:060		
Repealed by 401 KAR 57:019		7-14-99	Amended	885	
401 KAR 63:780			501 KAR 6:110		
Repealed by 401 KAR 57:019		7-14-99	Amended	172	9-16-99
401 KAR 63:800			501 KAR 6:130		
Repealed by 401 KAR 57:019		7-14-99	Amended	1031	
401 KAR 63:820			501 KAR 6:170		
Repealed by 401 KAR 57:019		7-14-99	Amended	887	
401 KAR 63:900			501 KAR 6:999		
Repealed by 401 KAR 57:019		7-14-99	Amended	173	9-16-99
401 KAR 63:920			501 KAR 7:010		
Repealed by 401 KAR 57:019		7-14-99	Amended	174	
401 KAR 63:940			501 KAR 7:020		
Repealed by 401 KAR 57:019		7-14-99	Amended	175	
401 KAR 63:960			501 KAR 7:040		
Repealed by 401 KAR 57:019		7-14-99	Amended	176	
401 KAR 68:020			501 KAR 7:050		
As Amended	998	10-13-99	Amended	178	
401 KAR 68:100			501 KAR 7:060		
As Amended	999	10-13-99	Amended	180	
401 KAR 68:200			501 KAR 7:080		
As Amended	999	10-13-99	Amended	181	
405 KAR 10:010			501 KAR 7:120		
As Amended	377	8-16-99	Amended	182	
415 KAR 1:080			501 KAR 7:140		
Amended	430		Amended	183	
As Amended	733	10-13-99	501 KAR 9:001	1053	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	26 Ky.R Page No.	Effective Date	Regulation Number	26 Ky.R. Page No.	Effective Date
501 KAR 10:010			704 KAR 3:285		
Amended	185		Amended	203	
501 KAR 10:040			As Amended	608	9-1-99
Amended	186		704 KAR 5:051	1054	
501 KAR 10:060			704 KAR 20:011	502	
Amended	188		As Amended	744	10-11-99
501 KAR 10:070			704 KAR 20:021		
Amended	189		Amended	437	
501 KAR 10:110			As Amended	745	
Amended	190		704 KAR 20:065		
501 KAR 10:120			Repealed	744	10-11-99
Amended	192		704 KAR 20:085		
501 KAR 10:140			Repealed	744	10-11-99
Amended	193		704 KAR 20:090		
502 KAR 12:010			Repealed	744	10-11-99
As Amended	378	8-16-99	704 KAR 20:110		
502 KAR 31:020			Repealed	744	10-11-99
Amended	435		704 KAR 20:150		
503 KAR 1:140			Repealed	744	10-11-99
As Amended	54	7-14-99	704 KAR 20:210		
503 KAR 3:010			Amended	896	
Amended	888		704 KAR 20:240		
503 KAR 3:020			Repealed	744	10-11-99
Amended	195		704 KAR 20:245		
As Amended	599	9-16-99	Repealed	744	10-11-99
505 KAR 1:040			704 KAR 20:250		
Amended	893		Repealed	744	10-11-99
505 KAR 1:080			704 KAR 20:270		
As Amended	604	10-11-99	Repealed	744	10-11-99
601 KAR 1:040			704 KAR 20:285		
Amended	201	9-7-99	Repealed	744	10-11-99
601 KAR 14:010			704 KAR 20:300		
As Amended	607	9-7-99	Amended	1035	
603 KAR 4:035			704 KAR 20:305		
As Amended	58	6-1-99	Amended	439	
603 KAR 5:120			As Amended	746	
Amended	1032		As Amended	1001	10-11-99
603 KAR 5:150			704 KAR 20:350		
Amended	1034		Repealed	744	10-11-99
702 KAR 3:075			704 KAR 20:360		
Amended	642		Repealed	744	10-11-99
As Amended	1000		704 KAR 20:370		
702 KAR 3:120			Repealed	744	10-11-99
Amended	642		704 KAR 20:470		
As Amended	1000		As Amended	383	8-2-99
702 KAR 3:244			704 KAR 20:475		
As Amended	1000		Amended	1037	
703 KAR 3:060			704 KAR 20:590		
Repealed	291	9-1-99	Amended	1038	
703 KAR 4:010			704 KAR 20:610		
Repealed	291	9-1-99	Amended	1039	
703 KAR 4:080			704 KAR 20:670		
Repealed	291	9-1-99	Amended	442	
703 KAR 4:090			As Amended	749	10-11-99
Repealed	291	9-1-99	704 KAR 20:690		
703 KAR 4:100			Amended	1043	
Repealed	291	9-1-99	704 KAR 20:730	503	
703 KAR 5:020			As Amended	750	10-11-99
Amended	77		725 KAR 1:070		
As Amended	380	8-2-99	Repealed	346	6-28-99
703 KAR 5:070			725 KAR 2:060		
As Amended	1001	10-11-99	Amended	897	
703 KAR 5:080	667		725 KAR 2:070		
703 KAR 5:111	291	9-1-99	Amended	899	
703 KAR 5:112	668		785 KAR 1:010		
			As Amended	62	7-14-99

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	26 Ky.R. Page No.	Effective Date	Regulation Number	26 Ky.R. Page No.	Effective Date
787 KAR 1:200			815 KAR 20:073		
Repealed	505	10-18-99	Amended	215	
787 KAR 1:201	505	10-18-99	As Amended	615	9-16-99
802 KAR 1:010			815 KAR 20:110		
As Amended	612	8-26-99	Amended	217	
803 KAR 2:300			As Amended	616	9-16-99
Amended	643		815 KAR 20:120		
As Amended	1004		As Amended	388	8-16-99
803 KAR 2:301			815 KAR 35:015		
Amended	645		Amended	1049	
As Amended	1004		815 KAR 35:030		
803 KAR 2:306			Amended	218	
Amended	646		As Amended	617	9-16-99
As Amended	1005		815 KAR 45:080		
803 KAR 2:307			Amended	220	
Amended	649		As Amended	618	9-16-99
As Amended	1006		820 KAR 1:001		
803 KAR 2:309			Amended	222	
Amended	651		As Amended	757	10-15-99
As Amended	1007		820 KAR 1:010		
803 KAR 2:313			Amended	223	10-15-99
Amended	652		820 KAR 1:015		
As Amended	1008		Amended	224	
803 KAR 2:414			820 KAR 1:025		
Amended	654		Amended	226	10-15-99
803 KAR 2:500			820 KAR 1:030		
Amended	655		Amended	227	
804 KAR 4:210			Amended	627	
As Amended	63	7-9-99	As Amended	759	10-15-99
805 KAR 7:010			820 KAR 1:040		
Amended	208		Amended	231	
As Amended	752	10-13-99	Amended	630	
805 KAR 7:020			As Amended	761	10-15-99
Amended	209		820 KAR 1:070		
As Amended	752	10-13-99	Amended	232	
805 KAR 7:030			As Amended	763	10-15-99
Amended	210		820 KAR 1:080		
As Amended	753	10-13-99	Repealed	292	10-15-99
805 KAR 7:040			820 KAR 1:081	292	10-15-99
Amended	212		900 KAR 6:050		
As Amended	754	10-13-99	Amended	476	
805 KAR 7:050			Amended	832	
Amended	212		As Amended	1009	
As Amended	755	10-13-99	902 KAR 17:041		
805 KAR 7:060			Amended	484	
Amended	213		As Amended	1017	
As Amended	756	10-13-99	902 KAR 20:091		
805 KAR 7:070			As Amended	394	8-16-99
Amended	214		902 KAR 20:140		
As Amended	756	10-13-99	As Amended	63	8-18-99
805 KAR 7:090	291		902 KAR 20:160		
As Amended	757	10-13-99	As Amended	763	
806 KAR 9:190	506		902 KAR 20:221	507	
Amended	1019		902 KAR 20:275		
806 KAR 17:066			Amended	485	
Amended	444		Amended	840	
807 KAR 5:007			902 KAR 22:040		
As Amended	385	8-20-99	As Amended	397	8-16-99
808 KAR 1:140	918		902 KAR 55:030		
808 KAR 10:260			Amended	902	
Amended	901		902 KAR 55:045		
808 KAR 10:400	668		Amended	903	
As Amended	1008		902 KAR 55:090		
815 KAR 20:020			Amended	907	
As Amended	386	8-16-99	904 KAR 2:006		
Amended	1046		Recodified as 921 KAR 2:006		7-8-99

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	26 Ky.R. Page No.	Effective Date	Regulation Number	26 Ky.R. Page No.	Effective Date
904 KAR 2:016			910 KAR 1:230		
Recodified as 921 KAR 2:016		7-8-99	Recodified from 923 KAR 1:230		7-8-99
904 KAR 2:017			920 KAR 1:060		
Recodified as 921 KAR 2:017		7-8-99	As Amended	66	8-18-99
904 KAR 2:116			921 KAR 1:020		
Recodified as 921 KAR 4:116		6-3-99	Amended	239	
904 KAR 2:370			Amended	632	
Recodified as 921 KAR 2:370		7-8-99	As Amended	775	
904 KAR 2:500			921 KAR 1:380		
Recodified as 921 KAR 2:500		7-8-99	Amended	913	
904 KAR 2:510			921 KAR 1:390		
Recodified as 921 KAR 2:510		7-8-99	Amended	663	
905 KAR 1:050			As Amended	1017	
Recodified As 922 KAR 1:050		6-3-99	921 KAR 1:410		
905 KAR 1:180			Amended	241	
Amended	80	8-16-99	As Amended	776	
Recodified as 922 KAR 1:180		8-16-99	921 KAR 2:015		
905 KAR 1:370			As Amended	68	6-16-99
Recodified As 922 KAR 1:370		6-3-99	921 KAR 2:006		
905 KAR 2:090			Recodified from 904 KAR 2:006		7-8-99
Recodified as 922 KAR 2:090		7-8-99	921 KAR 2:016		
906 KAR 1:110			Recodified from 904 KAR 2:016		7-8-99
As Amended	398	8-16-99	921 KAR 2:017		
907 KAR 1:019			Recodified from 904 KAR 2:017		7-8-99
As Amended	767		921 KAR 2:370		
907 KAR 1:021			Recodified from 904 KAR 2:370		7-8-99
As Amended	774		921 KAR 2:500		
907 KAR 1:060			Recodified from 904 KAR 2:500		7-8-99
Amended	658		921 KAR 2:510		
907 KAR 1:061			Recodified from 904 KAR 2:510		7-8-99
Amended	659		921 KAR 3:050		
907 KAR 1:675			Amended	245	
Amended	908		As Amended	780	
907 KAR 1:780			921 KAR 4:116		
As Amended	65	8-18-99	Recodified from 904 KAR 2:116		6-3-99
907 KAR 3:035			922 KAR 1:050		
Amended	407		Recodified from 905 KAR 1:050		6-3-99
As Amended	619	9-15-99	922 KAR 1:130	293	
907 KAR 3:090			As Amended	624	9-15-99
As Amended	400	8-16-99	922 KAR 1:370		
907 KAR 3:100			Recodified from 905 KAR 1:370		6-3-99
As Amended	402	8-16-99	922 KAR 1:180		
907 KAR 4:020	1055		Recodified from 905 KAR 1:180		8-16-99
908 KAR 2:210			922 KAR 2:090		
Amended	233		Recodified from 905 KAR 2:090		7-8-99
As Amended	620	9-15-99	922 KAR 2:160		
908 KAR 3:160			Amended	249	
Amended	238	9-15-99	Amended	634	
910 KAR 1:090			As Amended	783	
Recodified from 923 KAR 1:090		7-8-99	922 KAR 5:070		
910 KAR 1:140			Amended	81	
Recodified from 923 KAR 1:140		7-8-99	As Amended	403	8-16-99
910 KAR 1:160			922 KAR 7:060		
Recodified from 923 KAR 1:160		7-8-99	Repealed by 922-7:061		8-16-99
910 KAR 1:170			922 KAR 7:100		
Recodified from 923 KAR 1:170		7-8-99	Repealed by 922-7:101		8-16-99
910 KAR 1:180			922 KAR 7:250		
Recodified from 923 KAR 1:180		7-8-99	Repealed		9-15-99
910 KAR 1:190			923 KAR 1:090		
Recodified from 923 KAR 1:190		7-8-99	Recodified as 910 KAR 1:090		7-8-99
910 KAR 1:200			923 KAR 1:140		
Recodified from 923 KAR 1:200		7-8-99	Recodified as 910 KAR 1:140		7-8-99
910 KAR 1:210			923 KAR 1:160		
Recodified from 923 KAR 1:210		7-8-99	Recodified as 910 KAR 1:160		7-8-99
910 KAR 1:220			923 KAR 1:170		
Recodified from 923 KAR 1:220		7-8-99	Recodified sa 910 KAR 1:170		7-8-99

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	26 Ky.R. Page No.	Effective Date	Regulation Number	26 Ky.R. Page No.	Effective Date
923 KAR 1:180					
Recodified as 910 KAR 1:180		7-8-99			
923 KAR 1:190					
Recodified as 910 KAR 1:190		7-8-99			
923 KAR 1:200					
Recodified as 910 KAR 1:200		7-8-99			
923 KAR 1:210					
Recodified as 910 KAR 1:210		7-8-99			
923 KAR 1:220					
Recodified as 910 KAR 1:220		7-8-99			
923 KAR 1:230					
Recodified as 910 KAR 1:230		7-8-99			

*Statement of Consideration Not Filed by Deadline

KRS SECTION

REGULATION

KRS SECTION

REGULATION

KRS INDEX

12.040	101 KAR	3:050		101 KAR	3:011
12.050	101 KAR	3:050		101 KAR	3:045
13A.140	922 KAR	2:090E	18A.165	101 KAR	2:034
13A.310	725 KAR	1:071E		101 KAR	2:037
Chapter 13B	20 KAR	1:070		101 KAR	2:066
	415 KAR	1:120	18A.195	101 KAR	2:037
13B.050	922 KAR	2:160		101 KAR	2:102
13B.080	922 KAR	2:160		101 KAR	3:015
13B.090	922 KAR	2:160	18A.196	101 KAR	2:105
13B.110	922 KAR	2:160	18A.197	101 KAR	2:105
13B.120	704 KAR	20:011	18A.202	101 KAR	2:120
	922 KAR	2:160	18A.370	101 KAR	2:140
15.330	503 KAR	1:110E	18A.375	101 KAR	2:140
15.386	503 KAR	1:110E	18A.380	101 KAR	2:140
15.440	503 KAR	1:110E	41.610	200 KAR	14:081
	503 KAR	5:090E		200 KAR	14:091
Chapter 15A	500 KAR	13:020	42.014	200 KAR	14:091
15A.065	505 KAR	1:040	42.500	200 KAR	14:011
15A.070	503 KAR	3:010		200 KAR	14:081
	503 KAR	3:020		200 KAR	14:091
17.165	922 KAR	2:090E	42.505-42.545	200 KAR	14:091
17.500	502 KAR	31:020	42.520	200 KAR	14:011
18A.005	101 KAR	2:020		200 KAR	14:081
	101 KAR	2:056	42.525	200 KAR	14:011
	101 KAR	2:076		200 KAR	14:081
18A.030	101 KAR	2:020	44.060	200 KAR	2:006
	101 KAR	2:034	45.101	200 KAR	2:006
	101 KAR	2:037	Chapter 45A	907 KAR	4:020
	101 KAR	2:046	45A.843	200 KAR	21:030
	101 KAR	2:066	45A.853	200 KAR	21:030
	101 KAR	2:095	46.010	109 KAR	15:020
	101 KAR	2:102	46.020	109 KAR	15:020
	101 KAR	2:150	61.394	101 KAR	2:037
	101 KAR	2:160		101 KAR	2:102
	101 KAR	3:011		101 KAR	3:011
	101 KAR	3:015		101 KAR	3:015
18A.032	101 KAR	2:020	64.5275	109 KAR	2:020
	101 KAR	2:046	65.944	109 KAR	15:020
18A.075	101 KAR	1:325	66.045	109 KAR	15:020
18A.0751	101 KAR	1:325	67A.620	921 KAR	1:410
18A.110	101 KAR	2:020	68.020	109 KAR	15:020
	101 KAR	2:034	68.210	109 KAR	15:020
	101 KAR	2:037	68.245	109 KAR	15:020
	101 KAR	2:046	68.250	109 KAR	15:020
	101 KAR	2:056	68.350	109 KAR	15:020
	101 KAR	2:066	75.400	815 KAR	45:080
	101 KAR	2:076	75.410	815 KAR	45:080
	101 KAR	2:095	75.440	815 KAR	45:080
	101 KAR	2:102	95.620	921 KAR	1:410
	101 KAR	2:105	95.878	921 KAR	1:410
	101 KAR	2:120	95A.210	815 KAR	45:080
	101 KAR	2:140	95A.262	815 KAR	45:080
	101 KAR	2:150	121A.020	32 KAR	1:180
	101 KAR	2:160	121A.030	32 KAR	1:180
	101 KAR	3:015	121A.080	32 KAR	1:180
18A.111	101 KAR	1:325	131.340	802 KAR	1:010
18A.115	101 KAR	2:076	131.355	802 KAR	1:010
	101 KAR	3:011	131.365	802 KAR	1:010
	101 KAR	3:050	131.370	802 KAR	1:010
18A.120	101 KAR	2:046	132.585	109 KAR	15:020
	101 KAR	2:056	136.070	103 KAR	20:020
	101 KAR	2:076	136.392	815 KAR	45:080
18A.150	101 KAR	2:046	139.260	103 KAR	30:091
18A.155	101 KAR	2:150	139.470	103 KAR	30:091
	101 KAR	2:160	139.480	103 KAR	30:091
	101 KAR	3:050		103 KAR	30:096

KRS SECTION

REGULATION

KRS SECTION

REGULATION

164A.620

739 KAR 1:010E

739 KAR 1:020E

171.230-171.300

725 KAR 2:060

171.230-171.320

725 KAR 2:070

171.450

725 KAR 1:071E

171.520

725 KAR 1:071E

175.450

603 KAR 5:120

176.050

603 KAR 5:120

603 KAR 5:150

603 KAR 5:150

603 KAR 5:150

603 KAR 5:120

603 KAR 5:150

603 KAR 5:120

603 KAR 5:120

603 KAR 5:120

603 KAR 5:120

603 KAR 5:120

921 KAR 1:390

921 KAR 1:410

902 KAR 4:040E

194A.050

921 KAR 1:020

194B.050

921 KAR 1:380

921 KAR 4:120E

Chapter 196

501 KAR 6:020

501 KAR 6:030

501 KAR 6:040

501 KAR 6:060

501 KAR 6:110

501 KAR 6:130

501 KAR 6:170

501 KAR 6:999

Chapter 197

501 KAR 6:020

501 KAR 6:030

501 KAR 6:040

501 KAR 6:060

501 KAR 6:110

501 KAR 6:130

501 KAR 6:170

501 KAR 6:999

505 KAR 1:040

907 KAR 3:035

199.420-199.990

922 KAR 2:090E

199.680

922 KAR 2:160

199.892

922 KAR 2:090E

199.892-199.896

922 KAR 2:160

199.898

505 KAR 1:040

199.8982

908 KAR 3:160

200.080-200.120

922 KAR 2:160

Chapter 202A

902 KAR 20:160

202A.011

908 KAR 3:160

202A.241

921 KAR 2:006E

Chapter 202B

921 KAR 1:020

205.010

921 KAR 2:006E

205.175

921 KAR 2:016E

205.200

921 KAR 2:017E

921 KAR 2:370E

922 KAR 1:130

921 KAR 2:016E

205.2001

921 KAR 2:006E

205.2003

921 KAR 2:017E

921 KAR 2:370E

921 KAR 2:006E

921 KAR 2:016E

921 KAR 2:016E

921 KAR 2:017E

205.510-205.645

907 KAR 4:020

205.520

907 KAR 1:011E

907 KAR 1:013E

205.561

205.5631

205.5631-205.5639

205.5632

205.5634

205.5636

205.5638

205.5639

205.565

205.595

205.634

205.640

205.703

205.705

205.710-205.800

205.8453

205.990

205.992

209.020

209.990

Chapter 210

211.180

213.046

216A.070

216A.080

216A.110

216A.130

216B.010

216B.010-216B.130

216B.015

216B.040

216B.042

216B.045-216B.055

216B.075

216B.105-216B.131

216B.107

216B.155 to 216B.170

216B.455

216B.990

217.015

218A.010-218A.030

218A.020-218A.130

218A.060-218A.070

218A.080-218A.090

218A.100-218A.110

224.01-010

224.01-100

224.01-400

907 KAR 1:060

907 KAR 1:061

907 KAR 1:155E

907 KAR 1:640E

907 KAR 1:021

907 KAR 1:021

907 KAR 1:019

907 KAR 1:021

907 KAR 1:021

907 KAR 1:021

907 KAR 1:021

907 KAR 1:021

907 KAR 1:013E

921 KAR 1:410

907 KAR 3:035

907 KAR 1:013E

921 KAR 2:006E

921 KAR 1:380

921 KAR 1:020

921 KAR 1:380

921 KAR 1:390

921 KAR 1:410

907 KAR 1:675

921 KAR 1:020

921 KAR 1:380

922 KAR 2:090E

922 KAR 2:090E

908 KAR 3:160

902 KAR 4:040E

921 KAR 1:380

921 KAR 1:390

201 KAR 6:020

201 KAR 6:020

201 KAR 6:060

201 KAR 6:060

902 KAR 20:275

900 KAR 6:050

902 KAR 17:041

902 KAR 20:275

902 KAR 20:275

902 KAR 20:275

902 KAR 20:140

902 KAR 20:275

902 KAR 20:275

902 KAR 20:275

902 KAR 20:275

902 KAR 20:221

902 KAR 20:140

900 KAR 6:050

900 KAR 6:050

902 KAR 20:275

907 KAR 1:019

907 KAR 1:021

902 KAR 55:020E

902 KAR 55:025E

902 KAR 55:030

902 KAR 55:090

902 KAR 55:045

902 KAR 55:020E

902 KAR 55:025E

902 KAR 55:090

902 KAR 55:030

401 KAR 5:002

401 KAR 5:026

401 KAR 5:029

401 KAR 5:030

401 KAR 5:031

401 KAR 5:002

401 KAR 5:026

401 KAR 5:029

KRS SECTION

REGULATION

KRS SECTION

REGULATION

	401 KAR	5:030	227.489	815 KAR	35:015
	401 KAR	5:031		815 KAR	35:030
224.10-100	401 KAR	5:002	227.490	815 KAR	35:015
224.10-110	401 KAR	5:002		815 KAR	35:030
224.16-050	401 KAR	5:002	227.4901	815 KAR	35:015
	401 KAR	5:026		815 KAR	35:030
	401 KAR	5:029	235.280	301 KAR	1:015
	401 KAR	5:030	235.990	301 KAR	1:015
	401 KAR	5:031	237.110	921 KAR	1:390
224.16-060	401 KAR	5:002	238.500-238.995	820 KAR	1:001
224.16-070	401 KAR	5:026	238.505	820 KAR	1:081
	401 KAR	5:029	238.515	820 KAR	1:015
	401 KAR	5:030	238.525	820 KAR	1:010
	401 KAR	5:031		820 KAR	1:015
224.40	401 KAR	5:002	238.535	820 KAR	1:070
	401 KAR	5:026		820 KAR	1:081
	401 KAR	5:030	238.545	820 KAR	1:030
	401 KAR	5:031		820 KAR	1:040
224.40-224.43	401 KAR	5:029		820 KAR	1:081
224.43	401 KAR	5:002	238.550	820 KAR	1:025
	401 KAR	5:026	238.570	820 KAR	1:025
	401 KAR	5:030	243.030	804 KAR	4:210
	401 KAR	5:031	Chapter 281	601 KAR	1:040
224.46	401 KAR	5:002	281.615	601 KAR	1:040
	401 KAR	5:026	281.617	601 KAR	1:040
	401 KAR	5:029	281.618	601 KAR	1:040
	401 KAR	5:030	281.619	601 KAR	1:040
	401 KAR	5:031	281.620	601 KAR	1:040
224.50	401 KAR	5:002	281.625	601 KAR	1:040
	401 KAR	5:026	281.627	601 KAR	1:040
	401 KAR	5:029	281.637	601 KAR	1:040
	401 KAR	5:030	281.650	601 KAR	1:040
	401 KAR	5:031	281.660	601 KAR	1:040
224.60	401 KAR	5:002	Chapter 287	808 KAR	1:140
	401 KAR	5:026	287.030	806 KAR	9:190
	401 KAR	5:029	292.310	808 KAR	10:260
	401 KAR	5:030	292.330	808 KAR	10:260
	401 KAR	5:031		808 KAR	10:400
	415 KAR	1:120	292.500	808 KAR	10:260
224.60-100	415 KAR	1:080	304.9-135	806 KAR	9:190
224.60-105	415 KAR	1:080	304.12-020	806 KAR	17:066
224.60-110	415 KAR	1:080	304.14-500-304.14-550	806 KAR	17:066
224.60-115	415 KAR	1:080	304.17-305	806 KAR	17:066
224.60-120	415 KAR	1:080	304.17-318	806 KAR	17:066
224.60-130	415 KAR	1:080	304.17A-005	806 KAR	17:205E
224.60-135	415 KAR	1:080	304.18-036	806 KAR	17:066
224.60-140	415 KAR	1:080	304.18-095	806 KAR	17:066
224.60-142	415 KAR	1:080	304.32-157	806 KAR	17:066
224.60-155	415 KAR	1:080	304.32-165	806 KAR	17:066
224.70	401 KAR	5:002	304.32-270	806 KAR	17:066
	401 KAR	5:026	304.38-193	806 KAR	17:066
	401 KAR	5:029	304.38-196	806 KAR	17:066
	401 KAR	5:030	304.38-200	806 KAR	17:066
	401 KAR	5:031	311.550	907 KAR	1:019
224.71	401 KAR	5:002		907 KAR	1:021
	401 KAR	5:026	311.560	902 KAR	20:275
	401 KAR	5:029		907 KAR	1:019
	401 KAR	5:030		907 KAR	1:021
	401 KAR	5:031	314.011	902 KAR	20:275
224.73	401 KAR	5:002	315.010	201 KAR	2:040
	401 KAR	5:026	315.020	201 KAR	2:040
	401 KAR	5:029	315.050	201 KAR	2:020
	401 KAR	5:030		201 KAR	2:040
	401 KAR	5:031	315.191	201 KAR	2:040
224.99-010	415 KAR	1:080	315.210	201 KAR	2:020
224.99-020	415 KAR	1:080	315.300	907 KAR	1:019
224.99-030	415 KAR	1:080	318.010	815 KAR	20:020
227.450	815 KAR	35:015		815 KAR	20:073
	815 KAR	35:030		815 KAR	20:110

KRS SECTION	REGULATION	KRS SECTION	REGULATION
318.015	815 KAR 20:020		101 KAR 2:102
318.130	815 KAR 20:020		101 KAR 3:011
	815 KAR 20:073		101 KAR 3:015
318.150	815 KAR 20:110	351.101	805 KAR 7:060
	815 KAR 20:020	351.102	805 KAR 7:010
	815 KAR 20:073		805 KAR 7:020
	815 KAR 20:110		805 KAR 7:030
318.200	815 KAR 20:020		805 KAR 7:040
321.193	201 KAR 16:015		805 KAR 7:050
321.195	201 KAR 16:015		805 KAR 7:060
321.201	201 KAR 16:015		805 KAR 7:070
321.207	201 KAR 16:015	351.103	805 KAR 7:010
	201 KAR 16:080	351.105	805 KAR 7:010
	201 KAR 16:090		805 KAR 7:020
321.211	201 KAR 16:015		805 KAR 7:030
321.221	201 KAR 16:015		805 KAR 7:040
334A.033	201 KAR 17:025		805 KAR 7:050
	201 KAR 17:027		805 KAR 7:060
334A.035	201 KAR 17:025	351.106	805 KAR 7:010
334A.050	201 KAR 17:011		805 KAR 7:020
	201 KAR 17:012		805 KAR 7:030
334A.080	201 KAR 17:013		805 KAR 7:040
334A.100	201 KAR 17:015		805 KAR 7:050
334A.160	201 KAR 17:030		805 KAR 7:070
334A.170	201 KAR 17:030		805 KAR 7:090
	201 KAR 17:090	352.350	805 KAR 7:090
334A.180	201 KAR 17:041	393.010	20 KAR 1:040
	201 KAR 17:070		20 KAR 1:070
335.130	201 KAR 23:075	393.040	20 KAR 1:040
335.300	201 KAR 32:010	393.110	20 KAR 1:040
335.307	201 KAR 32:041		20 KAR 1:080
335.320	201 KAR 32:045	393.140	20 KAR 1:040
	201 KAR 32:050	393.150	20 KAR 1:040
335.330	201 KAR 32:020	393.160	20 KAR 1:070
	201 KAR 32:025	403.215	921 KAR 1:410
	201 KAR 32:041	403.715-403.785	908 KAR 2:210
335.332	201 KAR 32:045	405.060	921 KAR 1:410
335.340	201 KAR 32:041	405.405	921 KAR 1:410
	201 KAR 32:060	405.430	921 KAR 1:380
335.348	201 KAR 32:050		921 KAR 1:390
335.500	201 KAR 36:060	405.430-405.510	921 KAR 1:410
335.505	201 KAR 36:060	405.467	921 KAR 1:410
335.525	201 KAR 36:060	405.520	921 KAR 1:020
335.615	201 KAR 38:050		921 KAR 1:380
	201 KAR 38:060	406.011	921 KAR 1:390
335.620	201 KAR 38:010	406.021	921 KAR 1:380
	201 KAR 38:020		921 KAR 1:390
	201 KAR 38:030	406.025	921 KAR 1:380
	201 KAR 38:040		921 KAR 1:390
338.051	803 KAR 2:300	406.180	907 KAR 1:390
	803 KAR 2:301	406.035	921 KAR 1:020
	803 KAR 2:306	407.5101-407.5701	921 KAR 1:410
	803 KAR 2:307	407.5101-407.5902	921 KAR 1:380
	803 KAR 2:309	427.120	921 KAR 1:410
	803 KAR 2:313	427.125	921 KAR 1:410
	803 KAR 2:414	Chapter 439	501 KAR 6:020
	803 KAR 2:500		501 KAR 6:030
338.061	803 KAR 2:300		501 KAR 6:040
	803 KAR 2:301		501 KAR 6:060
	803 KAR 2:306		501 KAR 6:110
	803 KAR 2:307		501 KAR 6:130
	803 KAR 2:309		501 KAR 6:170
	803 KAR 2:313		501 KAR 6:999
	803 KAR 2:414	Chapter 441	501 KAR 4:001
	803 KAR 2:500		501 KAR 9:001
341.360	907 KAR 1:011E	441.055	501 KAR 3:010
341.380	787 KAR 1:201		501 KAR 3:040
342.640	101 KAR 2:140		501 KAR 3:060
344.030	101 KAR 2:037		501 KAR 3:070

KRS SECTION

REGULATION

KRS SECTION

REGULATION

501 KAR 3:110
 501 KAR 3:120
 501 KAR 3:140
 501 KAR 7:010
 501 KAR 7:020
 501 KAR 7:040
 501 KAR 7:050
 501 KAR 7:060
 501 KAR 7:080
 501 KAR 7:120
 501 KAR 7:140
 501 KAR 10:010
 501 KAR 10:040
 501 KAR 10:060
 501 KAR 10:070
 501 KAR 10:140
 501 KAR 10:110
 501 KAR 10:120
 441.057
 508.100
 508.110
 508.120
 Chapters 600-645
 600.020
 605.110
 605.120
 Chapter 620
 620.010
 620.120
 7 CFR
 21 CFR
 26 CFR
 29 CFR
 31 CFR
 34 CFR
 40 CFR
 42 CFR
 45 CFR
 49 CFR
 7 USC

501 KAR 3:110
 501 KAR 3:120
 501 KAR 3:140
 501 KAR 7:010
 501 KAR 7:020
 501 KAR 7:040
 501 KAR 7:050
 501 KAR 7:060
 501 KAR 7:080
 501 KAR 7:120
 501 KAR 7:140
 501 KAR 10:010
 501 KAR 10:040
 501 KAR 10:060
 501 KAR 10:070
 501 KAR 10:140
 501 KAR 10:110
 501 KAR 10:120
 922 KAR 2:090E
 922 KAR 2:090E
 922 KAR 2:090E
 505 KAR 1:040
 922 KAR 2:090E
 505 KAR 1:080
 922 KAR 1:130
 922 KAR 2:160
 922 KAR 2:090E
 922 KAR 2:090E
 902 KAR 4:040E
 921 KAR 3:050
 902 KAR 55:020E
 902 KAR 55:025E
 902 KAR 55:030
 902 KAR 55:045
 902 KAR 55:090
 921 KAR 3:050
 101 KAR 2:037
 101 KAR 3:011
 803 KAR 2:300
 803 KAR 2:301
 803 KAR 2:306
 803 KAR 2:307
 803 KAR 2:309
 803 KAR 2:313
 803 KAR 2:414
 803 KAR 2:500
 921 KAR 3:050
 11 KAR 3:100
 401 KAR 5:002
 401 KAR 5:029
 415 KAR 1:080
 907 KAR 1:011E
 907 KAR 1:025E
 907 KAR 1:061
 907 KAR 1:155E
 907 KAR 1:640E
 907 KAR 1:675
 907 KAR 1:011E
 921 KAR 1:020
 921 KAR 1:380
 921 KAR 1:390
 921 KAR 1:410
 921 KAR 2:006E
 921 KAR 2:016E
 921 KAR 2:017E
 921 KAR 2:370E
 922 KAR 2:160
 601 KAR 1:040
 921 KAR 3:050

8 USC
 15 USC
 20 USC
 25 USC
 26 USC
 29 USC
 31 USC
 33 USC
 38 USC
 42 USC
 1998 Ky. Acts c. 615
 EO 96-1576
 EO 98-731
 EO 98-1443

922 KAR 2:160
 907 KAR 1:011E
 921 KAR 2:006E
 808 KAR 10:400
 921 KAR 1:410
 11 KAR 3:100
 922 KAR 2:160
 921 KAR 2:016E
 11 KAR 12:070
 101 KAR 2:037
 101 KAR 2:102
 101 KAR 3:011
 101 KAR 3:015
 921 KAR 1:020
 401 KAR 5:002
 907 KAR 1:011E
 401 KAR 5:002
 415 KAR 1:080
 907 KAR 1:011E
 907 KAR 1:025E
 907 KAR 1:061
 907 KAR 1:155E
 907 KAR 1:640E
 907 KAR 4:020
 921 KAR 1:020
 921 KAR 1:380
 921 KAR 1:390
 921 KAR 1:410
 921 KAR 2:006E
 921 KAR 2:016E
 921 KAR 2:017E
 921 KAR 2:370E
 921 KAR 4:120E
 922 KAR 2:160
 922 KAR 2:160
 505 KAR 1:040
 921 KAR 1:020
 921 KAR 1:380
 921 KAR 1:390
 922 KAR 1:130
 101 KAR 2:120
 101 KAR 3:045

SUBJECT INDEX

ABUSE INVESTIGATIONS

(See Justice Cabinet)

ADULT PROTECTIVE SERVICES

(See Community-Based Services)

ARCHIVES

(See Libraries and Archives)

ATHLETE AGENTS, DIRECTORY

Annual contact report; 200 KAR 30:060
Complaint review; 200 KAR 30:020
Definitions; 200 KAR 30:010
Fees; 200 KAR 30:040
Records retention; 200 KAR 30:070
Registration procedure; 200 KAR 30:030
Reinstatement; 200 KAR 30:050

CERTIFICATE OF NEED

(See Health Services)

CHARITABLE GAMING

Bingo standards; 820 KAR 1:040
Definitions; 820 KAR 1:001
Exempt activities; 820 KAR 1:070
Permanent licensure; 820 KAR 1:015
Quarterly reports of licensed organization; 820 KAR 1:025
Repeal of 820 KAR 1:080; 820 KAR 1:081
Temporary licensure; 820 KAR 1:010
Ticket standards; 820 KAR 1:030

CHILD WELFARE

(See Community-Based Services)

CHILDREN'S HEALTH INSURANCE PROGRAM

(See Medicaid)

COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Board of Regents
Acquisition, disbursement of funds, accounting system, record,
and annual report; 739 KAR 1:010E
Affiliated corporations; 739 KAR 1:050E
Annual audit; 739 KAR 1:030E
Delegation of financial management responsibility; 739 KAR
1:020E
Purchase, inventories, sale of surplus property procedures; 739
KAR 1:040E

COMMUNITY-BASED SERVICES (FAMILIES AND CHILDREN)

Adult Services
Adult protective services; 922 KAR 5:070
Child Welfare
Kinship Care Program; 922 KAR 1:130
Protection, permanency policy, procedures manual; 905 KAR
1:180
Child Support
Child support collection, distribution; 921 KAR 1:410
Child Support Program, application process; 921 KAR 1:380
Child Support Program, confidentiality, program administration
contracts, agreements; 921 KAR 1:020
Child Support Program, paternity establishment; 921 KAR 1:390
Day Care
Child care facility licensure; 922 KAR 2:090E
Child day care assistance program; 922 KAR 2:160
Energy Assistance Program/Weatherization

Summer Cooling Program; 921 KAR 4:120E

Food Stamp Program

Claims, additional administrative provisions; 921 KAR 3:050
K-Tap, Kentucky Works, Welfare to Work, State Supplementation
Kentucky Works supportive services; 921 KAR 2:017E
Standards for need and amount for K-TAP; 921 KAR 2:016E
Technical requirements for K-TAP; 921 KAR 2:006E
Technical requirements for Kentucky Works; 921 KAR 2:370E

CONTROLLED SUBSTANCES

(See Public Health)

CORRECTIONS

Full-Service Jails, Direct Supervision
Admission, release; 501 KAR 10:120
Classification; 501 KAR 10:110
Definitions; 501 KAR 10:010
Inmate rights; 501 KAR 10:140
Personnel; 501 KAR 10:040
Safety, emergency procedures; 501 KAR 10:070
Security, control; 501 KAR 10:060
Institution Policies and Procedures
Department policies and procedures; 501 KAR 6:020
Green River Correctional Complex; 501 KAR 6:170
Kentucky State Penitentiary; 501 KAR 6:040
Kentucky State Reformatory; 501 KAR 6:030
Northpoint Training Center; 501 KAR 6:060
Roederer Correctional Complex; 501 KAR 6:110
Secured policies and procedures; 501 KAR 6:999
Western Kentucky Correctional Complex; 501 KAR 6:130
Jail Standards, Full-Service Facilities
Admission, release; 501 KAR 3:120
Classification; 501 KAR 3:110
Definitions; 501 KAR 3:010
Inmate rights; 501 KAR 3:140
Personnel; 501 KAR 3:040
Safety, emergency procedures; 501 KAR 3:070
Security, control; 501 KAR 3:060
Juvenile Holding Facilities
Repealer; 501 KAR 9:001
Local Confinement Facilities, 96-Hour
Repealer; 501 KAR 4:001
Restricted Custody Centers
Administration, management; 501 KAR 7:020
Admission, release; 501 KAR 7:120
Definitions; 501 KAR 7:010
Inmate rights; 501 KAR 7:140
Personnel; 501 KAR 7:040
Physical plant; 501 KAR 7:050
Sanitation, hygiene; 501 KAR 7:080
Security, control; 501 KAR 7:060

COUNSELORS, FEE-BASED PASTORAL

(See Pastoral Counselors)

COUNSELORS, PROFESSIONAL

Qualifying experience under supervision; 201 KAR 36:060

COUNTY GOVERNMENT

(See Local Government)

CRIMINAL JUSTICE TRAINING

General Training Provisions
Basic training course recruit conduct requirements, procedures,
penalties; 503 KAR 3:010
Training course, trainee requirements, misconduct, penalties,

SUBJECT INDEX

discipline procedures; 503 KAR 3:020
Law Enforcement Council; 503 KAR Chapter 1
Law Enforcement Foundation Program; 503 KAR Chapter 5

DAY CARE

(See Community-Based Services)

DISTRICT SUPPORT SERVICES

School Administration, Finance
Repeal of 702 KAR 3:245; 702 KAR 3:244
Substitute teacher's salary scheduling; 702 KAR 3:075
Uniform school financial accounting system; 702 KAR 3:120

EDUCATION, ARTS, HUMANITIES CABINET

District Support Services
School administration, finance; 702 KAR Chapter 3
Education Professional Standards Board; 704 KAR Chapter 20
Learning Programs Development
Instruction; 704 KAR Chapter 3
Kindergarten, nursery school; 704 KAR Chapter 5
Learning Results Services
Assessment and accountability; 703 KAR Chapter 5
Libraries and Archives
Archives; 725 KAR Chapter 1

EDUCATION PROFESSIONAL STANDARDS BOARD

Adjunct instructor certificate, part time; 704 KAR 20:300
Certified school personnel, standards; 704 KAR 20:730
Middle, secondary school teachers, alternative training program
eligibility requirements; 704 KAR 20:590
Planned 5th Year Program; 704 KAR 20:021
Primary alternative certification program; 704 KAR 20:610
Repeal of various regulations; 704 KAR 20:011
Substitute teachers, emergency school personnel; 704 KAR 20:210
Teaching certificates, Kentucky; 704 KAR 20:670
Teacher certification, written examination prerequisites; 704 KAR
20:305
Teacher internship program; 704 KAR 20:690
Technology education teachers, probationary certificate; 704 KAR
20:475

EDUCATIONAL SAVINGS PLAN TRUST

(See Higher Education Assistance Authority)

ELECTION FINANCE

(See Registry of Election Finance)

ELECTRICAL INSPECTORS

Certification of electrical contractors; 815 KAR 35:030
Certification of electrical inspectors; 815 KAR 35:015

EMPLOYEES, STATE

(See also Personnel)
Personnel
Board; 101 KAR Chapter 1
Classified; 101 KAR Chapter 2
Unclassified; 101 KAR Chapter 3
Travel
Reimbursement for; 200 KAR 2:006

EMPLOYMENT SERVICES

Unemployment Insurance
Repeal of 787 KAR 1:200

FAMILIES AND CHILDREN

Community-Based Services
Adult services; 922 KAR Chapter 5
Child Welfare; 905 KAR Chapter 1; 922 KAR Chapter 1
Day care; 922 KAR Chapter 2

Energy Assistance Program/Weatherization; 921 KAR Chapter 4
Family support; 921 KAR Chapter 1
Food Stamp Program; 921 KAR Chapter 3
K-Tap, Kentucky Works, Welfare to Work, State Supplementa-
tion; 921 KAR Chapter 2

FAMILY SUPPORT

(See Community-Based Services)

FEE-BASED PASTORAL COUNSELORS

(See Counselors, Fee-Based Pastoral)

FINANCE, ADMINISTRATION CABINET

State Investment Commission; 200 KAR Chapter 14
Travel expense reimbursement; 200 KAR Chapter 2

FINANCIAL INSTITUTIONS

Administration
Bank annual assessment fee; 808 KAR 1:140
Securities
Examination fees, criteria; 808 KAR 10:400
Examination requirements for individuals advising public on
securities, broker-dealers, agents; 808 KAR 10:260

FIRE DEPARTMENTS (LOCAL)

Volunteer fire department aid; 815 KAR 45:080

FISH

(See Fish and Wildlife Resources)

FISH AND WILDLIFE RESOURCES

Fish
Assessing fish kill damages; 301 KAR 1:400
Boats, motor restrictions; 301 KAR 1:015
Fishing limits; 301 KAR 1:201
Mussel shell harvesting; 301 KAR 1:085
Game
Dove, wood duck, teal, other migratory game bird hunting; 301 KAR
2:225E
Wild turkey hunting requirements; 301 KAR 2:140

FOOD STAMP PROGRAM

(See Community-Based Services)

FULL-SERVICE JAILS, DIRECT SUPERVISION

(See Corrections)

FULL-SERVICE FACILITIES, JAIL STANDARDS

(See Corrections)

GAME

(See Fish and Wildlife Resources)

GAMING

(See Charitable Gaming)

HEALTH SERVICES (CABINET)

Certificate of Need
Administrative regulation; 900 KAR 6:050
Medicaid
Services; 907 KAR Chapter 1
Kentucky Children's Health Insurance Program; 907 KAR
Chapter 4
Mental Health/Mental Retardation Services
Institutional care; 908 KAR Chapter 3
Mental health; 908 KAR Chapter 2
Public Health
Controlled substances; 902 KAR Chapter 55
Health services and facilities; 902 KAR Chapter 20

SUBJECT INDEX

Maternal, child health; 902 KAR Chapter 4
State Health Plan; 902 KAR Chapter 17

HEALTH SERVICES AND FACILITIES (See Public Health)

HEALTH PLAN (STATE) (See Public Health)

HIGHER EDUCATION ASSISTANCE AUTHORITY

Educational Savings Plan Trust
Benefits payable from fund; 11 KAR 12:070
Cancellation, partial withdrawal, refund payment; 11 KAR 12:060
Definitions; 11 KAR 12:010
Investments, fund transfers; general rules; 11 KAR 12:020
Kentucky Loan Program
Administrative wage garnishment; 11 KAR 3:100

HIGHWAYS

Traffic
Access control of highways; 603 KAR 5:120
Encroachment permits; 603 KAR 5:150

HOUSING, BUILDINGS AND CONSTRUCTION

Electrical inspectors; 815 KAR Chapter 35
Local fire departments; 815 KAR Chapter 45
Plumbing; 815 KAR Chapter 20

INSURANCE

Agents, Consultants, Solicitors, Adjusters
Disclosure requirements for financial institutions authorized to
engage in insurance agency activities; 806 KAR 9:190
Health Insurance Contracts
High-cost condition codes, severity questionnaire; 806 KAR
17:205E
Medicare supplement insurance policies; 806 KAR 17:066

INVESTMENT COMMISSION, STATE

Money market instruments; guidelines; 200 KAR 14:091
Qualified investments; 200 KAR 14:011
Repurchase agreement; 200 KAR 14:081

JAIL STANDARDS

(See Corrections)

JUSTICE CABINET

Abuse Investigation
Internal Investigations Unit; 500 KAR 13:020
Corrections Department
Full-service jails, direct supervision; 501 KAR Chapter 10
Institution policies and procedures; 501 KAR Chapter 6
Jail standards, full-service facilities; 501 KAR Chapter 3
Juvenile holding facilities; 501 KAR Chapter 9
Local confinement facilities, 96-hour; 501 KAR Chapter 4
Restricted custody centers; 501 KAR Chapter 7
Criminal Justice Training
General training provisions; 503 KAR Chapter 3
Law Enforcement Council; 503 KAR Chapter 1
Law Enforcement Foundation Program; 503 KAR Chapter 5
Juvenile Justice
Child welfare; 505 KAR Chapter 1
State Police
Sex offender registration system; 502 KAR Chapter 31

JUVENILE JUSTICE

Child Welfare
Policy and procedures manual; 505 KAR 1:040

K-TAP

(See Community Based Services)

KENTUCKY LOAN PROGRAM

(See Higher Education Assistance Authority)

KENTUCKY WORKS

(See Community Based Services)

LABOR CABINET

Occupational safety, health; 803 KAR Chapter 2

LAW ENFORCEMENT COUNCIL

Basic training, graduation requirements, records; 503 KAR 1:110E

LAW ENFORCEMENT FOUNDATION PROGRAM

Participation, requirements, application, withdrawal; 503 KAR 5:090E

LEARNING PROGRAMS DEVELOPMENT

Instruction
Programs for the gifted and talented; 704 KAR 3:285
Kindergarten, Nursery School
Repeal of 704 KAR 5:050; 704 KAR 5:051

LEARNING RESULTS SERVICES

Assessment and Accountability
Administration code for Kentucky's Educational Assessment
Program; 703 KAR 5:080
Repeal of 703 KAR 4:010, 703 KAR 3:060, 703 KAR 4:080, 703
KAR 4:090, 703 KAR 4:100; 703 KAR 5:111
Repeal of 703 KAR 4:110; 703 KAR 5:112

LIBRARIES AND ARCHIVES

Archives
Repeal of 725 KAR 1:070; 725 KAR 1:071E
Libraries
Certification of public librarians; 725 KAR 2:060
Certification renewal of public librarians; 725 KAR 2:070

LOCAL GOVERNMENT

County Budget
State local finance officer policy manual; 109 KAR 15:020
Training Incentives
Training incentive; 109 KAR 2:020

MARRIAGE AND FAMILY THERAPISTS

Associate; 201 KAR 32:025
Code of ethics; 201 KAR 32:050
Continuing education requirements; 201 KAR 32:060
Definitions; 201 KAR 32:010
Equivalent course of study; 201 KAR 32:020
Examination; 201 KAR 32:045
Psychopathology coursework; 201 KAR 32:041

MATERNAL, CHILD HEALTH

(See Public Health)

MEDICAID

Children's Health Insurance Program
Program; 907 KAR 4:020
Medicaid Services
Community living services; payments for supports; 907 KAR
1:155E
Income standards; 907 KAR 1:640E
Hospital inpatient services, payments; 907 KAR 1:013E
Medical transportation; 907 KAR 1:060
Medical transportation, payments; 907 KAR 1:061
Nursing and intermediate facility for mentally retarded services,
payment; 907 KAR 1:025E

SUBJECT INDEX

Program integrity; 907 KAR 1:675
Technical eligibility requirements; 907 KAR 1:011E

MENTAL HEALTH/MENTAL RETARDATION SERVICES

Institutional Care

Kentucky Correctional Psychiatric Center policies, procedures;
908 KAR 3:160

Mental Health

Domestic violence offender treatment certification standards; 908
KAR 2:210

MINES AND MINERALS

Miner Training, Education, Certification

Annual retraining; 805 KAR 7:030
Hazard training; 805 KAR 7:090
Inexperienced miners, training and certification; 805 KAR 7:020
New work assignments, training; 805 KAR 7:050
Newly employed miners, training; 805 KAR 7:040
Program approval; 805 KAR 7:060
Record maintenance; 805 KAR 7:070
Training, education and certification; 805 KAR 7:010

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Environmental Protection

Waste management; 401 KAR Chapters 47-49
Water; 401 KAR Chapter 5

NURSING HOME ADMINISTRATORS BOARD

Fees; 201 KAR 6:060
Other requirements for licensure; 201 KAR 6:020

OCCUPATIONAL SAFETY, HEALTH

Adoption, extension of established federal standards; 803 KAR 2:301
General; 803 KAR 2:300
General environmental controls; 803 KAR 2:309
Hazardous materials; 803 KAR 2:307
Maritime employment; 803 KAR 2:500
Materials handling and storage; 803 KAR 2:313
Motor vehicles, mechanized equipment, marine operations; 803 KAR
2:414
Occupational health, environmental control; 803 KAR 2:306

OCCUPATIONS AND PROFESSION

Counselors (professional); 201 KAR Chapter 36
Marriage and family therapists; 201 KAR Chapter 32
Nursing home administrators; 201 KAR Chapter 6
Pharmacy; 201 KAR Chapter 2
Social work; 201 KAR Chapter 23
Speech-language pathology, audiology; 201 KAR Chapter 17
Veterinary examiners; 201 KAR Chapter 16

PASTORAL COUNSELORS

Application; 201 KAR 38:020
Board members' travel expenses; 201 KAR 38:050
Code of ethics; 201 KAR 38:060
Definitions; 201 KAR 38:010
Equivalent course of study; 201 KAR 38:030
Fees; 201 KAR 38:040

PERSONNEL

Board

Probationary periods; 101 KAR 1:325

Classified

Applications, qualifications, examinations; 101 KAR 2:046
Classification plan; 101 KAR 2:020
Classified leave; 101 KAR 2:102
Classified service; 101 KAR 2:095
Compensation; 101 KAR 2:034
Eligibles; certification, selection for appointment; 101 KAR 2:066

Incentive programs; 101 KAR 2:120
Kentucky Employee Assistance Program; 101 KAR 2:160
Registers; 101 KAR 2:056
Repeal of 101 KAR 2:036 and 101 KAR 2:100; 101 KAR 2:037
Sick leave sharing procedures; 101 KAR 2:105
State safety program; 101 KAR 2:150
Vacancies, detail to special duty, temporary overlap; 101 KAR
2:076
Worker's compensation fund, program; 101 KAR 2:140
Unclassified
Compensation plan, pay incentives; 101 KAR 3:045
Leave; 101 KAR 3:015
Promotion, transfer, disciplinary actions; 101 KAR 3:050
Repeal of 101 KAR 3:010; 101 KAR 3:011

PETROLEUM STORAGE TANK ENVIRONMENTAL ASSURANCE FUND

Claims procedures; 415 KAR 1:080

PHARMACY BOARD

Examinations; 201 KAR 2:020
Pharmacist intern registration; 201 KAR 2:040

PLUMBING

Installation standards for water, waste piping of certain material;
815 KAR 20:073
Parts, materials list; 815 KAR 20:020
Traps and clean-outs; 815 KAR 20:110

PROFESSIONAL COUNSELORS

(See Counselors, Professional)

PUBLIC HEALTH

Controlled Substances

Exempt anabolic steroid products; 902 KAR 55:090
Exempt prescription products; 902 KAR 55:045
Schedule II substances; 902 KAR 55:020E
Schedule III substances; 902 KAR 55:025E
Schedule IV substances; 902 KAR 55:030

Health Services and Facilities

Mobile health services; 902 KAR 20:275
Repeal of 902 KAR 20:220; 902 KAR 20:221

Maternal, Child Health

Special Supplemental Nutrition Program for Women, Infants and
Children; 902 KAR 4:040E

State Health Plan

Plan for facilities and services; 902 KAR 17:041

PUBLIC PROTECTION AND REGULATION CABINET

Charitable gaming; 820 KAR Chapter 1

Financial Institutions

Securities; 808 KAR Chapter 10

Housing, Buildings and Construction

Electrical inspectors; 815 KAR Chapter 35
Local fire departments; 815 KAR Chapter 45
Plumbing; 815 KAR Chapter 20

Insurance

Agents, consultants, solicitors, adjusters; 806 KAR Chapter 9
Health insurance contracts; 806 KAR Chapter 17

Mines and Minerals

Miner training, education, certification; 805 KAR Chapter 7

Petroleum Storage Tank Environmental Assurance Fund; 415 KAR
Chapter 1

REGISTRY OF ELECTION FINANCE

Reports and Forms

24-hour gubernatorial slate reporting; 32 KAR 1:180

SUBJECT INDEX

RESTRICTED CUSTODY CENTERS

(See Corrections)

REVENUE

(See also Taxation)

Corporation, license tax; 103 KAR Chapter 20

Sales and Use Tax

General exemptions; 103 KAR Chapter 30

SECURITIES

(See Financial Institutions)

SEX OFFENDER REGISTRATION SYSTEM

(See State Police)

SOCIAL WORK BOARD

Continuing education; 201 KAR 23:075

SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY BOARD

Board members, expenses, expenses; 201 KAR 17:015

Complaint procedure; 201 KAR 17:070

Continuing education requirements; 201 KAR 17:090

License fees; 201 KAR 17:030

Licensure requirements; 201 KAR 17:012

Professional code of ethics; 201 KAR 17:041

Requirements for interim licensure; 201 KAR 17:011

Requirements for interim license as assistant; 201 KAR 17:025

Repeal of 201 KAR 17:010, 201 KAR 17:080, 201 KAR 17:091; 201 KAR 17:013

Supervision requirements for assistant; 201 KAR 17:027

STATE EMPLOYEES

(See Personnel)

STATE INVESTMENT COMMISSION

(See Investment Commission, State)

STATE POLICE

Sex Offender Registration System

System; 502 KAR 31:020

TAXATION

Corporation, License Tax

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

Sales and Use Tax: General Exemptions

Repeal of 103 KAR 30:095; 103 KAR 30:096

Sales to farmers; 103 KAR 30:091

TECHNICAL COLLEGES

(See Community and Technical College System)

THERAPISTS (MARRIAGE AND FAMILY)

(See Marriage and Family Therapists)

TOURISM

Fish and Wildlife Resources

Fish; 301 KAR Chapter 1

Game; 301 KAR Chapter 2

TRAFFIC

(See Highways)

TRANSPORTATION

Highways

Traffic; 603 KAR Chapter 5

Vehicle Regulation

Motor carriers; 601 KAR Chapter 1

TRAVEL EXPENSE, STATE

Reimbursement for travel; 200 KAR 2:006E

TREASURY

Unclaimed Property

Administrative hearing, appeals process; 20 KAR 1:070

Claims; 20 KAR 1:040

Reports to be filed by holders; 20 KAR 1:080

UNCLAIMED PROPERTY

(See Treasury)

UNEMPLOYMENT INSURANCE

(See Employment Services)

VEHICLE REGULATION

Motor Carriers

Application for operating authority, registration of motor carriers;

601 KAR 1:040

VETERINARY EXAMINERS

Animal euthanasia specialist, certification; 201 KAR 16:090

Certified animal control agencies; 201 KAR 16:080

Fees; 201 KAR 16:015

WASTE MANAGEMENT

Solid Waste Facilities

Registered permit-by-rule; 401 KAR 47:110

Solid Waste Facility Standards

Less-than-one-acre construction/demolition debris landfills, operating requirements; 401 KAR 48:320

WATER

Water Quality

Antidegradation policy implementation methodology; 401 KAR 5:030

Definitions; 401 KAR Chapter 5

Designation of uses of surface waters; 401 KAR 5:026

General provisions; 401 KAR 5:029

Surface water standards; 401 KAR 5:031

WELFARE TO WORK

(See Community Based Services)

WORKFORCE DEVELOPMENT CABINET

Employment Services

Unemployment insurance; 787 KAR Chapter 1