

ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 26, NUMBER 7
SATURDAY, JANUARY 1, 2000

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MEETING NOTICE

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on January 12, 2000, at noon in Room 149 of the Capitol Annex. See tentative agenda on pages 1339-1341 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)

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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.

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**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA – January 12, 2000 at 12 noon in Room 149, Capitol Annex**

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Child Sexual Abuse and Exploitation Prevention Board
Victims Advocacy Division**

Kentucky Victim and Witness Protection Program

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Department of Personnel, Classified

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Department of Personnel, Unclassified

101 KAR 3:015E. Leave administrative regulations for the unclassified service.

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Board of Medical Licensure

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201 KAR 9:310. Continuing medical education. (Deferred from June)

Kentucky Board of Speech-Language Pathology and Audiology

201 KAR 17:011. Requirements for interim licensure. (Deferred from November)

201 KAR 17:012. Requirements for licensure. (Deferred from December)

201 KAR 17:013. Repeal of 201 KAR 17:010, 201 KAR 17:080, and 201 KAR 17:091. (Deferred from November)

201 KAR 17:015. Board members, expenses. (Deferred from November)

201 KAR 17:025. Requirements for an interim license as a speech-language pathology assistant. (Deferred from November)

201 KAR 17:027. Supervision requirements for a speech-language pathology assistant. (Deferred from November)

201 KAR 17:030. License fees. (Deferred from December)

201 KAR 17:041. Professional code of ethics. (Deferred from November)

201 KAR 17:070. Complaint procedure. (Deferred from November)

201 KAR 17:090. Continuing education requirements. (Deferred from November)

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

Game

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

Hunting and Fishing

301 KAR 3:015. Shooting ranges on wildlife management areas.

Licensing

301 KAR 5:050. Purchasing licenses electronically.

**ECONOMIC DEVELOPMENT CABINET
Department for Financial Incentives
Kentucky Enterprise Zone Program**

Economic Development

306 KAR 1:010. Definitions.

306 KAR 1:020. Application process for new or existing business.

306 KAR 1:030. Eligibility requirements for expansion of an enterprise zone.

306 KAR 1:040. Qualified business certificates.

306 KAR 1:045. Monitoring.

306 KAR 1:070. Duties of the authority.

**JUSTICE CABINET
Department of Corrections**

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.

Ninety-six (96) Hour Local Confinement Facilities (Deferred from December)

501 KAR 4:001. Repeal of 501 KAR 4:010, 4:020, 4:030, 4:040, 4:050, 4:060, 4:070, 4:080, 4:090, 4:100, 4:110, 4:120, 4:130 and 4:140.

Division of Adult Institutions

Office of the Secretary

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501 KAR 6:170. Green River Correctional Complex.

Restricted Custody Center (Deferred from August)

501 KAR 7:010. Definitions.

501 KAR 7:020. Administration; management.

501 KAR 7:040. Personnel.

501 KAR 7:050. Physical plant.

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501 KAR 7:060. Security; control.
501 KAR 7:080. Sanitation; hygiene.
501 KAR 7:120. Admission; release.
501 KAR 7:140. Inmate rights.

Juvenile Holding Facilities (Deferred from December)

501 KAR 9:001. Repeal of 9:010, 9:025, 9:030, 9:040, 9:050, 9:060, 9:070, 9:080, 9:090, 9:100, 9:110, 9:120, 9:130, 9:140 and 9:150.

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Department of Criminal Justice Training

Kentucky Law Enforcement Council

503 KAR 1:110 & E. Department of Criminal Justice Training basic training: graduation requirements; records.

Law Enforcement Foundation Program Fund

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Department of Juvenile Justice

Juvenile Detention Facilities

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505 KAR 2:020. Administration, organization and management.
505 KAR 2:030. Personnel.
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505 KAR 2:210. Application for construction, expansion or renovation.
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TRANSPORTATION CABINET

Department of Vehicle Regulation

Division of Motor Carriers

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EDUCATION PROFESSIONAL STANDARDS BOARD

Board

704 KAR 20:690. Kentucky Teacher Internship Program. (Deferred from December)

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Board of Regents

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739 KAR 1:020 & E. Delegation of financial management responsibility.
739 KAR 1:030 & E. Annual audit.
739 KAR 1:040 & E. Purchase -- inventories -- sale of surplus property procedures.
739 KAR 1:050 & E. Affiliated corporations.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Insurance

Health Insurance Contracts

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Department of Financial Institutions

Securities

808 KAR 10:340. Registration exemption for certain limited offerings made exclusively to accredited investors.

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

Maternal and Child Health (Deferred from December)

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

Emergency Medical Technicians

902 KAR 13:010. Definitions for 902 KAR Chapter 13.

902 KAR 13:030. Fees.

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

902 KAR 13:070. Emergency medical technician-basic instructors and EMT-instructor trainers.

902 KAR 13:080. Emergency medical technician-basic authorized procedures.

902 KAR 13:090. Disciplinary actions.

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

902 KAR 13:140. Emergency medical services educational institutions and emergency medical services testing agencies.

902 KAR 13:150. Emergency medical technician-basic course requirements.

902 KAR 13:151. Repeal of 902 KAR 13:020 and 902 KAR 13:130.

Health Services and Facilities

902 KAR 20:275. Mobile health services. (Amended After Hearing) (Deferred from November)

Controlled Substances

902 KAR 55:020 & E. Schedule II substances.

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Department for Medicaid Services

Medicaid Services

907 KAR 1:011 & E. Technical eligibility requirements.

907 KAR 1:013E. Payments for hospital inpatient services. (Deferred from October)

907 KAR 1:023. Review and approval of selected therapies as ancillary services in nursing facilities.

907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services. (Deferred from October)

907 KAR 1:031. Payments for home health services.

907 KAR 1:044E. Mental health center services.

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

(Deferred from September)

907 KAR 1:605. Medicaid procedures for determining initial and continuing eligibility.

907 KAR 1:640 & E. Income standards for Medicaid.

907 KAR 1:645. Resource standards for Medicaid.

Payment and Services

907 KAR 3:110E. Community mental health center substance abuse services.

Kentucky Children's Health Insurance Program

907 KAR 4:030E. Kentucky Children's health Insurance Program Phase III Title XXI of the Social Security Act.

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

Substance Abuse

908 KAR 1:310. Certification standards and administrative procedures for driving under the influence programs. (Amended After Hearing) (Deferred from May)

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

K-TAP, Kentucky Works, Welfare to Work, State Supplementation (Deferred from December)

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

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

921 KAR 2:017E. Kentucky Works supportive services.

921 KAR 2:370E. Technical requirements for Kentucky Works.

Protection and Permanency

Day Care

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

Adult Services

922 KAR 5:090. General adult services.

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

Notice of Intent

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

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

Filing and Publication

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

Public Hearing

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

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

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

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

Review Procedure

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

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

STATE BOARD OF PODIATRY

December 15, 1999

- (1) **201 KAR 25:031.** Continuing education.
- (2) The State Board of Podiatry 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 January 22, at 10 a.m., Capitol Building, 700 Capitol Avenue, Room 114, 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 January 22, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Stuart A. Naulty, DPM, 906B S. 12th Street, Murray, Kentucky 42071-2947, Phone (270) 759-0007, Fax: (270) 753-0684.
- (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 Stuart A. Naulty, D.P.M. at the above address, or by calling (270) 759-0007 between the hours of 8:30 a.m. and 4:30 p.m., Central Time, Monday through Friday.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to continuing education is KRS 311.410(4).
 - (b) The administrative regulation that the State Board of Podiatry intends to promulgate will amend an existing administrative regulation. It will detail the process for requesting a waiver, extension, or inactive status for continuing education for licensed podiatrists and the requirements for reporting the continuing education that the podiatrist have acquired to the board.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 311.450(2) allows the board to establish by administrative regulation requirements for mandatory continuing education for podiatrists licensed to practice within the Commonwealth as a condition for obtaining their annual license renewal. This administrative regulation establishes the continuing education and the reporting requirements that podiatrists must meet to obtain their annual license renewal.
 - (d) The benefit expected from this administrative regulation is that continuing education requirements for licensed podiatrists will insure that licensed podiatrists acquire the information necessary maintain their professional competence. The amendment to the regulation will set out situations for which the board will grant waivers or extensions of the continuing education requirements.
- (e) This administrative regulation will be implemented as follows: licensed podiatrists will be required to comply with this administrative regulation, and the State Board of Podiatry will enforce the administrative regulation.

KENTUCKY ATHLETIC COMMISSION

December 15, 1999

- (1) **201 KAR 27:005.** Definitions.
- (2) The Kentucky Athletic Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.
 - (a) The statutory authority for the promulgation of administrative regulations relating to definitions for boxing and wrestling is KRS 229.180.
 - (b) The administrative regulation that the Athletic Commission intends to promulgate will amend existing definitions to clarify the terms and add new definitions which are necessary to carry out its statutory mandate.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to adopt rules and regulations considered necessary to carry out the function of regulating boxing and wrestling. This regulation will establish definitions necessary to implement and carry out these statutory duties.
 - (d) The benefit expected from these administrative regulations is that these new definitions will remove ambiguity from existing regulatory framework and set forth in more detail, roles, duties and responsibilities of those involved with or participating in boxing or wrestling.
 - (e) The administrative regulations will be implemented as follows: Persons involved or participating in boxing or wrestling events will be

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required to comply with this administrative regulation, and the Kentucky Athletic Commission will enforce the administrative regulations.

December 15, 1999

- (1) **201 KAR 27:008.** Licensing requirements and fees.
- (2) The Kentucky Athletic Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.
 - (a) The statutory authority for the promulgation of administrative regulations relating to licensing requirements is KRS 229.180.
 - (b) The administrative regulation that the Athletic Commission intends to promulgate will amend 201 KAR 27:008 to establish new license fees and to better define the obligation of licensees.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation licensing requirements for individuals participating in all aspects of boxing and wrestling. This regulation will establish fees for licensees and set forth regulatory guidelines for licensees.
 - (d) The benefit expected from these administrative regulations is ensure that all entities associated with the boxing and wrestling industries are properly licensed and certified, therefore being able to be held accountable for violations of the standards of safety and conduct.
 - (e) The administrative regulations will be implemented as follows: Persons involved in the boxing and wrestling industry will be required to comply with this administrative regulation to maintain their license, and the Kentucky Athletic Commission will enforce the administrative regulations.

December 15, 1999

- (1) **201 KAR 27:009.** Financial interest in boxer prohibited.
- (2) The Kentucky Athletic Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.
 - (a) The statutory authority for the promulgation of administrative regulations relating to the sport of boxing is KRS 229.180.
 - (b) The administrative regulation that the Athletic Commission intends to promulgate will create a new regulation limiting the financial interest that individuals may have in a boxer as per federal law.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation rules necessary to promote and ensure that the sport of boxing is fair and above board, and that participants in the sport are protected from unscrupulous individuals.
 - (d) The benefit expected from these administrative regulations is ensure that it will be more difficult for matchmakers and promoters to take advantage of boxers and dictate the results of fights or take large portions of the purse for their own gain at the expense of the participant.
 - (e) The administrative regulations will be implemented as follows: Persons involved in boxing will be required to comply with this administrative regulation, and the Kentucky Athletic Commission will enforce the administrative regulations.

December 15, 1999

- (1) **201 KAR 27:010.** General requirements for boxing, elimination events, kick boxing, matches, shows, or exhibitions.
- (2) The Kentucky Athletic Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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

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2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to January 24, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.
 - (a) The statutory authority for the promulgation of administrative regulations relating to boxing events is KRS 229.180.
 - (b) The administrative regulation that the Athletic Commission intends to promulgate will amend 201 KAR 27:010 and will more clearly set forth the types of equipment which must be on the premises for a licensed professional event or show.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation requirements for individuals who put on boxing events or shows in order to ensure that each show will have all necessary and proper equipment and personnel on site to put on a safe show for the participants. This regulation will establish said standards.
 - (d) The benefit expected from these administrative regulations is ensure that all entities putting on boxing shows or events will have all necessary equipment on site and will therefore be able to be held accountable for violations of the standards of safety and conduct. Further, newly promulgated standards will help ensure the safety of the participants and audience.
 - (e) The administrative regulations will be implemented as follows: Persons interested in putting on boxing events will be required to comply with this administrative regulation, and the Kentucky Athletic Commission will enforce the administrative regulations.

December 15, 1999

- (1) **201 KAR 27:011.** Boxing contracts.
- (2) The Kentucky Athletic Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.
 - (a) The statutory authority for the promulgation of administrative regulations relating to the sport of boxing is KRS 229.180.
 - (b) The administrative regulation that the Athletic Commission intends to promulgate will create a new regulation governing the scope and nature of boxing contracts as per federal guidelines.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation rules governing the sport of boxing. This regulation will further spell out the aspects of boxing contracts.
 - (d) The benefit expected from these administrative regulations is ensure that all entities associated with the sport of boxing will comply with the regulatory requirements so that all contracts will contain certain terms and conditions for the protection of the participants.
 - (e) The administrative regulations will be implemented as follows: Persons interested in promoting sponsoring, managing or involved in boxing will be required to comply with this administrative regulation, and the Kentucky Athletic Commission will enforce the administrative regulations.

December 15, 1999

- (1) **201 KAR 27:012.** Wrestling requirements.
- (2) The Kentucky Athletic Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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 admin-

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of administrative regulations relating to wrestling requirements is KRS 229.180.

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

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

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

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

December 15, 1999

(1) **201 KAR 27:013.** Scoring and conduct of boxing, kick boxing, and elimination events.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.

(a) The statutory authority for the promulgation of administrative regulations relating to boxing, kick boxing and elimination events is KRS 229.180.

(b) The administrative regulation that the Athletic Commission intends to promulgate will amend 201 KAR 27:013 to establish the duration of boxing events, the duration of suspensions for contestants who were knocked out or injured, and prohibiting boxing matches between members of the opposite sex.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation rules for boxing, kick boxing and elimination events for the safety of the participants. This regulation will establish said standards.

(d) The benefit expected from these administrative regulations is ensure that participants will have an established duration of bouts, certain time for knockouts and from preventing matches between the opposite sexes. Further, newly promulgated standards will help ensure the safety of the participants.

(e) The administrative regulations will be implemented as follows: Persons involved in boxing, kick boxing or elimination events will be required to comply with this administrative regulation, and the Kentucky Athletic Commission will enforce the administrative regulations.

December 15, 1999

(1) **201 KAR 27:014.** Female boxing guidelines.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.

(a) The statutory authority for the promulgation of administrative regulations relating to the sport of boxing is KRS 229.180.

(b) The administrative regulation that the Athletic Commission intends to promulgate will create a new regulation establishing guidelines and medical testing requirements for female boxers.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation rules and regulations for boxing matches involving females. This regulation will establish said standards.

(d) The benefit expected from these administrative regulations is ensure that women participating in the sport of boxing will have established rules and regulations, and medical testing requirements for the safety of the participants. Further, newly promulgated standards will help ensure the safety of the participants.

(e) The administrative regulations will be implemented as follows: Females involved in boxing will be required to comply with this administrative regulation, and the Kentucky Athletic Commission will enforce the administrative regulations.

December 15, 1999

(1) **201 KAR 27:015.** Prompt payment of fees, fines and forfeitures required.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.

(a) The statutory authority for the promulgation of administrative regulations relating to boxing and wrestling requirements is KRS 229.180.

(b) The administrative regulation that the Athletic Commission intends to promulgate will amend 201 KAR 27:015 to raise the fees that officials participating in professional shows will be paid.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation fees to be paid to individuals officiating or participating in professional shows. This regulation will establish said standards.

(d) The benefit expected from these administrative regulations is ensure that by paying individuals officiating professional shows a higher rate, it will ensure professional and quality individuals.

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

December 15, 1999

(1) **201 KAR 27:035.** Seconds.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.

(a) The statutory authority for the promulgation of administrative regulations relating to boxing is KRS 229.180.

(b) The administrative regulation that the Athletic Commission intends to promulgate will amend 201 KAR 27:035 to restrict the number of seconds allowed in the ring.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation rules of conduct for boxing events. This regulation will establish said standards for the number of people allowed in the ring.

(d) The benefit expected from these administrative regulations is ensure order in the ring.

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

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December 15, 1999

- (1) **201 KAR 27:040. Managers.**
- (2) The Kentucky Athletic Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.
 - (a) The statutory authority for the promulgation of administrative regulations relating to boxing is KRS 229.180.
 - (b) The administrative regulation that the Athletic Commission intends to promulgate will amend 201 KAR 27:040 to limit and better define the roles and activities that a manager may participate in.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation rules establishing a code of conduct of individuals who participate in boxing as managers. This regulation will establish said standards.
 - (d) The benefit expected from these administrative regulations is to prevent managers from taking advantage of participants and protect the integrity of the sport.
 - (e) The administrative regulations will be implemented as follows: Persons involved in boxing as managers will be required to comply with this administrative regulation, and the Kentucky Athletic Commission will enforce the administrative regulations.

December 15, 1999

- (1) **201 KAR 27:055. Physicians.**
- (2) The Kentucky Athletic Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.
 - (a) The statutory authority for the promulgation of administrative regulations relating to boxing and wrestling requirements is KRS 229.180.
 - (b) The administrative regulation that the Athletic Commission intends to promulgate will amend 201 KAR 27:055 to require that any wrestling show have a licensed physician present.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation to set rules for the matches, standards of conduct and safety for the participants. This regulation will aid in those standards.
 - (d) The benefit expected from these administrative regulations is ensure that the newly promulgated regulation will help ensure the safety of the participants and audience by having a doctor on the premises.
 - (e) The administrative regulations will be implemented as follows: Persons interested in promoting wrestling events or participating as a professional wrestler will be required to comply with this administrative regulation, and the Kentucky Athletic Commission will enforce the administrative regulations.

December 15, 1999

- (1) **201 KAR 27:075. Matchmakers.**
- (2) The Kentucky Athletic Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.

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(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.

(a) The statutory authority for the promulgation of administrative regulations relating to boxing and wrestling requirements is KRS 229.180.

(b) The administrative regulation that the Athletic Commission intends to promulgate will create a new regulation to define, establish and limit the scope and roles which matchmakers may play in a boxer's career or match.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation rules establishing a code of conduct for individuals participating in boxing and wrestling as matchmakers. This regulation will establish said standards.

(d) The benefit expected from these administrative regulations is ensure that all entities associated with boxing and wrestling as matchmakers will act within the defined rules of conduct to prevent participants from being taken advantage of and helping to ensure the integrity of the events.

(e) The administrative regulations will be implemented as follows: Persons promoting boxing and wrestling events will be required to comply with this administrative regulation, and the Kentucky Athletic Commission will enforce the administrative regulations.

December 15, 1999

(1) **201 KAR 27:085.** Promoters.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000, 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 January 24, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Nancy Black, Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602-0456, 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.

(a) The statutory authority for the promulgation of administrative regulations relating to boxing and wrestling requirements is KRS 229.180.

(b) The administrative regulation that the Athletic Commission intends to promulgate will create a new regulation which governs individuals who act as promoters for wrestling and boxing events, and limits what aspects of wrestling and boxing individuals acting as promoters may participate in.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 229.180 allows the commission to establish by administrative regulation rules governing the code of conduct of individuals acting as promoters. This regulation will establish said standards.

(d) The benefit expected from these administrative regulations is ensure that all promoters are licensed and certified and acting within the defined parameters to protect the integrity of the sport and the participants. Further, newly promulgated standards will help ensure the safety of the participants and audience.

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

COMMERCIAL MOBILE RADIO SERVICE EMERGENCY TELECOMMUNICATIONS BOARD OF KENTUCKY

November 22, 1999

(1) **202 KAR 6:010.** Definitions for 202 KAR Chapter 6.

(2) The Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky 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 January 26, 2000, at 10 a.m. in the Telecommunications Conference Room, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601.

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

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

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

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204.

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

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

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

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

(b) Persons who wish to file the request may obtain a request form from the CMRS Administrator at the above address.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 65.7633(1).

(b) The proposed regulation provides definitions for certain essential terms used in 202 KAR Chapter 6.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 65.7633(1) requires the CMRS Board to implement the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations. This regulation provides definitions for certain essential terms used in 202 KAR Chapter 6.

(d) The benefit expected from this proposed administrative regulation is as follows: Clearer understanding of terminology used in 202 KAR Chapter 6 and the intent of KRS 65.7621 to 65.7643.

(e) This administrative regulation will be implemented by the CMRS Board by providing to wireless providers when they apply for cost recovery and PSAPs when they apply for certification a copy of this regulation to ensure awareness of the meaning of terminology used by the CMRS Board.

November 22, 1999

(1) **202 KAR 6:020.** CMRS carrier cost recovery.

(2) The Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky 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 January 26, 2000, at 1 p.m. in the Telecommunications Conference Room, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601.

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

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

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

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204.

(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 the request may obtain a request form from the CMRS Administrator at the above address.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 65.7633.

(b) The proposed regulation will adopt the process by which CMRS carriers may obtain cost recovery for their actual expenses incurred in complying with the wireless E911 service requirements established by FCC Order on Docket #94-102.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 65.7631(3) requires the CMRS Board to distribute a percentage of the revenues deposited into the CMRS fund to CMRS providers (carriers) licensed to do business in the Commonwealth solely for the purpose of reimbursing the actual expenses incurred by the CMRS providers in complying with the wireless E911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order. This regulation establishes the process by which CMRS carriers may obtain cost recovery for those expenses.

(d) The benefit expected from this proposed administrative regulation is as follows: By providing enhanced 9-1-1 services to wireless consumers, the location and a call back number for wireless users will be available to public safety dispatchers and the calls will be initially routed to the local responding agency. These benefits will allow a more rapid and accurate response by emergency personnel which has been thoroughly documented to substantially reduce: the loss of human life, the cost of medical care attributable to traumatic injuries and catastrophic illness, and the destruction and damage to personal and public property. Extending these services to wireless telephony users will also ensure that the evolution in telecommunications technology will not diminish the nation's investment in 9-1-1 technology and that investment will continue to provide the described benefits as originally intended.

(e) This administrative regulation will be implemented by the CMRS Board by accepting applications for cost recovery from wireless carriers; by working with the carriers to create cost efficient approaches to the implementation of wireless 9-1-1 connectivity; by approving submitted invoices; and by disbursing funds designated by statute to the wireless carriers operating in the Commonwealth.

November 22, 1999

(1) **202 KAR 6:030.** Confidential and proprietary information.

(2) The Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky 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 January 26, 2000, at 9 a.m. in the Telecommunications Conference Room, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601.

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

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

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

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204.

(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 admin-

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

(b) Persons who wish to file the request may obtain a request form from the CMRS Administrator at the above address.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 65.7633(1) and 65.7639.

(b) The proposed regulation will establish the procedures by which the board will insure the security of information deemed confidential or proprietary.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 65.7633(1) requires the CMRS Board to implement the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations. In order to comply with KRS 65.7629, 65.7639, and regulations promulgated by the CMRS Board, it is necessary that the board and PSAPs certified by the board obtain information deemed proprietary by the CMRS carriers or LECs. KRS 65.7639 protects such information and governs the form and manner of its release to others. This regulation establishes the procedures by which the board will insure the security of information deemed confidential or proprietary.

(d) The benefit expected from this proposed administrative regulation is as follows: Wireless providers will be assured that confidential and proprietary information released by them to the CMRS Board or to PSAPs will be managed in a manner that will not adversely impact their business activities and by extension damage what is widely regarded as a healthy, competitive, business environment.

(e) This administrative regulation will be implemented by the CMRS Board by notifying wireless providers when they apply for cost recovery and PSAPs when they apply for certification of the regulations governing the board's, its agents', and PSAPs employees' management of sensitive information; and by requiring all persons having access to such information to sign nondisclosure agreements.

November 22, 1999

(1) **202 KAR 6:040.** Dispute resolution.

(2) The Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky 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 January 26, 2000, at 11 a.m. in the Telecommunications Conference Room, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601.

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

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

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

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

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204.

(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 the request may obtain a request form from the CMRS Administrator at the above address.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 65.7633(2)(d).

(b) The proposed regulation will establish the dispute resolution process for disputes regarding reimbursable costs and expenses under KRS 65.7631(2) and (3).

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 65.7633(2)(d) requires the CMRS Board to establish procedures and guidelines for resolving disputes regarding reimbursable costs and expenses under KRS 65.7631(2) and (3). This regulation establishes the dispute resolution process.

(d) The benefit expected from this proposed administrative regulation is as follows: More rapid and less expensive resolution of impediments to improved wireless 9-1-1 service, thus saving more lives and property.

(e) This administrative regulation will be implemented by the CMRS Board by providing to wireless providers when they apply for cost recovery and PSAPs when they apply for certification a copy of this regulation to ensure awareness of the availability of a quick and effective means to resolve disputes.

November 22, 1999

(1) **202 KAR 6:050.** PSAP certification.

(2) The Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky 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 January 26, 2000, at 3 p.m. in the Telecommunications Conference Room, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601.

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

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

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

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

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204.

(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 the request may obtain a request form from the CMRS Administrator at the above address.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 65.7631(4)(a) and 65.7633(1).

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(b) The proposed regulation will establish the process by which a PSAP shall establish and maintain eligibility for disbursement from the CMRS fund.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 65.7631(4)(a) states that no PSAP shall be eligible to request or receive a disbursement from the CMRS fund unless and until the PSAP is expressly certified as a PSAP by the CMRS Board, upon written application to the CMRS Board. KRS 65.7633 authorizes the CMRS Board to implement the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations. This regulation establishes the process by which a PSAP shall establish and maintain eligibility for disbursement from the CMRS fund.

(d) The benefit expected from this proposed administrative regulation is as follows: By meeting the FCC's requirement that PSAPs be able to handle the data elements associated with an enhanced 9-1-1 call; requiring that PSAPs adhere to nationally accepted standards for enhanced 9-1-1 centers ensuring that the efficient interchange of data and voice traffic necessary between carriers, LECs, and PSAPs can be accomplished with the minimum delay and cost possible; and further ensuring the statewide deployment of wireless 9-1-1 be accomplished without unnecessary impediments from local PSAP operations.

(e) This administrative regulation will be implemented by the CMRS Board by accepting applications for certification from PSAPs; by reviewing the submitted documentation; by working with PSAPs to implement the necessary upgrades to their operations where needed to meet minimum national standards accepted in the regulation; and by disbursing funds designated by statute to the PSAPs operating in the Commonwealth.

November 22, 1999

(1) **202 KAR 6:060.** PSAP Pro Rata Fund disbursement.

(2) The Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky 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 January 26, 2000, at 3 p.m. in the Telecommunications Conference Room, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601.

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

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

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

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane, Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204.

(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 the request may obtain a request form from the CMRS Administrator at the above address.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 65.7633(2)(c) and KRS 65.7633.

(b) The proposed regulation will establish the process by which a CMRS Board will disburse the pro rata portion of the CMRS fund and the dates by which a PSAP shall be certified to qualify for funds.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 65.7629(7) states that the CMRS Board shall establish procedures and guidelines to be followed by the board in approving and disapproving disbursements from the CMRS fund. KRS 65.7633 authorizes the CMRS Board to implement the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations. This regulation establishes the process by which the regular disbursement of funds to PSAPs shall be conducted.

(d) The benefit expected from this proposed administrative regulation is as follows: by delineating dates and temporarily freezing a portion of the funds, the CMRS Board will ensure that all PSAPs capable of certifying receive an equal distribution of the revenues collected as intended by the statute and it allows PSAPs to plan effectively for the certification process.

(e) This administrative regulation will be implemented by the CMRS Board by notifying all entities likely to apply for certification of the deadlines established and ensuring that all have had sufficient time and notice to complete the certification requirements.

TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources

November 24, 1999

(1) **301 KAR 2:221,** Waterfowl seasons and 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 January 24, 2000 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 January 24, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer 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.

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(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1), 150.600(1), CFR 50 Parts 20 and 21.

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:221 as follows: It will establish season dates and bag limits for the 1999-2000 waterfowl seasons within federal guidelines.

(c) The necessity and function of the proposed administrative regulation is to set waterfowl dates and limits within frameworks established by the U.S. Fish and Wildlife Service.

(d) The benefits expected from the administrative regulation are allowing regulated hunting with sound conservation and management of waterfowl resources.

(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.

November 24, 1999

(1) **301 KAR 2:222** Waterfowl hunting requirements.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 24, 2000 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 January 24, 2000, 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), 150.600(1), CFR 50 Parts 20 and 21.

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:222 as follows: It will adjust season dates, bag limits and other requirements for hunting at wildlife management areas and other public hunting areas.

(c) The necessity and function of the proposed administrative regulation is to establish season dates and other waterfowl hunting requirements that differ from statewide regulations.

(d) The benefits expected from the administrative regulation are allowing regulated hunting with sound conservation and management of waterfowl resources.

(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.

November 24, 1999

(1) **301 KAR 2:226**, Youth waterfowl hunting season.

(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 January 24, 2000 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 January 24, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer 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) 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 waterfowl hunting is KRS 150.025(1), 150.340, 150.600.

(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It will establish a 1-day waterfowl season open only to juveniles under the age of 16 who are accompanied by an adult.

(c) The necessity and function of the proposed administrative regulation is to open a special day for youth waterfowl hunting. Such a day of hunting is now permitted under the federal hunting frameworks issued by the U.S. Fish and Wildlife Service.

(d) The benefits expected from the administrative regulation are increased recreational opportunities.

(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.

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December 15, 1999

- (1) **301 KAR 3:022.** Licenses, tag and permit fees.
- (2) The Department of Fish and Wildlife Resources intends to amend 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 January 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.
- (4)(a) The public hearing will be held if:
 1. it is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. a minimum of five persons, or the administrative body or association agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing is not received from the required number of people at least ten days prior to January 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer 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) 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 license and permit sales is KRS 150.195.
 - (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will set the license and permit fees to reflect the current agency budgetary demands.
 - (c) The necessity and function of the proposed administrative regulation is to meet the current budgetary needs of the agency.
 - (d) The benefit expected from the administrative regulation is the ability to continue at the current level of service and maintain existing programs.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be administered by the administration division.

December 15, 1999

- (1) **301 KAR 5:010.** License agent selection criteria.
- (2) The Department of Fish and Wildlife Resources intends to amend 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 January 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.
- (4)(a) The public hearing will be held if:
 1. it is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. a minimum of five persons, or the administrative body or association agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing is not received from the required number of people at least ten days prior to January 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer 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) 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 license and permit sales is KRS 150.195.
 - (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will increase the compensation to inventory agents.
 - (c) The necessity and function of the proposed administrative regulation is to meet the administrative costs to our license agents.
 - (d) The benefit expected from the administrative regulation is the greater cooperation and more effective participation of agents.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be administered by the administration division.

December 15, 1999

- (1) **301 KAR 5:020.** License agent requirements and responsibilities.
- (2) The Department of Fish and Wildlife Resources intends to amend 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 January 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.
- (4)(a) The public hearing will be held if:
 1. it is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. a minimum of five persons, or the administrative body or association agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing is not received from the required number of people at least ten days prior to January 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer 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) 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."

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- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request 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 license and permit sales is KRS 150.195.
- (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will increase the compensation to agents.
- (c) The necessity and function of the proposed administrative regulation is to meet the administrative costs to our license agents.
- (d) The benefit expected from the administrative regulation is the greater cooperation and more effective participation of agents.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be administered by the administration division.

December 15, 1999

- (1) **301 KAR 6:005.** Boat registration fees.
- (2) The Department of Fish and Wildlife Resources intends to amend 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 January 24, 2000, at 10 a.m. in the Commission Room, Arnold L. Mitchell Building, at the Game Farm, five miles west of Frankfort on U.S. 60.
- (4)(a) The public hearing will be held if:
1. it is requested, in writing, by at least five persons, or an administrative body, or an association having at least five members; and
 2. a minimum of five persons, or the administrative body or association agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing is not received from the required number of people at least ten days prior to January 24, 2000, the public hearing will be cancelled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to Jennifer 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) 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 license and permit sales is KRS 150.195.
- (b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will set the registration fees to reflect the current agency budgetary demands.
- (c) The necessity and function of the proposed administrative regulation is to meet the current budgetary needs of the agency.
- (d) The benefit expected from the administrative regulation is the ability to continue at the current level of service and maintain existing programs.
- (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be administered by the administration division.

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

December 14, 1999

- (1) **401 KAR 50:071**, Repeal of 401 KAR 50:030, 401 KAR 50:031, 401 KAR 50:032, 401 KAR 50:033, 401 KAR 50:034, 401 KAR 50:035, and 401 KAR 50:072. The subject matter of this administrative regulation is the repeal of 401 KAR 50:030, Registration of sources; 401 KAR 50:031, Regulatory limit on potential to emit; 401 KAR 50:032, Prohibitory rule for hot mix asphalt plants; 401 KAR 50:033, Acid rain phase II application forms; 401 KAR 50:034, Permit application form; 401 KAR 50:035, Permits; and 401 KAR 50:072, Acid rain permits. The provisions contained in these administrative regulations will be updated, clarified, and reorganized in new administrative regulations promulgated in a new chapter, 401 KAR Chapter 52, which is being created to contain the permitting requirements and procedures of the Division for Air Quality.
- (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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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 admin-

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istrative 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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, and 224.20-110.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will repeal the following existing administrative regulations: 401 KAR 50:030, Registration of sources; 401 KAR 50:031, Regulatory limit on potential to emit; 401 KAR 50:032, Prohibitory rule for hot mix asphalt plants; 401 KAR 50:033, Acid rain phase II application forms; 401 KAR 50:034, Permit application form; 401 KAR 50:035, Permits; and 401 KAR 50:072, Acid rain permits.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the repeal of 7 existing administrative regulations whose contents will be updated, clarified, and moved to a new chapter set up to contain the division's permitting provisions.

(d) The expected benefit from the proposed administrative regulation is that it will repeal 7 existing administrative regulations which the Division for Air Quality intends to update, reformat, and promulgate in 401 KAR Chapter 52.

(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 50:030, 401 KAR 50:031, 401 KAR 50:032, 401 KAR 50:033, 401 KAR 50:034, 401 KAR 50:035, and 401 KAR 50:072 from the Kentucky Administrative Regulations Service, as required by KRS 13A.310(3)(b).

December 14, 1999

(1) **401 KAR 52:001**, Definitions and abbreviations of terms used in 401 KAR Chapter 52. The subject matter of this administrative regulation is the defining of terms and abbreviations that will be used in a new chapter, 401 KAR Chapter 52, which is being created to contain the permitting provisions of the Division for Air Quality.

(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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, and 224.20-110.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing administrative regulation. The proposed administrative regulation will include the definitions currently found in 401 KAR 50:035, Section 1, and those currently found in 401 KAR 50:010 that are related to permitting. It will also include definitions for any new terms or abbreviations used in the administrative regulations promulgated to replace 401 KAR 50:035, as well as in those that are being updated, clarified, and moved to Chapter 52.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation will provide the definitions for terms and abbreviations that will be used in 401 KAR Chapter 52.

(d) The expected benefit from the proposed administrative regulation is that 401 KAR Chapter 52 will conform with KRS Chapter 13A requirements for the placement of definitions in administrative regulations.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, the administrative regulations in 401 KAR Chapter 52 will use these definitions for the permitting of air contaminant sources in Kentucky.

December 14, 1999

(1) **401 KAR 52:010**, General provisions. The subject matter of this administrative regulation is the general provisions that apply to the permitting of air contaminant sources in Kentucky.

(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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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.

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(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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, and 224.20-110.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing administrative regulation. 401 KAR 50:035, which currently contains the division's permitting provisions, is being repealed and replaced with several smaller regulations in 401 KAR Chapter 52. This administrative regulation will include an update and clarification of the general permitting provisions that are inappropriate to include in the source-specific permitting regulations being promulgated to replace 401 KAR 50:035.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation contains general provisions for use when reviewing applications and issuing permits to air contaminant sources in Kentucky.

(d) The expected benefit from the proposed administrative regulation is that it will include necessary updates and clarifications to the division's general permitting provisions. It will also conform to the Natural Resources and Environmental Protection Cabinet initiative for plain language drafting of administrative regulations. That is, this administrative regulation will be easier to read and comprehend than the portions of 401 KAR 50:035 which it will replace.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, it will be used to review and determine the general permitting provisions that apply to sources of air contaminants in Kentucky.

December 14, 1999

(1) **401 KAR 52:020**, Permits for major sources. The subject matter of this administrative regulation is the permitting requirements for major sources of air contaminants in Kentucky.

(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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, and 224.20-110.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing administrative regulation. The proposed administrative regulation will include an update and clarification of the permitting requirements for major sources that are currently found in 401 KAR 50:035. It will also include cabinet procedures.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation will provide for the issuance of permits to major air contaminant sources in Kentucky.

(d) The expected benefit from the proposed administrative regulation is that it will include necessary updates and clarifications to the division's permitting program. It will also conform to the Natural Resources and Environmental Protection Cabinet initiative for plain language drafting of administrative regulations. That is, this administrative regulation will be easier to read and comprehend than the portions of 401 KAR 50:035 which it will replace.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, it will be used to review applications and issue permits to major sources of air contaminants in Kentucky.

December 14, 1999

(1) **401 KAR 52:030**, Federally-enforceable permits for nonmajor sources. The subject matter of this administrative regulation is the requirements for nonmajor sources of air contaminants in Kentucky seeking to obtain a federally-enforceable permit or permit revision.

(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 January 25, 2000, 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 January 25, 2000, 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.

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(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to January 25, 2000, 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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, and 224.20-110.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing administrative regulation. The proposed administrative regulation will include an update and clarification of the requirements, currently found in 401 KAR 50:035, for nonmajor sources seeking to obtain a federally-enforceable permit or permit revision. It will also include cabinet procedures.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the issuance of federally-enforceable permits to nonmajor sources of air contaminants in Kentucky.

(d) The expected benefit from the proposed administrative regulation is that it will include necessary updates and clarifications to the division's permitting program. It will also conform to the Natural Resources and Environmental Protection Cabinet initiative for plain language drafting of administrative regulations. That is, this administrative regulation will be easier to read and comprehend than those portions of 401 KAR 50:035 which it will replace.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, it will be used when reviewing applications and issuing federally-enforceable permits to nonmajor sources of air contaminants in Kentucky.

December 14, 1999

(1) **401 KAR 52:040**, State-origin permits. The subject matter of this administrative regulation is the issuance of state-enforceable permits and permit revisions to minor sources of air contaminants.

(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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, and 224.20-110.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation will include an update and clarification of the provisions currently found in 401 KAR 50:035 for issuing state-enforceable permits to minor sources. It will also include cabinet procedures.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the issuance of state-enforceable permits to minor air contaminant sources located in Kentucky.

(d) The expected benefit from the proposed administrative regulation is that it will include necessary updates and clarifications to the division's permitting program. It will also conform to the Natural Resources and Environmental Protection Cabinet initiative for plain language drafting of administrative regulations. That is, this administrative regulation will be easier to read and comprehend than those portions of 401 KAR 50:035 which it will replace.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, it will be used when reviewing applications and issuing state-enforceable permits to minor sources of air contaminants in Kentucky.

December 14, 1999

(1) **401 KAR 52:050**, Permit application forms. The subject matter of this administrative regulation is the incorporation by reference of the application forms used in the permitting of air contaminant sources in Kentucky. It will include an update of the DEP-7007 series forms currently incorporated in an existing administrative regulation, 401 KAR 50:034, which is being repealed.

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- (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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, and 224.20-110.
- (b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation will include an update of the DEP-7007 series application forms currently found in 401 KAR 50:034.
- (c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides the application forms required for use by air contaminant sources applying for a permit or permit revision in Kentucky.
- (d) The expected benefit from the proposed administrative regulation is that it will update the division's permit application forms. Also, the forms will be promulgated in a new chapter containing only regulations of similar scope and purpose.
- (e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, it will be used to provide the application forms required for use by air contaminant sources wanting to obtain a permit or permit revision in Kentucky.

December 14, 1999

- (1) **401 KAR 52:060**, Acid rain permits. The subject matter of this administrative regulation is the incorporation by reference of the latest revisions to the federal acid rain rules found at 40 CFR Part 72, and the acid rain phase II application forms required by 40 CFR 72.72(b)(4).
- (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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, 224.20-110, and 42 USC 7410.
- (b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation will incorporate by reference the latest revisions to the federal acid rain rules found at 40 CFR Part 72, and the acid rain phase II application forms required by 40 CFR 72.72(b)(4). The outdated federal regulations and application forms, currently incorporated by reference in 401 KAR 50:072 and 50:033, are being repealed.
- (c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides the necessary rules and application forms used in the issuance of acid rain permits to air contaminant sources in Kentucky that are subject to the Acid Rain Program.
- (d) The expected benefit from the proposed administrative regulation is that it will incorporate the latest application forms and revisions to the federal acid rain rules. This action is necessary in order to maintain Kentucky's delegation of the Acid Rain Program by the U.S. EPA. In addition, the acid rain rules and phase II application forms will be in one regulation and housed in a new chapter with the division's other per-

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mitting provisions.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, it will be used when submitting and reviewing applications, and issuing acid rain permits to affected sources in Kentucky.

December 14, 1999

(1) **401 KAR 52:070**, Registration of designated sources. The subject matter of this administrative regulation is provisions which allow low emitters and other designated sources to register with the cabinet in lieu of obtaining a permit.

(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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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. Information relating to the proposed administrative regulation.

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

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation will allow low emitters and other designated sources to register with the cabinet in lieu of having to obtain a permit. It will contain an update of the provisions governing registration of sources currently found in 401 KAR 50:035, which is being repealed.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the registration of low emitters and other designated air contaminant sources in Kentucky.

(d) The expected benefit from the proposed administrative regulation is that it will include necessary updates and clarifications to the division's permitting program. It will also conform to the Natural Resources and Environmental Protection Cabinet initiative for plain language drafting of administrative regulations. Thus, this administrative regulation will be easier to read and comprehend than those portions of 401 KAR 50:035 which it will replace.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, it will be used when determining whether a source is required to obtain a permit or simply to register with the cabinet.

December 14, 1999

(1) **401 KAR 52:080**, Regulatory limit on potential to emit. The subject matter of this administrative regulation is a permit by rule which allows sources whose potential emissions are above the major source threshold, but whose actual emissions remain less than 50% of the threshold, to avoid the Title V permitting process.

(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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, and 224.20-110.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation will establish, for qualifying sources, recordkeeping and reporting procedures that are enforceable as a practical matter and consistent with the U.S. EPA's published guidelines. The cabinet intends to repeal a regulation of the same title currently found at

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401 KAR 50:031, and to rewrite the provisions of that administrative regulation to make the recordkeeping and other requirements enforceable as a practical matter.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides a permit by rule which allows major sources whose actual emissions remain less than 50% of the major source threshold to avoid the Title V process.

(d) The expected benefit from the proposed administrative regulation is that it will conform to the U.S. EPA's published guidelines regarding practical enforceability. It will also conform to the Natural Resources and Environmental Protection Cabinet initiative for plain language drafting of administrative regulations. That is, this administrative regulation will be easier to read and comprehend than 401 KAR 50:031, which it will replace.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, it will be used to enable sources whose actual emissions are less than 50% of a major source threshold to avoid having to obtain a Title V permit in Kentucky.

December 14, 1999

(1) **401 KAR 52:090**, Prohibitory rule for hot mix asphalt plants. The subject matter of this administrative regulation is to provide production limits and reporting and recordkeeping requirements that will enable hot mix asphalt plants to remain below the major source thresholds for Title V, thus preventing them from having to obtain a Title V or conditional major permit.

(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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, and 224.20-110.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The division is proposing to repeal an existing administrative regulation of the same title found at 401 KAR 50:032, and to move the proposed administrative regulation to a new chapter with regulations of similar scope and purpose. The proposed administrative regulation will also be written in accordance with KRS Chapter 13A directives concerning the placement of definitions, and with the recent cabinet initiative for plain language drafting of administrative regulations.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides a permit by rule which allows sources that comply with the production limits and reporting and recordkeeping requirements to avoid having to obtain a Title V or conditional major permit.

(d) The expected benefit from the proposed administrative regulation is that it will conform with KRS Chapter 13A and with the Natural Resources and Environmental Protection Cabinet initiative on plain language drafting of administrative regulations. Also, it will be promulgated in a chapter containing administrative regulations of similar scope and purpose.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, it will be used to administer the prohibitory rule for asphalt plants in Kentucky.

December 14, 1999

(1) **401 KAR 52:100**, Public, affected states, and U.S. EPA review. The subject matter of this administrative regulation is the submission of federally-enforceable air permits for review by the public, affected states, and the U.S. EPA.

(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 January 25, 2000, 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 January 25, 2000, 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 January 25, 2000, 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

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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 the proposed administrative regulation is KRS 224.10-100, 224.20-100, and 224.20-110.

(b) The administrative regulation that the Division for Air Quality intends to promulgate will not amend an existing regulation. The proposed administrative regulation will provide for the submittal of federally-enforceable air permits for review by the public, affected states, and the U.S. EPA. It will update and clarify similar provisions currently found in 401 KAR 50:035, which is being repealed.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 224.10-100 requires the Natural Resources and Environmental Protection Cabinet to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the review of federally-enforceable air permits by the public, affected states, and the U.S. EPA.

(d) The expected benefit from the proposed administrative regulation is that it will include necessary updates and clarifications to the division's permitting program. It will also conform to the Natural Resources and Environmental Protection Cabinet initiative for plain language drafting of administrative regulations. That is, this administrative regulation will be easier to read and comprehend than those portions of 401 KAR 50:035 which it will replace.

(e) The proposed administrative regulation will be implemented as follows: On and after the effective date of this administrative regulation, it will be used to provide the public, affected states, and the U.S. EPA an opportunity to review federally-enforceable air permits before the final permit is issued.

JUSTICE CABINET Department of Corrections

December 15, 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 January 21, 2000, 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 January 21, 2000, 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. Occupational Exposure to Serious and Infectious Diseases (GRCC 08-01-01) shall be established to provide guidelines which comply with OSHA requirements for employee occupational exposure to serious and infectious diseases.

2. Fire Safety (GRCC 08-02-01) shall be established to aid in the prevention, early detection and suppression of fires.

3. Control of Caustic, Toxic, Flammable, Hazardous and Other Materials (GRCC 08-04-01) shall be established to regulate storage, control and accountability of all caustic, toxic, flammable, hazardous and any other materials.

4. Hazardous Chemicals and Material Safety Data Sheet (GRCC 08-04-02) shall be established to implement a program to include maintaining a list of hazardous chemicals, labeling of containers, preparation, distribution of material safety data sheets, employee training and protective measures in the workplace.

5. Inmate Counts (GRCC 09-01-01) shall be established to provide a formal and informal systems of counts and checks ensuring around-the-clock accountability of all inmates at GRCC.

6. Drug Abuse Testing (GRCC 09-02-01) shall be amended to change the procedure of drug testing at GRCC due to utilization of a new process.

7. Establishment of Security Posts at GRCC (GRCC 09-13-01) shall be issued to establish guidelines for security posts at GRCC.

8. Vehicle Usage (GRCC 09-14-01) shall be issued to establish guidelines for utilization of state and privately owned vehicles.

9. Inmate Work Program (GRCC 19-01-01) shall be amended to provide a well-coordinated Inmate Work Program and written plan for full-time work and program assignments for any inmate at GRCC.

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

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

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

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

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

December 15, 1999

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

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

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

(4) Information relating to these proposed administrative regulations:

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

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

1. Escape Plan (GRCC 08-03-01) shall be amended to comply with LRC language requirements.

2. Emergency Squad: Selection, Training and Evaluation (GRCC 08-05-01) shall be amended to comply with LRC language requirements.

3. Natural Disaster or Earthquake (GRCC 08-07-01) shall be established to implement a plan of action in the event of a natural disaster.

4. Procedure for Operation in Event of Dense Fog, Inclement Weather or Loss of Power (GRCC 09-03-01) shall be amended to comply with LRC language requirements.

5. Inmate Death (GRCC 09-04-01) shall be amended to comply with LRC language requirements.

6. Construction Crew Entry and Exit Guidelines (GRCC 09-05-01) shall be issued to establish guidelines for outside contractors who temporarily work on physical plant development or maintenance projects.

7. Entry and Exit Procedures (GRCC 09-06-01) shall be amended to reflect the utilization of the new x-ray machine, metal detector and Polaroid photos to monitor and control the entry and exit at GRCC and to comply with LRC language requirements.

8. Institutional Inspections (GRCC 09-07-01) shall be established in the interest of institutional security, sanitation and safety.

9. Issuance of Weapons, Ammunition, and Chemical Agents (GRCC 09-08-01) shall be established to ensure that GRCC maintains a sufficient supply of firearms, ammunition, and chemical agents in a secured armory and to document issuance of firearms, agents or other weapons and equipment.

10. Emergency Release From Locked Areas (GRCC 09-10-01) shall be established to provide a safe environment for inmates and staff in the living and work areas of GRCC.

11. Tool and Equipment Control (GRCC 09-11-01) shall be established to provide guidelines to ensure tools and equipment stored and used within GRCC shall be controlled in a safe and secure manner.

12. Key Control (GRCC 09-12-01) shall be established to maintain security, inventory and control of all keys.

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

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

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

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

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

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

Department of Juvenile Justice

December 15, 1999

(1) **505 KAR 1:090**, Supervised placement revocation.

(2) The Department of Juvenile Justice 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 January 24, 2000, at 10 a.m. in the Conference Room of the Department of Juvenile Justice, 1025 Capital Center Drive, Building 3, Third Floor, 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 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 January 25, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following: Keith Horn, Department of Juvenile Justice, Office of General Counsel, 1025 Capital Center Drive, Building Three, Third Floor, Frankfort, Kentucky, 40601. Phone: (502) 573-2738. Fax: (502) 573-4308.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Department of Juvenile Justice 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 505 KAR 1:090, Supervised placement revoca-

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tion is KRS 635.100.

(b) The administrative regulation that the Department of Juvenile Justice intends to promulgate will establish the procedure through which a juvenile placed on supervised placement may have that placement revoked and be removed from the community.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 635.100 authorizes the Department of Juvenile Justice to adopt regulations as necessary to implement the requirements of KRS 635.100. KRS 635.090 permits the department to place a juvenile, committed to the department by a court, in his home on certain terms and conditions. KRS 635.100 permits the department to revoke that placement after due process hearings are afforded. This regulation establishes the procedure through which a juvenile placed on supervised placement may have that placement revoked.

(d) The benefits expected from the administrative regulation are: the Department of Juvenile Justice will have established regulatory authority for the revocation of supervised placement. Supervised placement is an important tool in the treatment of juveniles committed as delinquent. The health, safety and welfare of a juvenile on supervised placement, and the community in which he lives, require that there be a procedure through which supervised placement can be revoked and the juvenile removed from the community if necessary.

(e) The administrative regulation will be implemented as follows: Staff responsible for the supervised placement revocation process will ensure that the provisions of the regulation are followed.

KENTUCKY BOARD OF EDUCATION

December 9, 1999

(1) **703 KAR 5:120**, Assistance for a school not meeting a threshold; guidelines for the scholastic audit.

(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 January 21, 2000, 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 January 21, 2000, 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 158.6455.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 703 KAR 5:120.

(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 158.6455 requires the Kentucky Board of Education to adopt administrative regulations relating to assistance to improve teaching and learning for a school to meet its threshold, as well as the guidelines for conducting scholastic audits. The proposed administrative regulation will establish levels of assistance for a school not meeting its threshold, and will establish scholastic audits.

(d) The benefits expected from this administrative regulation are to provide a mechanism and standards for assisting schools not meeting their thresholds, as well as providing guidelines and standards for scholastic audits.

(e) The administrative regulation will be implemented as follows: The regulation will be distributed to school district assessment coordinators, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

(1) **703 KAR 5:130**, School district accountability.

(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 January 21, 2000, 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 January 21, 2000, 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.

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- (a) The statutory authority is KRS 156.070 and 158.6455.
- (b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 703 KAR 5:130.
- (c) The necessity, function, and conformity of the proposed administrative regulation is KRS 158.6455 authorizes the Kentucky Board of Education to promulgate an administrative regulation establishing a local school district accountability program. The proposed administrative regulation will establish procedures for determining assistance and other consequences for local school districts having schools in need of assistance as defined in 703 KAR 5:020.
- (d) The benefits expected from this administrative regulation will be to establish a school district level accountability.
- (e) The administrative regulation will be implemented as follows: Local school district assessment coordinators will be provided with a copy of the regulation, it will be available to all school district personnel electronically, and information about implementation of the local district accountability will be offered in numerous training opportunities.

December 9, 1999

(1) **707 KAR 1:011**, Repeal of 707 KAR 1:015, 707 KAR 1:040, 707 KAR 1:045, 707 KAR 1:090, 707 KAR 1:100, 707 KAR 1:110, 707 KAR 1:120, 707 KAR 1:130, 707 KAR 1:140, 707 KAR 1:150, 707 KAR 1:160, 707 KAR 1:170, 707 KAR 1:180, 707 KAR 1:190, 707 KAR 1:200, 707 KAR 1:210, 707 KAR 1:220, 707 KAR 1:230, 707 KAR 1:240, 707 KAR 1:250, 707 KAR 1:260.

(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 January 21, 2000, 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 January 21, 2000, 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(1), 156.160, 157.220, 157.224, 157.260, 167.015.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:011.

(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for proper apportionment and disbursement of such funds in accordance with state and federal laws. The administrative regulations currently in effect do not meet all the requirements of the new federal law, 29 USC Sections 1400 et seq., and 34 CFR Section 300. The 21 administrative regulations being repealed are being replaced by the promulgation of 11 new administrative regulations that comply with the new federal requirements.

(d) The benefits expected from this administrative regulation are to repeal the administrative regulations currently in effect that do not meet all the requirements of the new federal law, 29 USC Sections 1400 et seq., and 34 CFR Section 300. The 21 administrative regulations being repealed are being replaced by the promulgation of 11 new administrative regulations that comply with the new federal requirements.

(e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

(1) **707 KAR 1:280**, Definitions.

(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 January 21, 2000, 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 January 21, 2000, 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.

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- (a) The statutory authority is KRS 156.070(1), 156.160, 157.220, 157.224, 157.260, 167.015.
- (b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:280.
- (c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes definitions for this chapter of administrative regulations regarding special education.
- (d) The benefits expected from this administrative regulation are to establish definitions for this chapter of administrative regulations regarding special education.
- (e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

- (1) **707 KAR 1:290**, Free appropriate public education.
- (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 January 21, 2000, 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 January 21, 2000, 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(1), 156.160, 157.220, 157.224, 157.260, 167.015.
 - (b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:290.
 - (c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements for providing a free, appropriate, public education for children identified as eligible for special education services.
 - (d) The benefits expected from this administrative regulation are to establish requirements providing a free, appropriate, public education for children identified as eligible for special education services consistent with federal law.
 - (e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

- (1) **707 KAR 1:300**, Child find, evaluation, and reevaluation.
- (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 January 21, 2000, 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 January 21, 2000, 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.

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(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(1), 156.160, 157.220, 157.224, 157.260, 167.015.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:300.

(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements conducting child find activities and procedures for evaluation and reevaluation of children with disabilities.

(d) The benefits expected from this administrative regulation are to establish requirements for conducting child find activities and procedures for evaluation and reevaluation of children with disabilities, consistent with federal law.

(e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

(1) **707 KAR 1:310**, Determination of eligibility.

(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 January 21, 2000, 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 January 21, 2000, 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(1), 156.160, 157.220, 157.224, 157.260, 167.015.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:310.

(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements for the determination of eligibility for special education of children who have disabilities.

(d) The benefits expected from this administrative regulation are to establish requirements for the determination of eligibility for special education of children who have disabilities, consistent with federal law.

(e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

(1) **707 KAR 1:320**, Individual education program.

(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 January 21, 2000, 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 January 21, 2000, 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."

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- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request 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(1), 156.160, 157.220, 157.224, 157.260, 167.015.
- (b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:320.
- (c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements for the development, implementation, and revision of individual education programs for each child with a disability.
- (d) The benefits expected from this administrative regulation are to establish requirements for the development, implementation, and revision of individual education programs for each child with a disability, consistent with federal law.
- (e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

- (1) **707 KAR 1:330**, Comprehensive system of personnel development.
- (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 January 21, 2000, 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 January 21, 2000, 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(1), 156.160, 157.220, 157.224, 157.260, 167.015.
- (b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:330.
- (c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements for a comprehensive system of personnel development for district staff who provide services to children with disabilities.
- (d) The benefits expected from this administrative regulation are to establish requirements for a comprehensive system of personnel development for district staff who provide services to children with disabilities, consistent with federal law.
- (e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

- (1) **707 KAR 1:340**, Procedural safeguards and state complaint procedures.
- (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 January 21, 2000, 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 January 21, 2000, 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.

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(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(1), 156.160, 157.220, 157.224, 157.260, 167.015.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:340.

(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements to ensure children with disabilities and their parents are afforded procedural safeguards.

(d) The benefits expected from this administrative regulation are to establish requirements to ensure children with disabilities and their parents are afforded procedural safeguards, consistent with federal law.

(e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

(1) **707 KAR 1:350**, Placement decisions.

(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 January 21, 2000, 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 January 21, 2000, 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(1), 156.160, 157.220, 157.224, 157.260, 167.015.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:350.

(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements for making placement decisions about children with disabilities.

(d) The benefits expected from this administrative regulation are to establish requirements for making placement decisions about children with disabilities, consistent with federal law.

(e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

(1) **707 KAR 1:360**, Confidentiality of information.

(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 January 21, 2000, 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 January 21, 2000, 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-

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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(1), 156.160, 157.220, 157.224, 157.260, 167.015.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:360.

(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes requirements ensuring confidentiality of information maintained by school districts regarding children with disabilities.

(d) The benefits expected from this administrative regulation are to establish requirements ensuring confidentiality of information maintained by school districts regarding children with disabilities, consistent with federal law.

(e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

(1) **707 KAR 1:370**, Children with disabilities enrolled in private schools.

(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 January 21, 2000, 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 January 21, 2000, 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(1), 156.160, 157.220, 157.224, 157.260, 167.015.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:370.

(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes standards for school districts to make appropriate educational services available to children with disabilities who have been enrolled in private schools by their parents.

(d) The benefits expected from this administrative regulation are to establish standards, consistent with federal law, for school districts to make appropriate educational services available to children with disabilities who have been enrolled in private schools by their parents.

(e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

December 9, 1999

(1) **707 KAR 1:380**, Recovery for misclassified children.

(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 January 21, 2000, 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 January 21, 2000, the pub-

lic 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(1), 156.160, 157.220, 157.224, 157.260, 167.015.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 707 KAR 1:380.

(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 157.200 to 157.290 establish the statutory framework for special education programs in local school districts. KRS 157.220 mandates that the Kentucky Board of Education adopt rules and administrative regulations to generally carry out these programs. KRS 156.035 sets forth the authority of the Kentucky Board of Education to implement any act of Congress appropriating funds to the state and to provide for the proper apportionment and disbursement of such funds in accordance with state and federal laws. 20 USC 1400 et seq. and 34 CFR Part 300 require that policies and procedures be adopted to assure the apportionment and disbursement of federal funds for exceptional children programs in accordance with applicable laws. This administrative regulation establishes the procedures that will be followed by the Department of Education in the event it is necessary to take corrective action on behalf of children with disabilities.

(d) The benefits expected from this administrative regulation are to establish procedures, consistent with federal law, that will be followed by the Department of Education in the event it is necessary to take corrective action on behalf of children with disabilities.

(e) The administrative regulation will be implemented as follows: The administrative regulation will be distributed to all district directors of special education, to all special education co-op directors, available to all school personnel electronically, and will be a part of training opportunities.

EDUCATION PROFESSIONAL STANDARDS BOARD

December 1999

(1) **704 KAR 20:740**, Certification requirements for teachers of exceptional children.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 21, 2000, at 1 p.m. in the State Board Room, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to January 21, 2000, the hearing will be canceled.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Education Professional Standards Board at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the establishing of standards and requirements for obtaining and maintaining a teaching certificate is KRS 161.028 and 161.030.

(b) The administrative regulation that the Education Professional Standards Board intends to promulgate is 704 KAR 20:740, Certification requirements for teachers of exceptional children. The Education Professional Standards Board offers 5 types of certificates for teaching exceptional children at all grade levels, as well as a certificate for teaching interdisciplinary early childhood education (including teaching pre-school children with disabilities). The new federal regulations required by the Individuals with Disabilities Education Act 1997 (I.D.E.A.) delineate 13 categories of disabilities. This administrative regulation will align the aforementioned Kentucky teaching certificates to the new categories of disabilities for purposes of adequate preparation and assignment of teachers of exceptional children. This regulation will also set forth the process by which a local school district may request a waiver for a teacher who does not possess the certification requirements for his or her assignment.

(c) The necessity and function of the proposed administrative regulation is as follows: 34 CFR Part 300 recognizes the state education agency as the authority in determining certification requirements for individuals providing special education or related services. KRS 161.030 identifies the Education Professional Standards Board as the state education agency with certification authority for Kentucky. KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate.

(d) The benefits expected from administrative regulation are: This administrative regulation will assist local school districts in assigning appropriately certified teachers for exceptional children.

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

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WORKFORCE DEVELOPMENT CABINET
Department for Employment Services

December 10, 1999

- (1) **787 KAR 1:010**. Application for employer account; reports.
- (2) The Cabinet for Workforce Development, Department for Employment Services, Division of Unemployment Insurance, 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 January 21, 2000, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky 40621.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to January 21, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Margaret Whittet, Commissioner, Department for Employment Services, Cabinet for Workforce Development, 275 East Main Street, 2 West, Frankfort, Kentucky 40621, Phone (502) 564-5331, Fax (502) 564-7452.
- (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 Employment Services, 275 East Main Street, 2nd Floor East, Frankfort, Kentucky 40621.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of an administrative regulation relating to claimant's reporting requirements is KRS 151B.020 and 341.115.
 - (b) The administrative regulation that the Department for Employment Services intends to promulgate will amend 787 KAR 1:010, Application for employer account; reports. It will reduce the number of versions of the quarterly unemployment wage and tax report which employers may be required to complete, eliminating several currently in use. A new revision date for the primary quarterly report (UI-3) reflects changes made to enable the Division of Unemployment Insurance to utilize the Revenue Cabinet Modernized Front End (MFE) System for more efficient report and deposit processing. A new alternative version of the report for use by employers making payment by electronic fund transfer (EFT) is being added. Finally, the new hire report is deleted since collection of this information is no longer the responsibility of this agency.
 - (c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation requires each employing unit to make application for an employer account and to make other additional reports as required by the division.
 - (d) The benefit expected from this administrative regulation is: This proposed amendment to the administrative regulation will reduce the number of versions of the quarterly unemployment wage and tax report which must be administered by the agency, and will enable the Division of Unemployment Insurance to utilize the facilities of the Revenue Cabinet MFE System for report processing, which will reduce processing cost and increase Unemployment Trust Fund interest earnings due to speedier deposit of payments.
 - (e) The administrative regulation will be implemented as follows: The information which employers are required to furnish to the division, consistent with KRS 341.190(2), and the frequency of required reporting, will not change as a result of the proposed amendment to this regulation (except for reporting of new hire information, which has been transferred to another agency). The division will prepare revised reports consistent with the titles and revision dates referenced in the body of the regulation.

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

December 8, 1999

- (1) **815 KAR 8:010**, Master heating, ventilation, and air conditioning (HVAC) contractor licensing requirements.
- (2) The Department of Housing, Buildings and Construction intends to amend the administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Tuesday, January 25, 2000, at 10 a.m., EST, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
 1. It is requested, in writing, by at least 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 January 25, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-3833.
- (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the department's general counsel at the address listed above.
- (7) Information relating to the proposed administrative regulation:
 - (a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.654.
 - (b) The department intends to amend Section 2 of this administrative regulation by decreasing the required number of continuing educa-

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tion hours to eight.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 198B.658 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations to coordinate and administer the HVAC Act requiring persons engaged in the business of heating, ventilation and air conditioning (HVAC) contracting to be licensed. This amendment reduces the required number of hours of continuing education from 10 to 8, which are required to renew one's master HVAC contractor license.

(d) The benefits expected from this administrative regulation are: Continuing education can be better achieved in a 1 day sitting.

(e) This administrative regulation will be implemented by the Division of Heating, Ventilation and Air Conditioning Contractors.

December 8, 1999

(1) **815 KAR 8:020**, Journeyman heating, ventilation, and air conditioning (HVAC) mechanic licensing requirements.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Tuesday, January 25, 2000, at 10 a.m., EST, in the Department of Housing's Conference Room at 1047 U.S. Highway 127 South, Suite #1, Frankfort, Kentucky.

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

1. It is requested, in writing, by at least 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 January 25, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Honorable Judith G. Walden, General Counsel, Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Suite #1, Frankfort, Kentucky 40601, Telephone: (502) 564-8044, Fax: (502) 564-3833.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 198B.654.

(b) The department intends to amend Section 2(2) of this administrative regulation by decreasing the required number of continuing education hours to eight.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 198B.654 requires the Board of Heating, Ventilation and Air Conditioning Contractors to promulgate administrative regulations requiring persons engaged in the business of heating, ventilation and air conditioning (HVAC) installation and repair to be licensed. This amendment reduces the number of hours of continuing education from 10 to 8, which are required to renew one's journeyman HVAC mechanic license.

(d) The benefits expected from this administrative regulation are: Continuing education can be better achieved in a 1-day sitting.

(e) This administrative regulation will be implemented by the Division of Heating, Ventilation and Air Conditioning Contractors.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services**

December 15, 1999

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

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 31, 2000 at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to January 31, 2000, 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 Financial Management and Analysis, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to advanced registered nurse practitioners are KRS 205.520 and 194A.030.

(b) The administrative regulations that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:102 to combine

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

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

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

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

December 15, 1999

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

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 31, 2000, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to January 31, 2000, 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 Financial Management and Analysis, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to advanced registered nurse practitioners are KRS 205.520 and 194A.030.

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

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

(d) The benefits expected from administrative regulation are: Combining the advanced registered nurse practitioner, nurse midwife services, and nurse anesthetist services manuals into the advanced practice nurse services manual to eliminate duplication of policy and ease of administration. The advanced registered nurse practitioners are able to prescribe medications pursuant to KRS 314.011; therefore, the promulgation of this regulation will permit the reimbursement for these services.

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

December 15, 1999

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

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 31, 2000, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

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

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

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

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least 10 days prior to January 31, 2000, 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 Financial Management and Analysis, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to advanced registered nurse practitioners are KRS 205.520 and 194A.030.

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

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

(d) The benefits expected from administrative regulation are: Combining the advanced registered nurse practitioner, nurse midwife services, and nurse anesthetist services manuals into the advanced practice nurse services manual to eliminate duplication of policy and ease of administration.

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

December 15, 1999

(1) **907 KAR 1:475**, Repeal of 907 KAR 1:470, 907 KAR 1:472, and 907 KAR 1:474.

(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 January 28, 2000, 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 January 28, 2000, 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 relating to durable medical equipment are KRS 194A.030, 194A.050, and 205.520(3).

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will repeal 907 KAR 1:470, Durable medical equipment, 907 KAR 1:472, Payments for durable medical equipment, and 907 KAR 1:474, Incorporation by reference of the durable medical equipment manual.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation repeals 907 KAR 1:470, 907 KAR 1:472, and 907 KAR 1:474.

(d) The benefits expected from this administrative regulation are: Removal of obsolete policy regarding covered services and reimbursement relating to durable medical equipment.

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

December 15, 1999

(1) **907 KAR 1:478**, Durable medical equipment covered services and reimbursement.

(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 January 28, 2000, at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621.

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- (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 January 28, 2000, 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 relating to durable medical equipment are KRS 194A.030, 194A.050, and 205.520(3).
- (b) The administrative regulation that the Department for Medicaid Services intends to promulgate will establish conditions of participation, covered services, and payment methodology for durable medical equipment.
- (c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes conditions of participation and covered services; and establishes payment methodology which states that the Department will reimburse providers for covered items at a rate not to exceed 80 percent of the Medicare Upper Limit. Items not covered by Medicare, but covered by Medicaid will also be addressed in the proposed regulation.
- (d) The benefits expected from this administrative regulation are: To clarify and update policy for coverage and reimbursement of durable medical equipment.
- (e) The administrative regulation will be implemented as follows: By the Division of Member and Provider Services, Department for Medicaid Services, Cabinet for Health Services.

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

December 15, 1999

- (1) **922 KAR 1:140.** Foster care, adoption assistance.
- (2) Cabinet for Families and Children, Department for Community Based Services, intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 28, 2000, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.
- (4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
 2. A minimum of 5 persons, or 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 January 28, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judy H. Trigg, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (fax).
- (b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, 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 new administrative regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to foster care and adoption permanency services is KRS 194B.050(1), 199.472, and 605.150.
- (b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 922 KAR 1:140, Foster care, adoption assistance. The amended regulation will:
1. Change the name of the administrative regulation from Foster Care, Adoption Assistance to Foster Care and Adoption Permanency Services;
 2. Amend Section 1 to add, clarify, or delete definitions as necessary for statutory compliance;
 3. Remove Section 2, Children in Care;
 4. Change the title of Section 3, Goal Achievement, to Section 3, Permanency Goals;

5. Add concurrent planning;
 6. Make the provision of reasonable efforts to reunify a child with the birth family unnecessary when a parent has subjected the child to an aggravated circumstance;
 7. Implement changes or new policies recommended by various taskforces regarding concurrent planning and adoption permanency services for children in foster care;
 8. Implement any changes necessary to comply with Kentucky Revised Statutes; and
 9. Make necessary corrections to comply with KRS Chapter 13A.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The Foster Care and Adoption Permanency Services administrative regulation is required by KRS 194B.050(1), 199.472 and 605.150.
- (d) The benefit expected from this administrative regulation is: Improve the delivery of case planning services for children in foster care by establishing concurrent planning and permanency goals to decrease the length of stay in out-of-home care.
- (e) The administrative regulation will be implemented as follows: By the Department for Community Based Services, Cabinet for Families and Children.

December 15, 1999

- (1) **922 KAR 1:300.** Standards for child-caring facilities.
 - (2) Cabinet for Families and Children, Department for Community Based Services intends to promulgate an administrative regulation governing the subject matter listed above.
 - (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 28, 2000, 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 January 28, 2000, the public hearing will be canceled.
 - (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Judy H. Trigg, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (fax).
 - (b) On a request for public hearing, a person shall state:
 1. "I agree to attend the public hearing."; or
 2. "I will not attend the public hearing."
 - (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
 - (b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, Third Floor West, CHR Building, 275 East Main, Frankfort, Kentucky 40621.
 - (c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Families and Children's regulations may call toll free 1-800-372-2973 (V/TTY).
 - (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation relating to 922 KAR 1:300, Standards for child-caring facilities, is KRS 194B.050(1), 199.640(5), 199.645 and 615.050.
 - (b) The administrative regulation that the Department for Community Based Services intends to promulgate is a proposed amendment to administrative regulation, 922 KAR 1:300, Standards for Child-Caring Facilities. The proposed administrative regulation is necessary to implement KRS 199.011(6), (7), and 199.640, as follows:
 1. Change the title of this administrative regulation to "Standards for child-caring facilities (residential and temporary shelter care)";
 2. Add, delete or amend definitions in Section 1;
 3. Remove licensure procedures from Section 3 for placement into new administrative regulation 922 KAR 1:305, Licensure of child-placing and child-caring facilities;
 4. Clarify Board of Director requirements, staff qualifications, employment prohibitions, and facility policy in Section 3;
 5. Clarify physical plant requirements in Section 4;
 6. Clarify health, safety, and nutritional requirements in Section 5, and revise from "handicaps" to "disability";
 7. Amend Section 6 to revise the disciplinary practices;
 8. Clarify Section 7 relating to admissions, intake, unplanned and emergency discharge;
 9. Remove Section 8, Youth Treatment Center, Section 9, Temporary Shelter, and Section 10, Group Homes. These sections will be promulgated as new administrative regulations;
 10. Remove Section 11, Independent Living, for placement into 922 KAR 1:310, Standards for child-placing agencies;
 11. Make technical corrections to comply with KRS Chapter 13A; and
 12. Make any necessary changes to comply with Kentucky Revised Statutes.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 199.640(5) authorizes the Cabinet for Families and Children to issue administrative regulations relating to standards of care and service for child-caring facilities.
- (d) The benefits expected from the administrative regulation are: Amendments to this administrative regulation will enhance the quality of the method of delivering child-caring services and the protection of individuals served by this administrative regulation.
- (e) The administrative regulation will be implemented as follows: This administrative regulation will be administered by the Department for Community Based Services, Division of Policy Development.

December 15, 1999

- (1) **922 KAR 1:305.** Licensure of child-placing agencies and child-caring facilities.
- (2) Cabinet for Families and Children, Department for Community Based Services, 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 January 28, 2000 at 9 a.m., in the Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky, 40621.

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(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 days prior to January 28, 2000, the public hearing will be canceled.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, CHR Building, Third Floor East, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of a new administrative regulation relating to the licensure of child-placing agencies and child-caring facilities is KRS 194B.050(1) and 199.640(3).

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a new administrative regulation that details the licensing procedures including initial, renewal, corrective action and appeals procedures for all provider types licensed as child-placing agencies and child-caring facilities within the state. This new administrative regulation is being promulgated:

1. For clarification of licensing procedures by separating the licensing requirements from 922 KAR 1:300, Standards for child-caring facilities, and 922 KAR 1:310, Standards for child-placing agencies.

2. To comply with Kentucky Revised Statute requirements.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 199.640(3) authorized the Cabinet for Families and Children to issue administrative regulations relating to licensure for child-placing agencies and child-caring facilities.

(d) The benefits expected from administrative regulation are: This new administrative regulation clearly delineates the licensure requirements for child-placing agencies and child-caring facilities, providing clear compliance guidelines for providers, without possible confusion with varied program oriented requirements.

(e) The administrative regulation will be implemented as follows: By the Division of Policy Development, Department for Community Based Services, Cabinet for Families and Children.

December 15, 1999

(1) **922 KAR 1:310.** Standards for child-placing agencies

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 28, 2000 at 9 a.m., in the Health Services Auditorium, Health Services Building, first floor, 275 East Main Street, Frankfort, Kentucky, 40621.

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

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or 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 days prior to January 28, 2000, the public hearing will be canceled.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, CHR Building, 3rd Floor West, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the standards for child-placing agencies are KRS 199.640(3) and (5)(a), and 615.050.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 922 KAR 1:310, Standards for child-placing agencies, due to amendments to KRS 194B.050(1), 199.011, 199.640, and 199.670.

1. Update the administrative regulation to comply with current KRS Chapter 13A requirements.
2. Amend the definitions section to include a definition for "Independent living program", "Social services professional", and "Therapeutic foster care" as well as updating a number of existing definitions.
3. Remove the portions of Section 2 that relate to the initial, renewal and corrective action licensing procedures and create a separate new administrative regulation, 922 KAR 1:305, pursuant to KRS 199.640(5)(c) to include procedures relating to child-placing agencies and child-caring facilities.

4. Clarify requirements for criminal records checks and child abuse and neglect substantiated allegation checks to put the requirements

into compliance with all applicable statutes.

5. Strengthen the standards for child-placing agencies regarding:

- a. Employment standards;
- b. Foster parent and adoptive parent training;
- c. Placement issues;
- d. Maintenance of records; and
- e. Other applicable standards.

6. Delineate therapeutic foster care requirements from regular foster care.

7. Add a section to cover independent living program requirements.

8. Implement any changes necessary to comply with Kentucky Revised Statutes.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 199.640 requires that the cabinet issue administrative regulations relating to standards of care and service for child-placing agencies. This administrative regulation establishes the new provision of KRS 199.473 relating to private adoptions, by permitting home investigations to be conducted by private adoption agencies as well as the Cabinet for Families and Children.

(d) The benefits expected from administrative regulation are: The amendment to this administrative regulation shall develop quality standards for licensed child-placing agencies, as passed in the 1998 General Assembly.

(e) The administrative regulation will be implemented as follows: by the Division of Policy Development, Department for Community Based Services, Cabinet for Families and Children.

December 15, 1999

(1) **922 KAR 1:330.** Child protective services.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 28, 2000, at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to January 28, 2000, the public hearing will be canceled.

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

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

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to child protective services is KRS 194B.050(1), 605.150, 620.180, and 42 USC 5106a.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 922 KAR 1:330 to establish requirements regarding the Central Registry Appeals Process; to mandate assessment; to clarify abuse, neglect or dependency pursuant to 620.030; to rename Section 13 "Continuous Quality Assessment"; and to make changes for compliance with statutory revisions.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The administrative regulation is required by KRS 194B.050(1), 605.150 and 620.180.

(d) The benefit expected from this administrative regulation is: The amendments to this administrative regulation will incorporate policies for compliance with and achieve the goals of, the Adoption and Safe Families Act and state law, clarify the Central Registry Appeals process and implement continuous quality assessment. Also, these amendments will comply with state statutory requirements.

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

December 15, 1999

(1) **922 KAR 1:350.** Family preparation section.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 28, 2000, at 9 a.m., in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

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

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

2. A minimum of 5 persons, or 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 January 28, 2000, the public hearing will be canceled.

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

(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 new administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to preparation of a prospective foster or adoptive family is KRS 194B.050(1), 199.472, and 605.150.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 922 KAR 1:350, Family Preparation Section. The amended administrative regulation will:

1. Change the title of the administrative regulation from Family Preparation Section to Family Preparation;
2. Remove or modify the DSS-83, Acceptance Scale, to comply with the requirements of the Multi-Ethnic Placement Act (MEPA);
3. Remove or modify the DSS-197, Snap Intake Statement, to comply with the requirements of the MEPA;
4. Revise training requirements for prospective foster and adoptive parents;
5. Allow cabinet staff to place foster children into approved adoptive homes prior to termination of parental rights when the petition for termination of parental rights has been filed and there is a likelihood that termination of parental rights will be achieved or in cases where the termination of parental rights case is on appeal;
6. Implement changes or new policies recommended by various taskforces regarding the preparation of prospective foster and adoptive families;
7. Implement any changes necessary to comply with Kentucky Revised Statutes; and
8. Make necessary corrections to comply with KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The Family Preparation Section administrative regulation is required by KRS 194B.050(1), 199.472 and 605.150.

(d) The benefit expected from this administrative regulation is: Improve the preparation of prospective foster and adoptive parents and decrease the number of out-of-home placements for children in foster care.

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

December 15, 1999

(1) **922 KAR 1:380.** Standards for emergency shelter child-caring facilities.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 28, 2000, 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 January 28, 2000, the public hearing will be canceled.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, 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 a new administrative regulation relating to the standards for a emergency shelter child-caring facilities is KRS 194B.050(1), 199.640(5), 199.645 and 615.050.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a new administrative regulation that outlines procedures and treatment requirements for an emergency shelter program. The new administrative regulation, 922 KAR 1:380, is necessary to implement KRS 199.011(6), (7), and 199.640. This administrative regulation is being promulgated to:

1. Establish standards of an emergency shelter child-caring facility including treatment oriented care; and
2. Comply with Kentucky Revised Statutes.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 199.640(5) authorizes the Cabinet for Families and Children to issue administrative regulations relating to standards of care and service for child-caring facilities.

(d) The benefits expected from the administrative regulation are: To enhance the quality of the method of delivering child-caring services

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and the protection of individuals served by this administrative regulation.

(e) The administrative regulation will be implemented as follows: This administrative regulation will be administered by the Department for Community Based Services, Division of Policy Development.

December 15, 1999

(1) **922 KAR 1:390.** Standards for residential child-caring facilities.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 28, 2000, 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 January 28, 2000, the public hearing will be canceled.

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

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, 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 a new administrative regulation relating to the standards for residential child-caring facilities, is KRS 194B.050(1), 199.640(5), 199.645 and 615.050.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a new administrative regulation that outlines requirements for group homes and treatment procedures. The new administrative regulation, 922 KAR 1:390, is necessary to implement KRS 199.011(6), (7), and 199.640. This administrative regulation, 922 KAR 1:390, is being promulgated to:

1. Establish standards of a residential child-caring facility including youth treatment, group homes, and after care services; and

2. Comply with Kentucky Revised Statutes.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 199.640(5) authorizes the Cabinet for Families and Children to issue administrative regulations relating to standards of care and service for child-caring facilities.

(d) The benefits expected from the administrative regulation are: To enhance the quality of the method of delivering child-caring services and the protection of individuals served by this administrative regulation.

(e) The administrative regulation will be implemented as follows: This administrative regulation will be administered by the Department for Community Based Services, Division of Policy Development.

December 15, 1999

(1) **922 KAR 1:410.** Family preservation services program.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for January 28, 2000, 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 January 28, 2000, the public hearing will be canceled.

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

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Community Based Services, Division of Policy Development, 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 a new administrative regulation relating to 922 KAR 1:410 is KRS 194B.050(1), and

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605.150.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a new administrative regulation, 922 KAR 1:410, Family preservation services program. The new administrative regulation is being promulgated to:

1. Place in topical form intensive home-based services to prevent the imminent removal of a child from his home, promote the return a child to his home and promote achievement of the Adoption and Safe Families Act goals; and
2. Comply with Kentucky Revised Statutes and Federal Statutes.

(c) The necessity, function, and conformity of the new administrative regulation is as follows: The Family Preservation Services Program administrative regulation is required by KRS 194B.050(1) and 605.150 to implement family preservation services in KRS 200.580 et seq. and 42 USC 601 et seq.

(d) The benefits expected from this administrative regulation are: To enhance the quality of the family preservation services program to prevent imminent removal of a child or return a child to his home.

(e) The administrative regulation will be implemented as follows: This administrative regulation will be administered by the Department for Community Based Services, Division of Policy Development.

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

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

STATEMENT OF EMERGENCY
202 KAR 6:010E

Pursuant to KRS 13A.190, the Governor of the Commonwealth of Kentucky does hereby declare that the proposed administrative regulation should be enacted on an emergency basis in order to facilitate the deployment of enhanced 9-1-1 services to wireless consumers. In order to define the terms to be used in the deployment of 9-1-1 services to wireless consumers and effectively implement the other required regulations, it is necessary to promulgate this administrative regulation on an emergency basis. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
ALDONA K. VALICENTI, Chief Information Officer

FINANCE AND ADMINISTRATION CABINET
Commercial Mobile Radio Service Emergency
Telecommunications Board of Kentucky

202 KAR 6:010E. Definitions for 202 KAR Chapter 6.

RELATES TO: KRS 65.7621-65.7643

STATUTORY AUTHORITY: KRS 65.7633(1)

EFFECTIVE: November 23, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.7633(1) requires the CMRS Board to implement the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations. This administrative regulation provides definitions for certain essential terms used in 202 KAR Chapter 6.

Section 1. Definitions. As used in this chapter, the following terms shall have the following meanings:

(1) "Alternate routing" means sending 9-1-1 calls to a designated alternate location if all 9-1-1 trunks to the normal PSAP are busy or out of service. It may be activated either automatically if equipment failures are detected or upon request.

(2) "Board" or "CMRS Board" means the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky established in KRS 65.7623.

(3) "Call transfer functions" means the ability to redirect a call to another party.

(4) "CMRS" means commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 USC sec. 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, as it existed on August 10, 1993.

(5) "CMRS fund" or "fund" means the Commercial Mobile Radio Service Emergency Telecommunications Fund established in KRS 65.7627.

(6) "Contracted wireline E9-1-1 service provider" means the company providing by signed agreement the E 9-1-1 features, functions, and network connections to the PSAP.

(7) "Cost recovery plan" means a detailed description to be submitted and approved by the CMRS Board of how a CMRS carrier intends to comply with the wireless E9-1-1 requirements established in the FCC Order.

(8) "Default routing" means the ability of the 9-1-1 network to automatically send 9-1-1 calls to a predetermined alternate PSAP if a call cannot be selectively routed due to an ANI failure or some other cause.

(9) "E9-1-1" means the features and functions available in an enhanced 9-1-1 capable PSAP as defined by the FCC Order.

(10) "FCC" means the Federal Communications Commission.

(11) "FCC Order" means the FCC Docket #94-102.

(12) "LEC" means a local exchange carrier as defined by KRS

65.7621(12).

(13) "Nondisclosure agreement" means a signed statement whereby a person swears to maintain the confidentiality of designated information provided to them.

(14) "NRCs" means nonrecurring costs.

(15) "P-ANI" means pseudo automatic number identification as defined by KRS 65.7621(16).

(16) "Phase I" means the interim step in implementing the wireless E9-1-1 network to include the provision of a caller's mobile phone number and P-ANI and as further defined by the FCC.

(17) "Phase II" means the second step in implementing the wireless E9-1-1 network to include the functions of Phase I and as further defined by the FCC.

(18) "PSAP" means a "Public Safety Answering Point" as defined by KRS 65.7621(17).

(19) "PSAP pro rata" means the method by which a portion of the CMRS fund will be disbursed as defined by KRS 65.7631(2)(a).

(20) "PSAP volume formula" means the method by which a portion of the CMRS fund will be disbursed as defined by KRS 65.7631(2)(b).

(21) "RCs" means recurring costs.

(22) "Sworn paid invoice" means a notarized statement submitted with invoices for reimbursement which: lists the included invoices or other approved documentation; attests that they are accurate and true costs for the carrier's implementation of wireless E9-1-1; and is signed and dated by a person designated by a carrier.

(23) "Sworn statement" means a notarized letter signed and dated by a person designated by a PSAP which may be given in lieu of documentation.

ALDONA VALICENTI, Chief Information Officer
ANGELA C. ROBINSON, Assistant General Counsel
APPROVED BY AGENCY: November 22, 1999
FILED WITH LRC: November 23, 1999 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane Suite 102 A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204, John.Patterson@mail.state.ky.us

(1) Type and number of entities affected: 30 CMRS carriers, 80 public safety answering points, and 20 local exchange carriers

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

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

1. First year following implementation: None

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 en-

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forcement of administrative regulation: None required.

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

(a) Geographical area in which administrative regulation will be implemented: No comments have been received. However, no effect is anticipated.

(b) Kentucky: No comments have been received. However, no effect is anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were assessed. KRS Chapter 13A requires that technical terms used in an administrative regulation be defined.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The definitions in this regulation provide an understanding of terminology used in related regulations and more clearly identify the intent of the statute.

(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: Without clear definitions, it would be impossible to administer the regulations as required by statute.

(9) Identify any statute, rule, 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. These are definitions of technical terms. They cannot be tiered.

STATEMENT OF EMERGENCY 202 KAR 6:020E

Pursuant to KRS 13A.190, the Governor of the Commonwealth of Kentucky does hereby declare that the proposed administrative regulation should be enacted on an emergency basis in order to facilitate the deployment of enhanced 9-1-1 services to wireless consumers. In order to provide a means cost recovery to wireless carriers as required by the statute deploy 9-1-1 service to wireless consumers as quickly as possible, it is necessary to promulgate this administrative regulation on an emergency basis. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
ALDONA K. VALICENTI, Chief Information Officer

FINANCE AND ADMINISTRATION CABINET Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky

202 KAR 6:020E. CMRS carrier cost recovery.

RELATES TO: KRS 65.7621-65.7643

STATUTORY AUTHORITY: KRS 65.7633

EFFECTIVE: November 23, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.7631(3) requires the CMRS Board to distribute a percentage of the revenues deposited into the CMRS fund to CMRS providers (carriers) licensed to do business in the Commonwealth solely for the purpose of reimbursing the actual expenses incurred by the CMRS providers in complying with the wireless E9-1-1 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order. This administrative regulation establishes the process by which CMRS carriers may obtain cost recovery for those expenses.

Section 1. Cost Recovery Plan Purpose. A cost-recovery plan is intended to allow for the recovery of a carrier's nonrecurring costs (NRCs) and recurring costs (RCs).

Section 2. Cost Recovery Plan Submission. (1) Upon receipt of a written request for wireless E9-1-1 service from a PSAP that has been certified by the board in accordance with KRS 65.7631(4)(a), the CMRS carrier shall:

(a) Acknowledge receipt of the request back to the PSAP within thirty (30) days; and

(b) Develop a comprehensive detailed plan for implementation of E9-1-1 service for that PSAP, or the appropriate service area if the CMRS carrier's switch serves more than one (1) PSAP.

(2) A CMRS carrier shall present the technical aspects of the plan to the requesting certified PSAP. The CMRS carrier shall submit the plan and the associated cost structure to the board in a form and format set out by the board. The board may request further information from or a presentation by the carrier.

(3) Only carrier costs directly attributable to wireless E9-1-1 call completion shall be considered for recovery, as referenced in Section 8 of this administrative regulation.

Section 3. Cost Recovery Plan Requirements. A plan submitted to the board shall:

(1) Be presented as a carrier's good faith estimate of its total cost recovery reimbursement claim for providing Phase I wireless E9-1-1 service in the area served by the requesting PSAP or the appropriate service area for the carrier's switch.

(2) Specify in detail each NRC and RC which the carrier expects to recover.

(a) An RC shall be described as subscriber-based or nonsubscriber-based.

(b) An RC shall be based on a calendar month. If a carrier chooses some other period (not a calendar month) on which to base its RCs, the period used and the logic employed shall be identified.

(3) Include a description of the Phase I technology solution the CMRS carrier has elected to implement and the projected implementation dates.

(4) Include a map or other detailed description of the coverage area affected by the plan.

(5) Include a list of the PSAPs affected by the carrier to ensure expedient rollout of wireless E9-1-1 service as requests are received and approved by the board.

(6) Specify how the carrier will identify the persons authorized to submit sworn paid invoices to the board for reimbursement.

Section 4. Cost Recovery Plan Approval. (1) A cost-recovery plan submitted to the CMRS Board shall be stamped "Confidential" and proprietary information received shall be filed and maintained so as to preserve its confidentiality in accordance with KRS 65.7639.

(2) A cost-recovery plan submitted to the board shall be approved or disapproved by a simple majority vote of the board.

(3) Within ten (10) business days of its approval or disapproval, notice of the decision shall be sent to the carrier and affected PSAPs, in writing, by express mail service requiring a delivery signature.

(4) During review, the board may request additional information from or a meeting with a carrier.

Section 5. Rejection of a Cost Recovery Plan. If the board rejects a carrier's plan:

(1) The board shall include with its decision specific reasons for its rejection in order to assist the carrier in understanding what is needed to gain the board's approval.

(2) The carrier may choose to submit a revised plan to the board.

(3) The carrier may appeal the board's rejection in accordance with 202 KAR 6:040E.

Section 6. Implementation of Additional Service Using an Approved Plan. (1) After initial approval of a CMRS carrier's plan by the board, if the carrier wishes to implement service to an additional area in the state using the existing approved plan, the carrier:

(a) Shall send a letter to the board by express mail service requiring a delivery signature proposing the carrier's intention to use an approved plan for the implementation of additional service.

(b) Shall provide a map of the area to be served by the planned additional implementation.

(c) Need not make an additional presentation to the committee if the board agrees that the carrier's intention fits within the existing approved plan.

(2) If the board agrees that the carrier's intention to use an approved plan is appropriate for the additional service implementation, the board shall:

(a) Within ten (10) business days of its decision notify the carrier, in writing, by express mail service requiring a delivery signature.

(b) Accept the cost recovery outlined in the approved plan as sufficient to submit a claim for reimbursement.

(3) If the board concludes that the inclusion of the additional service implementation is not appropriate under the approved plan, the board shall:

(a) Within ten (10) business days of its decision notify the carrier, in writing, by express mail service requiring a delivery signature, identifying its specific concerns.

(b) Schedule the earliest possible date to meet with the carrier and discuss the identified concerns.

(4) If the board concludes that the inclusion of the additional service implementation is not appropriate under the approved plan, the carrier may appeal the board's decision in accordance with 202 KAR 6:040E.

Section 7. Revision of an Approved Plan. (1) In addition to the process outlined in Section 6 of this administrative regulation, after a cost-recovery plan is approved, subsequent changes may be requested by either the CMRS carrier or the board.

(2) The board may review an existing plan requesting substantiation, new documentation and reapproval of a cost-recovery plan or may revoke approval of a plan as necessary to maintain the integrity of:

(a) Existing plans and the wireless E9-1-1 system as new technologies are deployed;

(b) The CMRS fund.

(3) A carrier may submit a revised plan or a change in reimbursement rate as business needs and new technologies dictate.

(4) The party requesting revision of a plan shall send written notice of the requested changes to the other party by express mail service requiring a delivery signature.

(5) An existing approved plan shall remain in effect until a review and decision regarding a requested change is made.

(6) Except as noted below in subsection (7) of this section, if the board revokes approval of a plan, reimbursements from the CMRS fund shall cease immediately with the exception of RCs and NRCs for which the carrier is obligated by a previously signed contract.

(7) Failure of a carrier to respond in writing to a board request within the time frame indicated, may be considered cause for the board to revoke approval of a previously approved plan and to cease continuing reimbursement payments to the carrier.

Section 8. Appropriate Costs for Recovery. (1) For the purpose of differentiating between appropriate and necessary CMRS carrier costs and PSAP costs, a line of demarcation shall be established by the board as the selective router of the contracted wireline E9-1-1 service provider, or similarly placed functional equipment within the E9-1-1 call completion hierarchy. The board shall determine what is similarly placed functional equipment.

(2) The actual recoverable costs in a carrier's plan will vary depending upon the CMRS carrier and the selected E9-1-1 solution. Recoverable RCs and NRCs may include:

(a) Trunking;

(b) Connection fees between carrier switches or other interface equipment to a selective router;

(c) Facilities: T-1's, selective router ports;

(d) Routing charges;

(e) Operations;

(f) Engineering;

(g) Switch upgrades;

(h) Network design;

(i) Test plan development;

(j) P-ANI administration;

(k) Database management;

(l) Reporting requirements;

(m) Software required for the operation of wireless E9-1-1;

(n) Call counting;

(o) Amortization costs and carrying costs;

(p) Other costs - The CMRS carrier shall provide full rationale for other costs submitted.

Section 9. Coordination of Phase I Rollout. Due to the need to interface equipment and technology deployed by multiple CMRS carriers, contracted wireline 9-1-1 providers, and PSAPs, both in any one (1) region and across the Commonwealth, it may be necessary to coordinate the initial deployment of Phase I calls to PSAPs based on the deployment of the wireless network rather than the date approved for certification, while remaining in accordance with FCC guidelines. In this case, the board shall make every effort to:

(1) Minimize delay in the start-up of Phase I for PSAPs and carriers who have already been approved.

(2) Coordinate the process in such a way that will maximize the number of citizens able to receive the enhanced service while remaining in accordance with the FCC guidelines.

Section 10. Use of Reimbursed Funds. A CMRS carrier shall use money received from the CMRS fund only for those expenditures and purposes listed in invoices accepted by the board and as previously authorized in an approved cost-recovery plan.

Section 11. Claims for Reimbursement. (1) After a cost-recovery plan is approved, a CMRS carrier may file a claim for reimbursement of NRCs and RCs defined in the plan by submitting an invoice or other documentation, as defined in the plan.

(2) An invoice submitted by a CMRS carrier which is consistent with the then-current approved plan shall be paid by the board unless specific written cause for the rejected invoice is provided to the carrier.

(3) A carrier may appeal a rejected invoice to arbitration in accordance with the process described in 202 KAR 6:040E.

(4) The board shall cease payment of a claim, including a claim previously approved but unpaid by the board, from a carrier who fails to comply with the requirements for remittance as specified by KRS 65.7635 until the carrier complies.

Section 12. Amount of Reimbursement. (1) The actual amount of monthly payments by the board to a carrier shall be determined utilizing one (1) of the following methods as set out in the approved cost-recovery plan:

(a) By submission of NRCs necessary for the realization of the carrier's approved plan and as actually incurred by the carrier.

(b) By submission of the predefined calendar period's nonsubscriber-based RCs.

(c) By submission of the predefined calendar period's subscriber-based RCs.

(d) By some combination of paragraphs (a), (b) and (c) of this subsection as previously approved by the board.

(2) To document costs requested to be reimbursed, a carrier shall submit:

(a) A sworn paid invoice for actual costs or purchases from other vendors or suppliers; and approved documentation for internal costs (e.g., time slips for actual work performed by the carrier's employees) sufficient to establish the internal costs as reasonable and necessary; or

(b) Other appropriate documentation approved by the board as part of the cost-recovery plan.

(3) The subscriber count reported monthly by a carrier with the CMRS fund remittance and reporting process shall be used to determine the total for subscriber-based RCs. The subscriber count shall be subject to audit by the board, at its discretion, in accordance with KRS 65.7629(13).

Section 13. Prorated Payments. If the board determines that the

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total amount of invoices submitted by CMRS carriers and approved by the board exceeds the amount of revenue in the fund in any month or other payment period, the board shall pay a prorated share of the available funds to all carriers who have submitted board-approved invoices for the involved period. The priority of payment of unpaid balances shall be as follows:

(1) The balance of approved unpaid invoices, including additional carrying charges at a rate established in the approved plan, shall be paid first.

(2) Current invoices approved by the board shall then be paid.

Section 14. Amortization of Costs. (1) Nonrecurring costs may be amortized over a period not longer than twenty-four (24) months, until the amounts claimed for NRCs are fully recouped by the CMRS carrier.

(2) The board may reject a cost-recovery plan or revised cost-recovery plan if the amortization period of NRCs selected by the carrier is not long enough to ensure adequate monthly surcharge revenues with which to meet the carrier's monthly reimbursement demands.

(3) The interest rate for carrying unreimbursed NRCs shall be established and fully documented in the carrier's cost-recovery plan.

(4) The actual cost of borrowing to fund NRCs shall be a legitimate recoverable RC.

(5) Only NRCs shall be amortized.

ALDONA VALICENTI, Chief Information Officer
ANGELA C. ROBINSON, Assistant General Counsel
APPROVED BY AGENCY: November 22, 1999
FILED WITH LRC: November 23, 1999 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204, John.Patterson@mail.state.ky.us

(1) Type and number of entities affected: 30 wireless telephone carriers providing service in Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

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

1. First year following implementation: Carriers must submit a cost-recovery plan to the CMRS Board, submit claims for reimbursement, and provide tallies of calls sent to PSAPs. There are no factors increasing or decreasing costs as the carriers are reimbursed for their costs.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. Costs are to be paid from the user fees collected.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The CMRS Board must approve or disapprove cost-recovery plans and claims for reimbursement submitted.

(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: CMRS user fees assessed by statute on all CMRS connections.

(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: See (b) below as the regulation will be implemented statewide.

(b) Kentucky: Approximately \$2.6 million will be made available to wireless carriers providing service in Kentucky to reimburse them for their costs in providing wireless E9-1-1 service.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were assessed. This method is stipulated in the KRS and the FCC Order on Docket #94.102.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation is expected to improve public health by providing better wireless E9-1-1 service.

(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: The public's safety and health would be reduced in that the rapid growth in wireless telephone use by consumers would disenfranchise state and local investment in the wired 9-1-1 system if cost recovery is not implemented. If not implemented, wireless carriers are likely to not implement #9-1-1 service or to do so in an uneven or non-integrated manner. The net effect is that wireless users will not be consistently connected to the local Public Safety Answering Point (9-1-1 center) and the PSAP may not have the required location information.

(9) Identify any statute, rule, 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. All carriers are treated equally. They are reimbursed for their costs expended in providing wireless E9-1-1 service.

STATEMENT OF EMERGENCY 202 KAR 6:030E

Pursuant to KRS 13A.190, the Governor of the Commonwealth of Kentucky does hereby declare that the proposed administrative regulation should be enacted on an emergency basis in order to facilitate the deployment of enhanced 9-1-1 services to wireless consumers. In order to provide the confidentiality of proprietary carrier information required by the statute throughout the implementation of the other required regulations and deployment of 9-1-1 service to wireless consumers, it is necessary to promulgate this administrative regulation on an emergency basis. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor

ALDONA K. VALICENTI, Chief Information Officer

FINANCE AND ADMINISTRATION CABINET Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky

202 KAR 6:030E. Confidential and proprietary information.

RELATES TO: KRS 65.7621-65.7643

STATUTORY AUTHORITY: KRS 65.7633(1), 65.7639

EFFECTIVE: November 23, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.7633(1) requires the CMRS Board to implement the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations. In order to comply with KRS 65.7629, 65.7639, and administrative regulations promulgated by the CMRS Board, it is necessary that the board and PSAPs certified by the board obtain

information deemed proprietary by the CMRS carriers or LECs. KRS 65.7639 protects such information and governs the form and manner of its release to others. This administrative regulation establishes the procedures by which the board will insure the security of information deemed confidential or proprietary.

Section 1. Identification of Confidential or Proprietary Information. (1) The board shall automatically regard as confidential and proprietary identification of subscribers including but not limited to subscribers' names, phone numbers, billing addresses, and other data as specified in KRS 65.7639.

(2) A CMRS carrier, PSAP, or LEC shall explicitly and clearly mark as confidential, prior to submission, any information supplied and regarded by the carrier, PSAP, or LEC as proprietary.

(3) The board shall not regard as confidential or proprietary the identification of a carrier or LEC or a subsidiary of either.

Section 2. Allowable Uses of Confidential and Proprietary Information. Confidential or proprietary information in the possession of the board or a PSAP may be used to:

(1) Disburse funds as provided in KRS 65.7631;

(2) Discharge the duties of the board and its agents as provided in KRS 65.7629;

(3) Institute collection actions if necessary to enforce the collection of the CMRS service charge against any CMRS customer;

(4) Process revenues remitted to the board by CMRS carriers; and

(5) Manage calls by PSAPs in accordance with KRS 65.7639.

Section 3. Management of Confidential and Proprietary Information in the Possession of the Board. (1) The board accepts responsibility for confidential and proprietary information supplied to it and its agents and shall instruct, in writing, all board personnel, agents of the board, and PSAPs as to the proper management and uses of the described information.

(2) A nondisclosure agreement shall be signed by all board members, personnel, and agents of the board who may handle or possess information deemed confidential or proprietary. No person shall disclose confidential or proprietary information to any other person or entity without the prior written consent of the person or entity providing such information.

(3) Material deemed confidential or proprietary shall be specifically and clearly identified by the board.

(4) Only persons specifically authorized by the board shall open board correspondence. Correspondence received by postal mail, electronic mail, or facsimile and opened by an unauthorized person shall be immediately returned to its container unopened and immediately forwarded to the person authorized by the board to handle its correspondence.

(5) Once received, proprietary and confidential information in the possession of the board, its members, agents, or any other person or entity shall be stored in a secure room, vault, or container. The room, vault, or container shall be kept locked when unattended or outside of normal business hours. All electronic files containing confidential or proprietary information shall likewise be secured.

(6) Access to confidential and proprietary information shall be limited to persons specifically authorized by the board or as may be necessary to discharge the requirements of KRS 65.7621 to 65.7643.

(7) Copies of confidential or proprietary information may be distributed as necessary for the efficient discharge of board duties and responsibilities.

(a) Copies shall be explicitly and clearly marked as confidential.

(b) Persons possessing copies of documents containing confidential or proprietary information shall be responsible for their security.

(c) Copies no longer required shall be returned to the board or shall be destroyed immediately in such a manner as to prevent their reconstruction.

(8) An original record or file no longer needed for processing shall be:

(a) Sealed securely and retain the restricted access notice; and transferred to a facility accessible only to the board administrator or,

with board approval, transferred to the state archival and record storage center; or

(b) Destroyed only with board approval; or

(c) Returned to the proprietor.

Section 4. Breaches of Security. (1) The board shall take immediate action to determine the cause, impact, and persons involved in any security violation of the confidential information entrusted to it.

(2) Unauthorized access to confidential or proprietary information shall be promptly reported to the board in writing.

(3) A report of a security breach shall include a description of the incident, specific identification of the information disclosed, identification of all persons who accessed the records, and the purposes for which access was obtained.

(4) The board shall notify an affected party immediately, providing a copy of the written report detailing the incident.

(5) Willful or negligent disregard of the provisions of this administrative regulation by:

(a) Board members or its agents and employees may be deemed cause for dismissal by the board or request for resignation, as appropriate.

(b) A PSAP or its employee may be deemed cause for the board to decertify the involved PSAP.

ALDONA VALICENTI, Chief Information Officer

ANGELA C. ROBINSON, Assistant General Counsel

APPROVED BY AGENCY: November 22, 1999

FILED WITH LRC: November 23, 1999 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204, John.Patterson@mail.state.ky.us

(1) Type and number of entities affected: The CMRS Board, 30 CMRS carriers, approximately 80 public safety answering points (PSAPs) and 20 local exchange carriers, their agents and employees.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

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

1. First year following implementation: Entities must mark relevant documents "confidential" upon submission to the board. PSAPs must maintain documents held or utilized by them in a confidential manner.

2. Second and subsequent years: Same as above

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The CMRS Board must invest in secure vaults, etc. for maintaining confidential documents.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The CMRS Board must mark documents "confidential" and destroy or return unnecessary copies or original documents.

(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: CMRS user fees assessed by statute on all CMRS connections.

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

(a) Geographical area in which administrative regulation will be implemented: No comments have been received. However, no effect is anticipated.

(b) Kentucky: No comments have been received. However, no effect is anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were assessed. This method is stipulated in the KRS and the FCC Order on Docket #94.102.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Improved 9-1-1 service by CMRS carriers eligible to be reimbursed for their costs.

(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: Without adequate confidentiality guarantees, CMRS carriers will be reluctant to participate in providing wireless E9-1-1 service. Thus, some segments of the public may be without adequate 9-1-1 service.

(9) Identify any statute, rule, 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. All entities are treated equally.

STATEMENT OF EMERGENCY 202 KAR 6:040E

Pursuant to KRS 13A.190, the Governor of the Commonwealth of Kentucky does hereby declare that the proposed administrative regulation should be enacted on an emergency basis in order to facilitate the deployment of enhanced 9-1-1 services to wireless consumers. In order to provide a means of resolving disputes as required by the statute during the implementation of the other required regulations and the deployment of 9-1-1 service to wireless consumers, it is necessary to promulgate this administrative regulation on an emergency basis. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor

ALDONA K. VALICENTI, Chief Information Officer

FINANCE AND ADMINISTRATION CABINET Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky

202 KAR 6:040E. Dispute resolution.

RELATES TO: KRS 65.7621-65.7643

STATUTORY AUTHORITY: KRS 65.7633(2)(d)

EFFECTIVE: November 23, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.7633(2)(d) requires the CMRS Board to establish procedures and guidelines for resolving disputes regarding reimbursable costs and expenses under KRS 65.7631(2) and (3). This administrative regulation establishes the dispute resolution process.

Section 1. Actionable Disputes. A CMRS carrier or a PSAP may dispute the propriety of:

(1) A cost rejected by the board in a submitted cost recovery plan;

(2) Rejection by the board of a cost recovery plan;

(3) Rejection by the board of an invoice submitted for payment;

(4) Documentation or criteria required by the board for approval of a cost recovery plan or PSAP Application for Certification;

(5) Disapproval by the board of a PSAP's Application for Certification.

cation.

Section 2. Arbitration. (1) If a dispute arises as to a matter identified in Section 1 of this administrative regulation, the dispute shall be resolved by arbitration.

(2) The arbitration shall be conducted by a single arbitrator engaged under the rules of the American Arbitration Association (AAA).

(3) The Federal Arbitration Act, 9 USC Sec's. 1-16, shall govern the arbitrability of all disputes.

(4) The arbitrator shall not have authority to award punitive damages.

(5) All expedited procedures prescribed by AAA shall apply.

(6) The arbitrator's award:

(a) Shall be final and binding.

(b) May be entered in any court having jurisdiction thereof.

(7) Each party shall:

(a) Bear its own costs and attorney's fees.

(b) Share equally in the fees and expenses of the arbitrator.

Section 3. Limitations. (1) Nothing in this administrative regulation shall be construed to waive or limit either party's right to seek relief from the Federal Communications Commission as provided by law.

(2) No dispute may be brought by either party more than two (2) years after the cause of action accrues.

ALDONA VALICENTI, Chief Information Officer

ANGELA C. ROBINSON, Assistant General Counsel

APPROVED BY AGENCY: November 22, 1999

FILED WITH LRC: November 23, 1999 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204, John.Patterson@mail.state.ky.us

(1) Type and number of entities affected: 30 CMRS carriers and approximately 80 public safety answering points (PSAPs).

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

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

1. First year following implementation: There are no compliance, reporting, or paperwork requirements. However, entities which dispute an arbitrable board decision will incur the cost of legal representation in case of arbitration.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: If an entity disputes an arbitrable board decision and requests arbitration, the board will incur the cost of legal representation in arbitration. However, the cost of resolving disputes will be reduced by using arbitration rather than the court system.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: The cost of resolving disputes will be reduced by use of arbitration.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: CMRS user fees assessed by statute on all CMRS connections.

(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: See (b) below as the regulation will be implemented statewide.

(b) Kentucky: No comments have been received. However, the cost of resolving disputes will be reduced for state government and regulated entities by the use of arbitration.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Normal judicial process was considered, but deemed too expensive and time-consuming. Arbitration was viewed as a better choice.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This regulation will induce more rapid resolution of impediments to improved wireless E9-1-1 service, thus saving lives and property.

(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: Disputes would drag out, delaying implementation of portions of the 9-1-1 wireless network.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. This regulation applies equally to all regulated entities. Any entity may dispute an issue and request arbitration.

STATEMENT OF EMERGENCY 202 KAR 6:050E

Pursuant to KRS 13A.190, the Governor of the Commonwealth of Kentucky does hereby declare that the proposed administrative regulation should be enacted on an emergency basis in order to facilitate the deployment of enhanced 9-1-1 services to wireless consumers. In order to immediately begin the task of enabling 9-1-1 centers to qualify for CMRS funds and allow wireless communications carriers sufficient lead time to build the necessary network connections, it is necessary to promulgate this administrative regulation on an emergency basis. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
ALDONA K. VALICENTI, Chief Information Officer

FINANCE AND ADMINISTRATION CABINET Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky

202 KAR 6:050E. PSAP certification.

RELATES TO: KRS 65.7621-65.7643

STATUTORY AUTHORITY: KRS 65.7631(4)(a), 65.7633(1)

EFFECTIVE: November 23, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.7631(4)(a) states that no PSAP shall be eligible to request or receive a disbursement from the CMRS fund unless and until the PSAP is expressly certified as a PSAP by the CMRS Board, upon written application to the CMRS Board. KRS 65.7633 authorizes the CMRS Board to implement the provisions of KRS 65.7621 to 65.7643 through the promulgation of administrative regulations. This administrative regulation establishes the process by which a PSAP shall establish and maintain eligibility for disbursement from the CMRS fund.

Section 1. Phase I Certification. (1) Certification of a PSAP by

the board implies that the board has examined the operation and infrastructure of the requesting PSAP and determined that it is or will be capable of complying with the requirements for handling wireless E9-1-1 calls.

(2) The board shall certify as many PSAPs as possible, recognizing the less stringent technological and operational requirements of Phase I wireless E9-1-1 and the uneven nature of existing E9-1-1 infrastructure in the Commonwealth.

(3) The board shall allow for as much diversity as possible in facilities and operation of E9-1-1 systems across the Commonwealth, yet provide for increasing integrity in E9-1-1 systems statewide and meet its mandate to coordinate and assist in the implementation of new technology in the operations of emergency telecommunications in the state.

(4) To be certified as a PSAP by the board, a PSAP shall provide to the board:

(a) A written application in the form and format specified by the board, by certified U.S. mail or by other express mail service requiring a delivery signature;

(b) A copy of:

1. Documentation which establishes the PSAP's authority to establish 9-1-1 service in accordance with KRS 65.760;

2. Any existing or proposed agreement between a CMRS carrier and the PSAP;

3. A list of the public safety agencies served by the requesting PSAP and a copy of any agreement between the PSAP and the designated agencies;

4. Any agreement between the requesting PSAP and the contracted wireline E9-1-1 service provider; and

5. A map detailing the area served by the requesting PSAP.

6. Nothing in subparagraph 1 of this paragraph shall prohibit the Kentucky State Police from establishing a Public Safety Answering Point as otherwise permitted by law.

(c) A description of:

1. The mapping and addressing applications including:

a. The location of each database;

b. How each database is maintained; and

c. Who maintains each database.

2. The network and its characteristics currently or proposed to be in use by the PSAP;

3. The customer premises equipment employed by the PSAP in receiving E9-1-1 calls; and

4. Call transfer functions in the PSAP.

(d) Documentation of:

1. Sworn statements that telecommunications and PSAP management have signed nondisclosure agreements regarding confidential information accessible by them;

2. The disaster recovery application used by the PSAP including:

a. Default routing and alternate routing of call applications or other contingency applications for rerouting calls in the event of system failure;

b. Type of backup power equipment installed; and

c. Evacuation and relocation applications.

3. Seven (7) digit service for administrative (nonemergency) service;

4. Telecommunications devices for the deaf (TDD's) in the PSAP;

5. A certificate or sworn statement that telecommunications employed by the PSAP who handle wireless E9-1-1 calls meet the training requirements as required by laws of the Commonwealth of Kentucky; and

6. The PSAP's standard operating procedures for the handling of wireless E9-1-1.

(e) A description of:

1. The PSAP's ability or anticipated ability to handle the data elements associated with wireless E9-1-1 calls; and

2. The anticipated use of the CMRS funds in accordance with KRS 65.7631.

(5) After its initial review, the board:

(a) May require other documentation that it deems necessary; and

(b) Shall schedule an on-site inspection by a member or mem-

bers of the board.

REGULATORY IMPACT ANALYSIS

Section 2. Application for Certification. (1) An application for certification shall be stamped "Confidential" and proprietary information received by the board shall be filed and maintained so as to maintain its confidentiality in accordance with KRS 65.7639 and 202 KAR 6:030E.

(2) An application for certification shall be approved by the board by a simple majority vote.

(3) Within ten (10) business days of its decision, notice of the board's approval or disapproval of an application shall be sent to the PSAP, in writing, by certified U.S. mail or by other express service requiring a delivery signature.

(4) If the board disapproves an application for PSAP certification:

(a) The board shall schedule a meeting with the PSAP applicant to resolve identified problems.

(b) Specific reasons for rejection of the application shall be included in the board's written decision.

(c) The PSAP may submit a revised application to the board for its review and approval or disapproval following the process set out in Section 1 of this administrative regulation and this section.

(d) The PSAP may appeal the board's rejection to an arbitrator as outlined in 202 KAR 6:040E.

(5) The board may review previously approved applications and may require additional documentation or resubmittal.

Section 3. Revision of an Approved Application. (1) After an application is approved, subsequent changes may be requested by either the PSAP or the board.

(2) The board may review an existing certification and request resubstantiation and reapproval of an application as it deems necessary to maintain the integrity of the wireless E9-1-1 system.

(3) A party requesting revision of an application shall send written notice of the requested changes to the other party by express mail service requiring a delivery signature.

(4) An existing and approved application shall remain in effect until a review and decision regarding involved changes is made.

(5) The process outlined in Sections 1 and 2 of this administrative regulation above for review and approval of initial application submittal shall be utilized for the analysis of requested changes.

(6) Failure of a PSAP to respond in writing to a board request within the time specified in the board's request may be considered cause for the board to decertify a previously approved application and cease payments to the PSAP.

Section 4. Phase II Certification. It is anticipated by the board that Phase II deployments will involve more sophisticated networks and technology on the part of all concerned.

(1) In keeping with the mandate set forth in KRS 65.7625 to implement compliance throughout the state with wireless E9-1-1 service requirements established by the FCC order, the board shall establish and publish a timetable within which it expects PSAPs to migrate to Phase II.

(2) The board may:

(a) Seek additional documentation and substantiation of a PSAP's continuing ability to handle E9-1-1 calls;

(b) Impose more stringent requirements to receive or maintain certification; and

(c) Decertify a PSAP that has not maintained or purchased the necessary equipment, technology, and infrastructure to comply with the evolving requirements.

Section 5. Decertification of a PSAP. If a PSAP is found to have used funds for purposes other than as prescribed by KRS 65.7631 and administrative regulations promulgated pursuant thereto, the board may decertify the PSAP with a resulting loss of CMRS funds.

ALDONA VALICENTI, Chief Information Officer
ANGELA C. ROBINSON, Assistant General Counsel
APPROVED BY AGENCY: November 22, 1999
FILED WITH LRC: November 23, 1999 at 4 p.m.

Contact Person: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204, John.Patterson@mail.state.ky.us

(1) Type and number of entities affected: Approximately 80 local 9-1-1 centers or public safety answering points (PSAPs).

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

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

1. First year following implementation: PSAPs must submit an application for phase certification and reapply for Phase II certification.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The CMRS Board must maintain applications and paperwork for applying PSAPs.

(4) Assessment of anticipated effect on state and local revenues: Approximately \$2.6 million will be distributed among certified PSAPs on a quarterly basis per statute.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: CMRS user fees assessed by statute on all CMRS connections.

(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: See (b) below as the regulation will be implemented statewide.

(b) Kentucky: Approximately \$2.6 million will be distributed among certified PSAPs on a quarterly basis per statute.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were assessed. This method is stipulated in the KRS.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This regulation is expected to improve public health by providing better wireless E9-1-1 service.

(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: The public's safety and health would be reduced in that the rapid growth in wireless telephone use by consumers would disenfranchise state and local investment in the wired 9-1-1 system if cost recovery is not implemented. If not implemented, wireless carriers are likely to not implement #9-1-1 service or to do so in an uneven or non-integrated manner. The net effect is that wireless users will not be consistently connected to the local Public Safety Answering Point (9-1-1 center) and the PSAP may not have the required location information.

(9) Identify any statute, rule, 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. The statute sets out the methods for disbursing funds to PSAPs.

**STATEMENT OF EMERGENCY
202 KAR 6:060E**

Pursuant to KRS 13A.190, the Governor of the Commonwealth of Kentucky does hereby declare that the proposed administrative regulation should be enacted on an emergency basis in order to facilitate the deployment of enhanced 9-1-1 services to wireless consumers. In order to release funds as soon as possible and ensure the equitable distribution of funds to 9-1-1 centers enabling them to make the technical upgrades necessary to facilitate the deployment of 9-1-1 services to wireless consumers, it is necessary to promulgate this administrative regulation on an emergency basis. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
ALDONA K. VALICENTI, Chief Information Officer

**FINANCE AND ADMINISTRATION CABINET
Commercial Mobile Radio Service Emergency
Telecommunications Board of Kentucky**

202 KAR 6:060E. PSAP Pro Rata Fund disbursement.

RELATES TO: KRS 65.7621-65.7643

STATUTORY AUTHORITY: KRS 65.7633(2)(c)

EFFECTIVE: November 23, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 65.7633(2)(c) requires the CMRS Board to establish procedures and guidelines for reviewing, evaluating, and approving or disapproving disbursements from the CMRS fund and requests for disbursements. This administrative regulation establishes the pro rata fund disbursement process.

Section 1. Initial Revenues Collected by the CMRS Board. (1) Monthly revenues remitted to the CMRS Board for pro rata distribution prior to April 1, 2000 shall be frozen to provide sufficient opportunity for PSAPs to certify for disbursement of CMRS funds.

(2) On or before June 30, 2000, the CMRS Board shall establish a date before which any PSAP wishing to receive a pro rata portion of the funds shall have been certified by the board. Notice of the established date shall be posted on the CMRS Board's web site and distributed in writing to all PSAPs known to the board, county judge executives, mayors of class six (6) cities or above, and mayors of urban county governments not less than ninety (90) days prior to the established date.

(3) A PSAP certified by the board by the established date shall receive, within forty-five (45) days of the established date, a pro rata disbursement from the frozen funds according to the "PSAP pro rata formula" in accordance with KRS 65.7631(2)(a).

Section 2. Ongoing Revenues Collected by the CMRS Board.

(1) Monthly revenues remitted to the CMRS Board after March 31, 2000 shall be disbursed to PSAPs in quarterly payments.

(2) Any PSAP certified by July 31, 2000 shall be eligible for the initial disbursement of funds.

(3) Following the initial disbursement, funds disbursed under the "PSAP pro rata formula" shall be disbursed to any PSAP that is certified at the end of the calendar quarter prior to the disbursement date according to the formula specified in KRS 65.7631(2)(a).

(4) Quarterly payments for "PSAP pro rata formula" disbursements shall be made on or before the midpoint of the calendar quarter following the quarter on which they are based.

ALDONA VALICENTI, Chief Information Officer
ANGELA C. ROBINSON, Assistant General Counsel
APPROVED BY AGENCY: November 22, 1999
FILED WITH LRC: November 23, 1999 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: John J. Patterson, ENP, CMRS Administrator, 100 Fair Oaks Lane Suite 102A, Frankfort, Kentucky 40601, Phone: (502) 564-2638, FAX: (502) 564-3204, John.Patterson@mail.state.ky.us

(1) Type and number of entities affected: Approximately 80 public safety answering points (PSAPs).

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. No comments have been received. However, no effect is anticipated.

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

1. First year following implementation: PSAPs must submit an application for Phase I certification and reapply for Phase II certification.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The CMRS Board must maintain applications, documentation of call counts, and other supporting paperwork for applying PSAPs.

(4) Assessment of anticipated effect on state and local revenues: Approximately \$2.6 million will be distributed among certified PSAPs on a quarterly basis per statute.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: CMRS user fees assessed by statute on all CMRS connections.

(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: See (b) below as the regulation will be implemented statewide.

(b) Kentucky: Approximately \$2.6 million will be distributed among certified PSAPs on a quarterly basis per statute.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternative coupled the immediate disbursement of funds to certifying PSAPs with the even and equal disbursement of accumulated funds to all PSAPs across the Commonwealth able to certify.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will evenly spread the available funds across the Commonwealth and thereby induce more rapid resolution of impediments to improved wireless E9-1-1 service, thus saving lives and property.

(b) State whether a detrimental effect on environment and public health would result if not implemented: A detrimental effect on public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: Disbursement of accumulated funds would likely be concentrated in a few areas of the Commonwealth resulting in uneven deployment of the ability to handle wireless 9-1-1 calls.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. This administrative regulation applies equally to all regulated entities.

STATEMENT OF EMERGENCY
301 KAR 2:221E

This emergency administrative regulation establishes seasons, limits and shooting hours for waterfowl. Waterfowl hunting season frameworks are established annually by the United States Fish and Wildlife Service. Under federal law, states which wish to establish waterfowl hunting seasons must do so within these federal frameworks. Development of the federal regulations involves consideration of harvest and population data, coordination with state wildlife agencies, and public involvement. Consequently, federal migratory bird hunting regulations are promulgated less than six (6) weeks before the opening dates of the hunting season. An ordinary administrative regulation cannot be adopted in the short time between final promulgation of federal regulations and the scheduled opening of state waterfowl hunting seasons, necessitating the promulgation of an emergency administrative regulation. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The notice of intent for 301 KAR 2:221 was filed with the Regulations Compiler simultaneously with this emergency administrative regulation.

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

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources

301 KAR 2:221E. Waterfowl seasons and limits.

RELATES TO: KRS 150.010(40), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.600(1), 150.990, 50 CFR Parts 20, 21
STATUTORY AUTHORITY: KRS 150.025(1), 150.600(1), 50 CFR Parts 20, 21

EFFECTIVE: November 24, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) and 150.600(1) authorize the department to set waterfowl season dates and limits. This administrative regulation is necessary to set limits and dates within federal waterfowl hunting frameworks established by 50 CFR Part 20. This administrative regulation imposes a shorter season in the Ballard Reporting Area than permitted by federal frameworks in an effort to build Canada goose populations in that portion of the state.

Section 1. Definitions. (1) "Dark goose" means a Canada goose, white-fronted goose, or brant.

(2) "Snow goose" means a snow goose or Ross' goose.

(3) "Waterfowl" is defined by KRS 150.010(40).

Section 2. (1) Except as authorized by 301 KAR 2:222, 301 KAR 2:225, or 301 KAR 2:226, a person shall not take waterfowl except on the dates and within the limits prescribed by this administrative regulation.

(2) Hunting zones, special hunt areas and reporting areas are described in 301 KAR 2:224.

Section 3. Gun and Archery Season Dates and Bag Limits for Duck, Coot, and Merganser. (1) Season dates. Statewide, Thanksgiving Day, November 25, 1999, until January 23, 2000 [the first Saturday in November for two (2) consecutive days and the third Saturday in November for fifty-eight (58) consecutive days].

(2) The gun and archery daily limit shall be:

- (a) Six (6) ducks, which shall not include more than:
 1. Four (4) mallards, which shall not include more than two (2) hen mallards.
 2. Two (2) wood ducks.
 3. One (1) black duck.
 4. Two (2) redheads.
 5. One (1) pintail.

6. One (1) canvasback.

7. Three (3) scaup.

(b) Fifteen (15) coots.

(c) Five (5) mergansers, which shall not include more than one (1) hooded merganser.

(3) The possession limits shall be double the daily limit.

Section 4. Gun and Archery Seasons Dates and Bag Limits for Geese. (1) White-fronted goose and brant season dates: Thanksgiving Day through January 31 [30], except that hunting for dark geese in the Western Goose Zone shall cease if a quota specified in Section 7 of this administrative regulation is reached.

(2) Snow goose season dates: Thanksgiving Day through March 10.

(3) Canada goose season dates shall be from the starting date listed below through January 31 [~~December 12 through January 30~~], except:

(a) The last day of hunting shall be:

1. February 15 [14] in Fulton County; and

2. January 24 in the Ballard Reporting Area.

(b) The season shall not open until:

1. December 4 in the Western Goose Zone;

2. December 11 in the Ballard Reporting Area;

3. December 13 in the Eastern Goose Zone;

4. December 28 [27] in the Pennyroyal-Coalfield Goose Zone;

5. December 28 [2-January-9] in the West-Central Kentucky Hunt [Goose] Zone;

6. January 23 [3-January-22] in the Northeast Kentucky Hunt [Goose] Zone.

(c) Hunting for dark geese in the Western Goose Zone shall cease if a quota specified in Section 7 of this administrative regulation is reached.

(4) A person shall not goose hunt in:

(a) Breathitt, Knott, and Perry counties.

(b) The areas of Laurel River Lake as posted by sign. [The portions of Bell, Clay, Laurel, Pulaski and Whitley Counties owned by the U.S. Forest Service, including Laurel River Lake.]

(c) McCreary County east of US 27.

(d) Cave Run Lake and the public land inside a boundary formed by Highways 801, 1274, 36, 211, US 60 and Highway 826.

(e) Martin County.

(5) The gun and archery daily limit shall be:

(a) Six (6) dark geese, to include no more than:

1. Two (2) Canada geese;

2. Two (2) white-fronted geese; and

3. Two (2) brant.

(b) Twenty (20) snow geese.

(6) The possession limit shall be double the daily limit, except that there shall not be a possession limit on snow geese.

Section 5. Shooting Hours. A person shall not hunt waterfowl except from one-half (1/2) hour before sunrise until:

(1) 2 p.m. in the Northeast Kentucky [Special] Hunt Zone during a Canada goose season; or

(2) Sunset in the remainder of the state, except as specified in 301 KAR 2:222.

Section 6. Falconry Waterfowl Season and Limits. (1) Season dates:

(a) Snow geese and Ross' geese: November 25 through March 10;

(b) Other waterfowl: November 5 through January 31.

(2) Daily limit: three (3) waterfowl.

(3) Possession limit: six (6) waterfowl.

Section 7. Quotas and Early Goose Season Closings. (1) If hunters reach a quota of 8,000 [5,000] Canada geese in the Ballard Reporting Area before January 23 [24], dark goose hunting shall cease in the Ballard Reporting Area.

(2) If hunters reach a quota of 3,200 [1,800] Canada geese in the Henderson-Union Reporting Area before January 23 [30]: dark goose hunting shall cease in the Henderson-Union Reporting Area.

(3) In a county associated with the Ballard Reporting Area and [or]

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the Henderson-Union Reporting Area, dark goose hunting shall cease:

- a. Seven (7) days after the reporting area closes; or
- (b) On the scheduled closing date, whichever occurs first.
- (4) The department shall provide at least a twenty-four (24) hour notice of the time and date of an early closure.

DOUGLAS SCOTT PORTER, Assistant Attorney General

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

TOM BAKER, Chairman

APPROVED BY AGENCY: August 27, 1999

FILED WITH LRC: November 24, 1999 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Fields

(1) Type and number of entities affected: Approximately 17,000 persons hunt waterfowl annually in Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation should have no impact on costs of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impacts are anticipated.

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

1. First year following implementation: Waterfowl hunters must purchase licenses as well as state and federal waterfowl stamps. This is a continuing requirement that will impose no additional requirements.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No new direct or indirect costs or savings will be incurred.

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

3. Additional factors increasing or decreasing costs:

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

(4) Assessment of anticipated effect on state and local revenues: No increase or decrease on state or local revenues is anticipated.

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

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

(a) Geographical area in which administrative regulation will be implemented: No public comments received. Waterfowl hunting creates substantial economic activity in certain sections of the state. This administrative regulation will allow waterfowl hunting to continue by establishing hunting seasons within federal frameworks.

(b) Kentucky: The statewide impact of waterfowl hunting is minimal, but this administrative regulation does allow for the continuance of this activity.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative of not having a waterfowl season was rejected because waterfowl represent a renewable natural resource which affords recreational opportunities and generates economic activity throughout the commonwealth.

(8) Assessment of expected benefits: Continuation of waterfowl hunting and short- and long-term conservation of waterfowl resources are the primary benefits.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Regulated harvest of waterfowl ensures the continuation of this important component of the Commonwealth's biological diversity.

(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: Inability to regulate waterfowl resource.

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was used to apply different season dates and harvest limits to various regions of the state. This was done to maximize hunter opportunity while conserving waterfowl resources.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 50 CFR Parts 20 and 21.

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

3. Minimum or uniform standards contained in the federal mandate. Ducks, coots and mergansers: Not more than a 60 day season with a 6 bird bag limit between the Saturday closest to October 1 and the Sunday closest to January 20. The state may be split into 2 zones with no more than 2 segments in each zone. The daily bag limit is 6 ducks and may not include more than 4 mallards (no more than 2 hen mallards), 3 scaup, 1 black duck, 1 pintail, 2 wood ducks, 1 canvasback and 2 redheads. The possession limit shall be twice the daily bag. The coot daily bag shall be 15 with the possession limit being 30. The merganser limit shall be 5 daily (only 1 may be a hooded merganser) and the possession limit being twice the daily bag. Both the coot and merganser bag shall be in addition to the duck limit.

Geese: The season for light geese (snow geese) may extend for 107 days and the season for white-fronted geese may extend for 86 days. Season framework for light geese is between the Saturday nearest October 1 and March 10. The season framework for white-fronted geese is between the Saturday nearest October 1 and January 31.

The Canada goose season in the Western Goose Zone season may extend for 59 days (74 days in Fulton County) between October 1 and January 31 (except February 28 in Fulton County), or until the harvest of 22,900 birds is taken, whichever occurs first.

Pennyroyal/Coalfield Zone: The Canada Goose season may extend for 35 days.

The Canada goose season in the remainder of the state may extend for 50 days with a daily bag limit of 2 Canada geese.

The daily bag limit shall include no more than 20 snow geese, 2 Canada geese, 2 white-fronted geese and 2 brant. Possession limit is twice the daily bag limit, except there is no possession limit on snow geese.

Shooting hours shall be 1/2 hour before sunrise until sunset daily for all species.

Falconry season for migratory birds mentioned above shall fall between September 1 and March 10 and shall not exceed 107 days. Daily bag and possession limits shall not exceed 3 birds daily or 6 in possession, singly or in the aggregate of species. Hunting hours shall be the same as for firearms hunting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Seasons for light geese are shorter due to the paucity of birds wintering in Kentucky during the early parts of the framework dates. Exerting hunting pressure on so few birds could jeopardize long-term bird use in Kentucky.

The Ballard Wildlife Management Area season is shorter than the Western Goose Zone so that controlled hunts will not jeopardize goose and duck use. Scheduled resting periods during the framework is a good means of enhancing historic use patterns. Other wildlife management area season dates and shooting hours were

adjusted to optimizing public use within sound waterfowl conservation practices.

**STATEMENT OF EMERGENCY
301 KAR 2:222E**

This emergency administrative regulation establishes hunting dates and other requirements for hunting on wildlife management areas. Waterfowl hunting season frameworks are established annually by the United States Fish and Wildlife Service. Under federal law, states which wish to establish waterfowl hunting seasons must do so within these federal frameworks. Development of the federal regulations involves consideration of harvest and population data, coordination with state wildlife agencies, and public involvement. Consequently, federal migratory bird hunting regulations are promulgated less than six (6) weeks before the opening dates of the hunting season. An ordinary administrative regulation cannot be adopted in the short time between final promulgation of federal regulations and the scheduled opening of state waterfowl hunting seasons, necessitating the promulgation of an emergency administrative regulation. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The notice of intent for 301 KAR 2:222 was filed with the Regulations Compiler simultaneously with this emergency administrative regulation.

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

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

301 KAR 2:222E. Waterfowl hunting requirements.

RELATES TO: KRS 150.010(40), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.600(1), 150.990, 50 CFR Parts 20, 21
STATUTORY AUTHORITY: KRS 150.025(1)(a), (b), 150.340(1), (2), (3), 150.600(1), 50 CFR Parts 20, 21
EFFECTIVE: November 24, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) and 150.600(1) authorize the department to establish statewide waterfowl hunting requirements and to specify seasons and other requirements on wildlife management areas. Waterfowl seasons in the Ballard Wildlife Management Area, Cane Creek Wildlife Management Area, Cumberland Lake Wildlife Management Area, Cyprus-AMAX Wildlife Management Area, Land Between the Lakes, Ohio River Waterfowl Refuge, Robinson Forest Wildlife Management Area, and Yellowbank Wildlife Management Area differ from and are shorter than federal regulations to optimize public use within sound waterfowl conservation practices.

Section 1. Definitions. (1) "Blind" means:

- (a) A concealing enclosure.
- (b) A pit.
- (c) A boat.

(2) "Party" means:

- (a) A person hunting alone; or
- (b) From two (2) to four (4) persons who share a blind.

(3) "Permanent blind" means a blind left in place more than twenty-four (24) hours.

(4) "Statewide waterfowl seasons" means the provisions of this administrative regulation and of 301 KAR 2:221.

(5) "Waterfowl" is defined by KRS 150.010(40).

Section 2. A waterfowl hunter shall not use or carry a shotgun shell:

- (1) Longer than three and one-half (3 1/2) inches; or
- (2) Containing shot:
 - (a) Made of lead;
 - (b) Not approved by the U.S. Fish and Wildlife Service for waterfowl hunting; or
 - (c) Larger than size "T."

Section 3. In the Ballard Reporting Area, as described in 301 KAR 2:224:

(1) A waterfowl hunter shall:

- (a) Hunt from a blind unless hunting in flooded, standing timber.
- (b) Not hunt from or establish a blind:
 - 1. Within 100 yards of another blind; or
 - 2. Within fifty (50) yards of a property line.
- (c) Not possess more than one (1) shotgun while in a blind.
- (2) More than five (5) persons shall not occupy a blind.
- (3) The requirements of subsection (1) of this section shall not apply after Canada goose season closes.

Section 4. (1) Except as specified in this section or in Section 5 of this administrative regulation, on a wildlife management area:

- (a) A waterfowl hunter shall not establish or hunt from:
 - 1. A permanent blind.
 - 2. A blind within 200 yards of:
 - a. Another blind; or
 - b. A waterfowl refuge.
- (b) A person shall not hunt in a designated recreation area or access point.
- (c) More than four (4) persons shall not occupy a blind.
- (d) A hunter shall remove decoys and personal effects from the wildlife management area daily, except that a hunter drawn for a multi-day hunt may leave decoys in place for the duration of his hunt.
- (2) A person wishing to establish a permanent blind on Barkley Lake, Barren River Lake, Buckhorn Lake, Green River Lake, Nolin River Lake, Paintsville Lake, Rough River Lake or Taylorsville Lake Wildlife Management Areas:
 - (a) Shall first obtain a permit from the U. S. Army Corps of Engineers.
 - (b) May designate one (1) other person as a partner.
 - (c) Shall participate in a drawing for a blind permit on the Barkley, Barren, Green, Paintsville, or Taylorsville areas.
 - (d) Shall present a valid hunting license at the time of the drawing.
 - (e) Shall not hold more than one (1) permit per area.
- (3) The holder of a blind permit shall:
 - (a) Construct his blind before November 20 or forfeit the permit.
 - (b) Not lock a blind.
 - (c) Unless an extension of time is granted, remove his blind within thirty (30) days of the close of waterfowl season or be ineligible for a permit the following year.
- (4) A blind not occupied by the permit holder one (1) hour before sunrise shall be available to another hunter on a first-come, first-serve basis.
- (5) A blind restriction specified in this section shall not apply to a falconer if a gun or archery season is not open.

Section 5. On a wildlife management area:

- (1)(a) Statewide waterfowl seasons shall apply unless otherwise stated in this section.
- (b) If specific hunting dates are given in this section, a person shall not hunt waterfowl except on those dates.
- (c) Paragraph (b) of this subsection shall not apply to a waterfowl hunting season opening before October 15.
- (2) A person shall not:
 - (a) Hunt on an area or portion of an area marked by a sign as closed to hunting;
 - (b) Enter an area or a portion of an area marked by signs as closed to public access; or
 - (c) Hunt a species on an area or a portion of an area marked by signs as closed to hunting for that species.
- (3) Wildlife management areas in Ballard County.
 - (a) A person shall not:
 - 1. Have more than fifteen (15) shotgun shells in one (1) day while waterfowl hunting; or
 - 2. Hunt past 12 noon.
 - (b) At least one (1) person in a blind shall be eighteen (18) years of age or older while hunting from a department blind at Ballard WMA or Barlow Bottoms WMA.
 - (c) At Ballard Wildlife Management Area:
 - 1. Waterfowl hunting shall be permitted during an open waterfowl season occurring before October 15.

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2. The duck, coot, and merganser season shall be:
 - a. December 15 through January 23 [16 through January 17]; or
 - b. Until the Ballard Reporting Area Canada goose quota is reached.
3. The goose season shall be:
 - a. December 15 through January 23 [16 through January 24]; or
 - b. Until the Ballard Reporting Area Canada goose quota is reached.
4. A waterfowl hunter shall not hunt on a Monday, Tuesday, Christmas Day, or New Year's Day.
5. A waterfowl hunter shall:
 - a. Apply in advance in accordance with Section 6 of this administrative regulation;
 - b. Case his gun while using department-supplied transportation to and from a blind; and
 - c. Not hunt waterfowl on the Ohio River from fifty (50) yards upstream from Dam 53 to fifty (50) yards downstream from the southern border of the Ballard Wildlife Management Area from October 15 through March 15.
- (d) At Barlow Bottoms Wildlife Management Area, including the Lower Bottoms, Peal and Swan Lake units:
 1. A person shall:
 - a. Not hunt on a Monday or Tuesday; and
 - b. Check in and out daily at the designated check station [during Canada goose season].
 2. A department blind assignment shall be made in accordance with Section 6 of this administrative regulation.
 3. A blind shall be made offered to another hunter on a first-come, first-served basis, if the original assignee has not checked in by 5 a.m.
 4. A person shall not, on Lower Bottoms unit:
 - a. Hunt waterfowl except from a permanent department blind;
 - b. Be on the area after 1 p.m. during a waterfowl season, except as authorized by the department; and
 - c. Hunt waterfowl except from a blind assigned by the department during Canada goose season.
 5. On the Peal unit:
 - a. More than seven (7) parties shall not hunt at the same time on Buck Lake or Flat Lake;
 - b. More than four (4) parties shall not hunt at the same time on Fish Lake;
 - c. More than three (3) parties shall not hunt at the same time on First Lake or Second Lake;
 6. On the Swan Lake Unit, a person shall not hunt duck, coot, merganser, or goose other than a Canada goose except from a blind assigned by the department and only from December 11 through January 23 unless the Canada goose season closes. [and unless:
 - a. The season for these species is open; and
 - b. The season for Canada goose is also open.]
 - (4) Barkley Lake Wildlife Management Area.
 - (a) A permanent blind may be used as specified in Section 4 of this administrative regulation.
 - (b) A person shall establish a permanent blind within ten (10) yards of his assigned and numbered blind marker within:
 1. An area bounded by the mouth of Donaldson Creek, the east side of the Cumberland River Channel and the boat ramp at Linton.
 2. An area bounded by the Pryor's Creek Light, the west side of the Cumberland River Channel, Land Between the Lake Road 204 and river mile 73.5.
 - (c) The following refuge areas are closed to the public:
 1. From November 1 through February 15 within an area west of the main river channel between river mile 51 (Hayes Landing Light) and river mile 57.3 (Crooked Creek Light);
 - a. Including the row of islands on the west side of the main river channel; and
 - b. Not including Taylor Bay and Jake Fork Bay.
 2. From November 1 through March 15 within Honker Bay and Fulton Bay as marked by buoys and signs.
 - (d) From October 15 through March 15, a person shall not hunt:
 1. Within 200 yards of; or
 2. Within the area defined by the levee between river mile 68.4 and river mile 70.4.
 - (5) Barren River Lake Wildlife Management Area. A permanent blind may be used as specified in Section 4 of this administrative

regulation. Breech or muzzle-loading shotguns may be used along the Barren River Lake shoreline bordering the area and the Peninsula Unit, including Narrows, Goose and Grass Islands.

(6) Buckhorn Lake Wildlife Management Area. A permanent blind may be used as specified in Section 4 of this administrative regulation.

(7) Cane Creek Wildlife Management Area shall be closed to goose hunting.

(8) Central Kentucky Wildlife Management Area. A person shall not hunt waterfowl from October 15 through January 15.

(9) Cumberland Lake Wildlife Management Area. The following sections shall be closed to the public from October 15 through March 15:

(a) Wesley Bend, the area bounded by Fishing Creek, Beech Grove Road and Fishing Creek Road.

(b) Yellowhole, the area bounded by Fishing Creek Road and Hickory Nut Road.

(10) Cyprus-AMEX Wildlife Management Area shall be closed to waterfowl hunting.

(11) Grayson Lake Wildlife Management Area. A person shall not hunt waterfowl:

(a) Within the no wake zone at the dam site marina;

(b) From the shore of Camp Webb;

(c) From the shore of the state park; or

(d) On Deer Creek Fork of Grayson Lake.

(12) Green River Lake Wildlife Management Area.

(a) A permanent blind may be used as specified in Section 4 of this administrative regulation.

(b) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(13) Kaler Bottoms Wildlife Management Area. Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(14) Land Between the Lakes.

(a) The following portions shall be closed to the public from November 1 through March 15:

1. Long Creek Pond.

2. The eastern one-third (1/3) of Smith Bay.

3. The eastern two-thirds (2/3) of Duncan Bay.

(b) The following portions shall be closed to waterfowl hunting:

1. The Environmental Education Center.

2. Energy Lake.

(c) A person shall possess an annual Land Between the Lakes Hunting Permit when hunting waterfowl:

1. Inland from the water's edge of Kentucky Lake or Barkley Lake; or

2. From a boat over a flooded portion of Land Between the Lakes when the lake level is above elevation 359.

(d) A person shall not hunt waterfowl on inland areas during a quota deer hunt.

(e) A person shall not establish or use a permanent blind:

1. On an inland area; or

2. Along the Kentucky Lake shoreline of Land Between the Lakes.

(f) A waterfowl hunter shall remove decoys and personal effects daily.

(15) Nolin River Lake Wildlife Management Area. A permanent blind may be used as specified in Section 4 of this administrative regulation.

(16) Obion Creek Wildlife Management Area. Shooting hours are one-half (1/2) hour before sunrise until 2 p.m.

(17) Ohio River Waterfowl Refuge.

(a) A person shall not hunt from October 15 through March 15 on the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to a powerline crossing at approximately river mile 911.5.

(b) Stewart Island shall be closed to the public from October 15 through March 15, except for quota deer hunting.

(18) Peabody Wildlife Management Area.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) The following portions, as posted by signs, are closed to the public from October 15 through March 15:

1. Gibraltar Mine, as bounded by Rockport Road, the Western Kentucky Parkway, Pond Creek and the P&M Haul Road.

2. Sinclair Mine, as bounded by railroad tracks, the haul road and posted signs.

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3. Homestead, as bounded by the haul road and the Green River.
(19) Pioneer Weapons Wildlife Management Area. A waterfowl hunter:

(a) May use a breech-loading shotgun along the shoreline of Cave Run Lake.

(b) Shall not use a breech-loading firearm elsewhere on the area.

(20) The main block of Robinson Forest Wildlife Management Area shall be closed to waterfowl hunting.

(21) Sloughs Wildlife Management Area.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) On the Grassy-Pond Powell's Lake Unit, a waterfowl hunter:

1. Shall use a permanent blind provided by the department.

2. Shall remove decoys and personal effects from a blind or the vicinity of a blind daily.

(c) On the Jenny Hole-Highlands Creek Unit, a waterfowl hunter:

1. Shall not establish or hunt from a blind closer than 200 yards from another hunting party.

2. Shall remove decoys and personal effects from blinds or the vicinity of blinds daily.

(d) If the Ohio River reaches a level that requires boat access, a waterfowl hunter:

1. May hunt from a boat without regard to department blinds.

2. Shall not hunt closer than 200 yards from another boat.

(e) A waterfowl hunter on the Crenshaw and Duncan Tracts of the Sauerheber Unit:

1. Shall hunt from the blind assigned by the department through a drawing as stipulated in Section 6 of this administrative regulation.

2. May occupy a blind not claimed by the permittee one (1) hour before sunrise.

3. Shall not have more than fifteen (15) shotgun shells in one (1) day.

4. Shall be accompanied by an adult if under eighteen (18) years of age.

(f) The Crenshaw and Duncan tracts shall be closed to hunting except waterfowl from October 15 through March 15.

(g) The remainder of the Sauerheber Unit shall be closed to the public from October 15 through March 15.

(22) Taylorsville Lake Wildlife Management Area.

(a) A permanent blind may be used as specified in Section 4 of this administrative regulation.

(b) The portion east of Van Buren Boat Ramp as marked by a sign shall be closed to the public from November 1 through the last day of February, except for quota deer hunting.

(23) Westvaco Wildlife Management Area.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) The portion south of the Westvaco Road as posted by a sign shall be closed to the public from November 1 through March 15.

(c) A person shall obtain a Westvaco Permit before hunting.

(24) White City Wildlife Management Area. Shooting hours shall be from one-half (1/2) hour before sunrise until 2 p.m.

(25) Yellowbank Wildlife Management Area. The area designated by a sign and painted boundary marker shall be closed to the public from October 15 through March 15.

Section 6. (1) A person wishing to apply to hunt waterfowl on Ballard, Barlow Bottoms or the Sauerheber unit of Sloughs wildlife management areas shall:

(a) Apply on a form provided by the department.

(b) Submit a completed application form before the deadline date on the form.

(2) A form which is not completed according to the instructions on the form shall be disqualified from the drawing.

(3) A person shall not apply more than one (1) time for each hunt.

(4) Each hunter drawn may bring up to three (3) additional hunters.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Sloughs Wildlife Management Area Waterfowl Hunting Application", (August, 1997 edition), Department of Fish and Wildlife Resources;

(b) "Ballard Wildlife Management Area Goose Hunt Application", (August, 1997 edition), Department of Fish and Wildlife Resources; and

(c) "Application for Lower Bottoms/Swan Lake Waterfowl Blind Drawings in Ballard County", (August, 1997 edition), Department of Fish and Wildlife Resources.

(2) This material may be inspected, copied or obtained at Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601, Monday through Friday from 8 a.m. through 4:30 p.m.

DOUGLAS SCOTT PORTER, Assistant Attorney General

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

TOM BAKER, Chairman

APPROVED BY AGENCY: August 27, 1999

FILED WITH LRC: November 24, 1999 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Fields

(1) Type and number of entities affected: Approximately 17,000 persons hunt waterfowl annually in Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation should have no impact on costs of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impacts are anticipated.

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

1. First year following implementation: Waterfowl hunters must purchase licenses as well as state and federal waterfowl stamps. This is a continuing requirement that will impose no additional requirements.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No new direct or indirect costs or savings will be incurred.

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

3. Additional factors increasing or decreasing costs:

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

(4) Assessment of anticipated effect on state and local revenues: No increase or decrease on state or local revenues is anticipated.

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

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

(a) Geographical area in which administrative regulation will be implemented: No public comments received. Waterfowl hunting creates substantial economic activity in certain sections of the state. This administrative regulation will allow waterfowl hunting to continue by establishing hunting seasons within federal frameworks.

(b) Kentucky: The statewide impact of waterfowl hunting is minimal, but this administrative regulation does allow for the continuance of this activity.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative of not having a waterfowl season was rejected because waterfowl represent a renewable natural resource which affords recreational opportunities and generates economic activity throughout the commonwealth.

(8) Assessment of expected benefits: Continuation of waterfowl hunting and short- and long-term conservation of waterfowl re-

sources are the primary benefits.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Regulated harvest of waterfowl ensures the continuation of this important component of the Commonwealth's biological diversity.

(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: Inability to regulate waterfowl resource.

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was used to apply different season dates and other specialized hunting requirements to various wildlife areas across the state. This was done to maximize hunter opportunity while conserving waterfowl resources.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 50 CFR Parts 20 and 21

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

3. Minimum or uniform standards contained in the federal mandate. Ducks, coots and mergansers: Not more than a 60 day season with a 6 bird bag limit between the Saturday closest to October 1 and the Sunday closest to January 20. The state may be split into 2 zones with no more than 2 segments in each zone. The daily bag limit is 6 ducks and may not include more than 4 mallards (no more than 2 hen mallards), 3 scaup, 1 black duck, 1 pintail, 2 wood ducks, 1 canvasback and 2 redheads. The possession limit shall be twice the daily bag. The coot daily bag shall be 15 with the possession limit being 30. The merganser limit shall be 5 daily (only 1 may be a hooded merganser) and the possession limit being twice the daily bag. Both the coot and merganser bag shall be in addition to the duck limit.

Geese: The season for light geese (snow geese) may extend for 107 days and the season for white-fronted geese may extend for 86 days. Season framework for light geese is between the Saturday nearest October 1 and March 10. The season framework for white-fronted geese is between the Saturday nearest October 1 and January 31.

The Canada goose season in the Western Goose Zone season may extend for 59 days (74 days in Fulton County) between October 1 and January 31 (except February 15 in Fulton County), or until the harvest of 22,900 birds is taken, whichever occurs first.

Pennyroyal/Coalfield Zone Canada goose season may extend for 35 days with a daily bag limit of 2 Canada geese.

The Canada goose season in the remainder of the state may extend for 59 days with a daily bag limit of 2 Canada geese.

The daily bag limit shall include no more than 20 snow geese, 2 Canada geese, 2 white-fronted geese and 2 brant. Possession limit is twice the daily bag limit, except there is no possession limit for snow geese.

Shooting hours shall be 1/2 hour before sunrise until sunset daily for all species.

Falconry season for migratory birds mentioned above shall fall between September 1 and March 10 and shall not exceed 107 days. Daily bag and possession limits shall not exceed 3 birds daily or 6 in possession, singly or in the aggregate of species. Hunting hours shall be the same as for firearms hunting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Seasons for light geese are shorter due to the paucity of birds wintering in Kentucky during the early parts of the framework dates. Exerting hunting pressure on so few birds could jeopardize long-term bird use in Kentucky.

The Ballard Wildlife Management Area season is shorter than the Western Goose Zone so that controlled hunts will not jeopardize goose and duck use. Scheduled resting periods during the framework is a good means of enhancing historic use patterns. Other wildlife management area season dates and shooting hours were adjusted to optimizing public use within sound waterfowl conservation practices.

STATEMENT OF EMERGENCY

301 KAR 2:226E

This emergency administrative regulation establishes a "youth waterfowl" hunting day when only juveniles under the age of 16 may hunt waterfowl. Waterfowl hunting season frameworks are established annually by the United States Fish and Wildlife Service. Under federal law, states which wish to establish waterfowl hunting seasons must do so within these federal frameworks. Development of the federal regulations involves consideration of harvest and population data, coordination with state wildlife agencies, and public involvement. Consequently, federal migratory bird hunting regulations are promulgated less than six (6) weeks before the opening dates of the hunting season. An ordinary administrative regulation cannot be adopted in the short time between final promulgation of federal regulations and the scheduled opening of state waterfowl hunting seasons, necessitating the promulgation of an emergency administrative regulation. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The notice of intent for 301 KAR 2:226 was filed with the Regulations Compiler on November 23, 1999.

PAUL E. PATTON, Governor

C. THOMAS BENNETT, Commissioner

TOURISM DEVELOPMENT CABINET

Department of Fish and Wildlife Resources

301 KAR 2:226E. Youth waterfowl hunting season.

RELATES TO: KRS 150.010(40), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.600(1), 150.990, 50 CFR Parts 20, 21
STATUTORY AUTHORITY: KRS 150.025(1)(a)(b), 150.340(1), (2), (3), 150.600(1), 50 CFR Parts 20, 21

EFFECTIVE: November 24, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) and 150.600(1) authorize the department to establish statewide waterfowl hunting requirements. This administrative regulation establishes a special waterfowl hunting day for young hunters.

Section 1. Definitions. (1) "Adult" means a person who has reached his 18th birthday.

(2) "Waterfowl" means the species of duck, coot, merganser and goose for which an open season in Kentucky has been established by 301 KAR 2:221.

(3) "Youth" means a person who has not reached his 16th birthday.

Section 2. A youth:

(1) May hunt waterfowl on the last Saturday of January [second Saturday of October] if he is accompanied by an adult.

(2) Shall obey the provisions of 301 KAR 2:221 and 301 KAR 2:222.

Section 3. An adult accompanying a youth who is waterfowl hunting:

(1) Shall:

(a) Remain in a position to take immediate control of the youth's firearm;

(b) Not hunt waterfowl;

(c) Not be required to possess a hunting license or waterfowl permit if he is not hunting.

(2) May hunt other species except waterfowl for which there is an open season.

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DOUGLAS SCOTT PORTER, Assistant Attorney General
C. THOMAS BENNETT, Commissioner
ANN R. LATTA, Secretary
TOM BAKER, Chairman

APPROVED BY AGENCY: August 27, 1999
FILED WITH LRC: November 24, 1999 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Fields

(1) Type and number of entities affected: The number of young people who will participate in youth waterfowl hunts is unknown. Approximately 20,000 young people buy junior hunting licenses annually. All would be eligible for this hunt.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation will have no impact on the cost of living or employment.

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

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

1. First year following implementation: Participants in the youth waterfowl hunt established by this administrative regulation are required by statute to possess a junior hunting license and must comply with existing waterfowl regulations governing shooting hours, limits and methods of taking.

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: 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: This administrative regulation should have no effect on state or local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fish and Game Fund.

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

(a) Geographical area in which administrative regulation will be implemented: The youth waterfowl hunt should cause a slight increase in economic activity near popular waterfowl hunting areas due to buying shells and equipment, travel and other hunting-related expenditures.

(b) Kentucky: On a statewide level, the increased economic activity will probably be indiscernible.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Federal waterfowl frameworks permit a youth waterfowl season. The alternative of not taking advantage of this hunt was rejected because it would mean a loss of recreational opportunity.

(8) Assessment of expected benefits:

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

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

(c) If detrimental effect would result, explain detrimental effect: No 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: Not applicable.

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not appropriate because the administrative regulation applies equally to all individuals or entities it regulates.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 50 CFR Parts 20 and 21

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

3. Minimum or uniform standards contained in the federal mandate. The federal waterfowl framework allows states to establish one day of youth waterfowl hunting on either a Saturday, Sunday, or holiday.

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

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

STATEMENT OF EMERGENCY 505 KAR 1:090E

This emergency administrative regulation establishes the procedure through which a juvenile placed on supervised placement pursuant to KRS 605.090 may have his supervised placement revoked by the Department of Juvenile Justice pursuant to KRS 635.100. There are many juveniles currently on supervised placement and additional juveniles are being placed on supervised placement. Supervised placement is an essential part of a juvenile's treatment for delinquency. In order for supervised placement to be effective, the Department of Juvenile Justice must have a process by which to revoke that placement if a juvenile violates the terms of his placement. Such a process must be promulgated as an administrative regulation. The administrative regulation is necessary to provide adequate and effective treatment for juveniles and is in the best interest of the safety and welfare of the juveniles and the community. An emergency administrative regulation is necessary because some supervised placements will have to be revoked before a regular administrative regulation would become effective. The process for revocation is currently part of 505 KAR 1:040, the Department of Juvenile Justice's Policies and Procedures Manual. Many suits have been filed in Franklin Circuit Court arguing that the supervised placement revocation is not a properly promulgated administrative regulation. While the suits have not been successful, in order to prevent the continued filing of these complaints, the process was amended out of the new manual that becomes effective on December 16, 1999. An emergency administrative regulation is necessary in order to have the supervised placement process in effect on that date. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on December 15, 1999.

PAUL E. PATTON, Governor
RALPH E. KELLY, ED.D., Commissioner

JUSTICE CABINET Department of Juvenile Justice

505 KAR 1:090E. Supervised placement revocation.

RELATES TO: KRS 605.090, 635.100

STATUTORY AUTHORITY: KRS 605.150, 635.100

EFFECTIVE: December 14, 1999

NECESSITY, FUNCTION, AND CONFORMITY: KRS 605.090 permits the Department of Juvenile Justice to place a juvenile committed to the department in a home in the community upon such terms and conditions and under such supervision as the department deems necessary. If the juvenile violates the terms of the placement, KRS 605.090 permits the department to change the juvenile's placement, and KRS 635.100 permits the department to order that

the juvenile be taken into custody and conduct a hearing to determine whether conditions of placement have been violated. If the supervised placement has been violated, the department may revoke the supervised placement, remove the juvenile from the home and place the juvenile in a different treatment setting. This administrative regulation sets forth the process for revocation of supervised placement.

Section 1. Definitions. (1) "Commissioner's warrant" means a document issued by the department directing that a juvenile be taken into custody, pursuant to KRS 635.100.

(2) "Safety concern" means behavior that places the juvenile or community at risk for physical injury.

(3) "Supervised placement revocation hearing" means a hearing conducted by a hearing officer to determine if conditions of supervised placement have been violated.

Section 2. Request for Supervised Placement Revocation. (1) A juvenile that has been arrested or charged with the commission of a felony offense shall be considered a risk to the community and shall have supervised placement revocation initiated by the assigned juvenile services worker. If there are extenuating circumstances related to the juvenile's behavior or the offense that the juvenile services worker feels makes initiation of supervised placement revocation unnecessary, the juvenile services worker may request, through the chain of command, that the juvenile services regional manager authorize that the revocation not be initiated.

(2) In the case of a youth requiring immediate placement as a result of safety concern:

(a) The juvenile services worker shall prepare and forward a supervised placement violation report and a written statement supporting the request for the issuance of a commissioner's warrant to his juvenile services district supervisor.

(b) If in agreement with the juvenile services worker's assessment, the juvenile services district supervisor shall forward the request to the juvenile services regional manager who, if in agreement, shall issue a commissioner's warrant and shall forward the request to the Division of Program Services.

(c) The juvenile services worker shall immediately notify the Division of Program Services when the commissioner's warrant is executed and forward a copy of the executed document to the Division of Program Services.

(d) The Director of the Division of Program Services, or designee, shall, upon receipt of a request for immediate placement, contact the Centralized Intake/Classification Branch Manager and inform her of the pending action and, upon notice that the juvenile has been taken into custody, shall:

1. Schedule a probable cause hearing within five (5) days, excluding weekends and holidays, of the youth being taken into custody, unless a continuance is requested by the juvenile or his attorney;

2. In writing, notify the juvenile, his parents or other person exercising custodial control of the specific conditions of supervised placement allegedly violated and forward a copy of the notification letter to appropriate department personnel;

3. Notify the juvenile, his parents or other person exercising custodial control of his right to be represented by counsel;

4. Forward a copy of the notification letter to the last attorney of record and the Department of Public Advocacy;

5. Notify the juvenile, his parents or other person exercising custodial control, attorney and the juvenile services worker of the time and location of the hearing; and

6. Conduct the hearing.

(e) The juvenile services worker, or current custodian of the juvenile, shall ensure that a copy of the notification letter signed by the juvenile is returned to the Division of Program Services.

(f) The juvenile services worker or the juvenile services district supervisor shall be responsible for presenting the case against the juvenile at the probable cause hearing. If the evidence presented includes documents, a copy of each document shall be given to the hearing officer for inclusion in the record and to the juvenile or his attorney.

(g) The probable cause hearing shall:

1. Be limited to a determination as to whether there is probable cause to believe that the juvenile violated any term(s) of the conditions of supervised placement, which may be proven by hearsay evidence, and whether there is a safety concern;

2. Have attendance limited to the juvenile, parents or other person exercising custodial control, legal counsel, department personnel, and witnesses as necessary;

3. Be conducted informally; and

4. Be mechanically recorded by the hearing officer.

(h) At the probable cause hearing, the juvenile shall have a right to:

1. Testify or refuse to testify in his own behalf;

2. Examine and cross-examine witnesses; and

3. Present evidence negating the determination of probable cause.

(i) At the conclusion of the probable cause hearing, the hearing officer shall:

1. Summarize the allegations and evidence presented and issue a decision determining whether there is probable cause to believe the juvenile has violated a condition(s) of supervised placement and whether there is probable cause to believe a safety concern exists that requires that the juvenile remain in custody; and

2. If probable cause has been established, provide immediate notice to the juvenile services regional manager, or designee, and the Division of Program Services.

(j) Upon receipt of notice that probable cause has been established, the Director of the Division of Program Services shall assign a hearing officer to conduct the revocation hearing.

(k) If probable cause is not established, the juvenile shall be immediately released from custody and the juvenile services worker shall make arrangements for the juvenile to continue on supervised placement.

(l) If probable cause is established but a safety concern is not present, the juvenile shall be released from custody and the proceeding shall continue pursuant to subsection (3) of this section.

(3) In the case of a juvenile not requiring immediate placement as a result of safety concerns:

(a) The juvenile services worker shall prepare and forward a supervised placement violation report and revocation hearing request to the juvenile services district supervisor.

(b) If in agreement with the juvenile services worker's assessment, the juvenile services district supervisor shall forward the request to the juvenile services regional manager who, if in agreement, shall forward the request to the Director of the Division of Program Services, or designee. An out-of-home placement packet shall be forwarded by the court/placement specialist to the Centralized Intake/Classification Branch.

(c) The Director of the Division of Program Services shall assign a hearing officer to conduct the revocation hearing.

Section 3. Revocation Hearing. (1) The revocation hearing shall:

(a) For a juvenile in custody on a commissioner's warrant, be held within ten (10) days, excluding weekends and holidays, of the probable cause hearing, unless a continuance is requested by the juvenile or his attorney; and

(b) Be conducted by the assigned hearing officer.

(2) The hearing officer for the supervised placement revocation hearing shall:

(a) Notify the juvenile and his parents or other person exercising custodial control of the specific conditions of supervised placement allegedly violated and their right to be represented by counsel;

(b) Notify the juvenile, his parents or other person exercising custodial control, legal counsel, and department staff of the time and location of the hearing;

(c) Notify department staff that they shall, upon written request, provide copies of all revocation documents to the juvenile's attorney within five (5) working days of receipt of the request;

(d) Conduct the revocation hearing;

(e) Open the hearing by reading the term(s) of supervised placement allegedly violated, which shall set the parameters of the hearing;

(f) Administer the oath and take testimony from witnesses;

(g) Allow all parties to establish pertinent facts and circum-

FILED BY LRC: December 14, 1999 at 10 a.m.

REGULATORY IMPACT ANALYSIS

stances relative to the allegations, bring witnesses, present evidence and question or refute any testimony or evidence presented, including the opportunity to cross-examine witnesses;

(h) Mechanically record the hearing;

(i) Based on a preponderance of the evidence presented at the hearing, determine whether the juvenile violated one (1) or more terms of his supervised placement; and

(j) Submit written findings of fact and a recommendation regarding revocation to the regional division director and the juvenile's attorney within three (3) working days of the conclusion of the hearing.

(3) The juvenile services worker or the juvenile services district supervisor who requested the hearing shall be responsible for presenting the department's case at the hearing. The juvenile services worker shall provide copies of documentation supporting the revocation request for entry into the record as evidence and shall be prepared to offer a recommendation as to appropriate treatment or sanctions. If the juvenile services worker plans to call witnesses to testify, it shall be the worker's responsibility to have the witnesses present for the hearing. At the conclusion of the hearing and following the hearing officer's factual determination, the worker shall provide a current copy of the juvenile's social history to the hearing officer for his consideration in making recommendations.

(4) If the hearing officer has determined that a violation has occurred, the regional division director, or designee, shall make the final decision regarding the results of the revocation hearing. Options may include, but not be limited to, the following:

(a) If the hearing officer determined that a condition of supervised placement has been violated and revocation is warranted, a decision may be made for out-of-home placement.

(b) If the hearing officer determined that a condition of supervised placement has been violated, the division director may determine that revocation is not warranted and permit the juvenile to remain in the community on supervised placement. If the juvenile remains in the community, the juvenile services worker shall prepare revised conditions of supervised placement, with increased sanctions, within five (5) calendar days from the receipt of the revocation hearing decision. Failure by the juvenile to abide by the revised conditions may result in a request for supervised placement revocation.

(5) If the hearing officer has determined that the juvenile did not violate a condition of supervised placement, the juvenile shall remain on supervised placement.

(6) The regional division director, or designee, shall cause a decision letter to be sent by certified mail, return receipt requested, to the juvenile, the parents or other person exercising custodial control, and the juvenile's attorney within five (5) working days of receipt of the hearing officer's findings of facts. The decision letter shall be copied to appropriate department staff. The decision letter shall contain:

(a) Specific condition(s) of supervised placement violated;

(b) Evidence relied upon in making the final decision; and

(c) The final decision.

(7) If supervised placement is revoked, the juvenile shall be advised that a decision concerning treatment and placement shall be rendered by the Centralized Intake/Classification Branch Manager.

(8) A juvenile who has remained in custody during the revocation process shall be placed, to the extent possible, within ten (10) days, excluding weekends and holidays, following the final decision to revoke.

Section 4. Appeal. A juvenile aggrieved by the decision of the regional division director may, within ten (10) days, submit a written request for reconsideration to the Commissioner of the Department of Juvenile Justice. The request shall provide justification for the requested reversal and shall be no longer than two (2) written pages. The commissioner, or his designee, shall, within five (5) days, issue a decision, which shall not be appealable on the merits.

RALPH E. KELLY, Ed.D., Commissioner

MICHAEL KEITH HORN, Office of General Counsel

APPROVED BY AGENCY: December 13, 1999

Agency Contact: Michael Keith Horn

(1) Type and number of entities affected: The type and number of entities affected are all juveniles, and their families, who are or will be placed on supervised placement.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received. Implementation of these regulations will not affect the cost of living or employment in the areas served.

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

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

1. First year following implementation: There will be no change in compliance, reporting and paperwork requirements for the first year.

2. Second and subsequent years: There will be no change in compliance, reporting and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will not be any first year direct or indirect costs to The Department of Juvenile Justice.

2. Continuing costs or savings: There will not be any continuing direct or indirect costs or savings to the Department of Juvenile Justice.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be no change in reporting and paperwork requirements.

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

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

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

(a) Geographical area in which administrative regulation will be implemented: There will be no economic impact from this administrative regulation. However, a public hearing has been scheduled for the regular regulation during which public comments may be received.

(b) Kentucky: There will be no economic impact from this administrative regulation. However, a public hearing has been scheduled for the regular regulation during which public comments may be received.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternative methods were considered because this method is mandated by KRS 635.100.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There are no effects on the public health and environmental welfare, but this regulation will help provide effective treatment for juveniles committed to the Department of Juvenile Justice and is also in the best interest of the safety and welfare of juveniles on supervised placement and the communities in which they live.

(b) State whether a detrimental effect on environment and public health would result if not implemented: There would be no detrimental effects on the public health or environmental welfare, but this regulation will help provide effective treatment for juveniles committed to the Department of Juvenile Justice and is also in the best interest of the safety and welfare of juveniles on supervised placement and the communities in which they live.

(c) If detrimental effect would result, explain detrimental effect: There would be no detrimental effect.

(9) Identify any statute, administrative regulation or government

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policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(a) Necessity of proposed regulation if in conflict: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(10) Any additional information or comments: There are no additional information or comments of which we are aware.

(11) TIERING: Is tiering applied? No. This administrative regulation sets forth the supervised placement revocation process that applies to all offices of the Department of Juvenile Justice and is effective state-wide.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

PERSONNEL BOARD (As Amended at ARRS, December 14, 1999)

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	<u>DEM [DES] Duty Officer I</u>	12 months
2113	<u>DEM [DES] Duty Officer I [Senior]</u>	12 months
2201	Correctional Officer	8 months
2301	Arson Investigator I	12 months
<u>2302</u>	<u>Arson Investigator II</u>	<u>12 months</u>
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 <u>Patrol</u> [Security] Office	12 months
2494	Mounted <u>Patrol</u> [Security] Sergeant	12 months
2495	Mounted <u>Patrol</u> [Security] Captain	12 months
2496	Mounted <u>Patrol Officer Recruit</u> [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
<u>4701</u>	<u>Vocational Rehabilitation Assistant I</u>	<u>12 months</u>
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

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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
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 appropriate [sixth] month following promotion, as required by KRS 18A.005(25), 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.

FINANCE AND ADMINISTRATION CABINET

Office of the Secretary

(As Amended at ARRS, September 14, 1999 and

As Amended at IJC on State Government, November 16, 1999)

200 KAR 5:340. Privatization evaluation process [for evaluating information for use in determining whether to approve privatization of a government service].

RELATES TO: KRS 45A.550 to 45A.554

STATUTORY AUTHORITY: KRS 45A.552

NECESSITY, FUNCTION, AND CONFORMITY: KRS 45A.552 [1998 Ky. Acts ch. 492, sec. 3] requires the Finance and Administration Cabinet to develop an objective and systematic process for evaluating the information required to be submitted by state agencies for use in determining whether to approve privatization of a government service. This administrative regulation establishes the process for evaluating information when determining whether to approve a request for privatization. [and to adopt the process by promulgation of an administrative regulation.]

Section 1. Request to Privatize. (1) An agency desiring to enter into a privatization contract, as defined in KRS 45A.550, shall, ~~after issuance of a competitive solicitation document and review of responses;~~ submit a Request to Privatize, signed by the agency head, and accompanied by the written documentation described in KRS 45A.551(2) and (3), ~~[and a copy of the proposed contract,]~~ to the Secretary of the Finance and Administration Cabinet.

(2) The secretary shall:

(a) Appoint an ad hoc committee to review the request;

1. The committee shall consist of:

a. Two (2) employees from the Personnel Cabinet; and

b. Four (4) [Two (2)] employees from the Finance and Administration Cabinet; and

c. One (1) employee of the requesting agency likely to be affected by the requested privatization].

2. The committee:

a. Shall verify the accuracy and completeness of the information submitted by the agency;

b. Shall develop a method and benchmarks for evaluating a request, document the method and benchmarks in writing, and attach the document to the committee's recommendation to the secretary;

c. May request a meeting with the agency to discuss or clarify the information submitted;

d. Shall score the request based on the information submitted pursuant to KRS 45A.551(2) and (3) and the method and benchmarks established by the committee; and

e. Shall issue a written recommendation to the secretary, including data compiled by the committee, within thirty (30) days of submission of the request to the secretary. [and]

(b) Issue a written determination approving or rejecting the Request to Privatize, within ten (10) days from receipt of the committee's recommendation, and forward a copy of the secretary's determination and the committee's recommendation to the Government Contract Review Committee.

Section 2. Basis of Determination. (1) The secretary shall base the determination to approve or reject a Request to Privatize [request for privatization] on the following factors:

(a) The agency analysis provided pursuant to KRS 45A.551(2)

and (3); [and]

(b) The committee's recommendation; and

(c) The effect of privatization upon:

1. Continuation of funds currently available;

2. Other programs and responsibilities;

3. The exercise of discretion in applying governmental authority;

4. The making of value judgments in decisions affecting the government;

5. Quality of services; and

6. Overall cost.

(2) If the information submitted by the agency is insufficient, the committee or the secretary shall request additional information or clarification from the requesting agency.

(3) If the information demonstrates that it would be in the best interest of the Commonwealth to privatize the service, the secretary shall approve the Request to Privatize [request for privatization].

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Request to Privatize" 9/1999; and

(b) "Cost Benefit Analysis" 9/1999.

(2) This material may be inspected, copied, or obtained at the Finance and Administration Cabinet, Office of the Secretary, Room 383 Capitol Annex, Frankfort, Kentucky, 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [issue a written determination approving or rejecting the proposed privatization based upon the analyses provided by the agency and the criteria set out in Section 2 of this administrative regulation. The agency shall not proceed with award and execution of the contract until review is completed and approval is given by the Secretary of the Finance and Administration Cabinet.

Section 2. In determining whether to approve or reject a proposed privatization contract, the Secretary of the Finance and Administration Cabinet shall consider:

(1) Whether the funds or revenues presently available would continue to be available if the private sector performs the activity;

(2) Whether the privatization of the activity will affect other programs and responsibilities;

(3) Whether privatization will transfer functions to a non-governmental entity that require either the exercise of discretion in applying government authority or the making of value judgments in making decisions for the government;

(4) Whether the quality of the services to be privatized will be equal to or exceed the quality of services which could be provided by the government agency or the proposed contract will result in overall cost savings to the state which estimated savings will not be eliminated by contractor rate increases during the term of the contract;

(5) Whether the solicitation required the submittal of third-party references;

(6) Whether the proposed contract includes provisions for periodic evaluations to continuously measure performance;

(7) Whether the proposed minimum qualifications required of the contractor and staff meet or exceed the state's qualifications for similar work performed in the personnel system;

(8) Whether the proposed contract contains provisions for termination by the state for breach of the contract by the contractor;

(9) Whether responses to the solicitation indicate the availability of multiple qualified and competitive private vendors.

Section 3. In comparing costs, there shall be included in the cost of a contractor providing a service any continuing state costs that would be directly associated with the contracted function, including, but not limited to inspection, supervision, and monitoring costs.

(1) Cost comparison shall determine what it costs government to perform the activity and what future costs can be avoided by transferring the activity to the private sector.

(2) Estimated costs of the government activity shall be provided for the base contract plus all option years.]

JOHN MCCARTY, Secretary

ANGELA C. ROBINSON, Assistant General Counsel

APPROVED BY AGENCY: April 14, 1999

FILED WITH LRC: April 15, 1999 at 11 a.m.

KENTUCKY BOARD OF PHARMACY
(As Amended at ARRS, December 14, 1999)

201 KAR 2:040. Registration of pharmacist interns.

RELATES TO: KRS 315.010(16), 315.020(3), (4), 315.050(4), (5), 315.191(1)(h)

STATUTORY AUTHORITY: KRS 315.050(4), (5), 315.191(1)(a), (h)

NECESSITY, FUNCTION, AND CONFORMITY: The Kentucky Board of Pharmacy is required by KRS 315.050(4) to establish standards for pharmacy intern certification. KRS 315.191(1)(h) authorizes the board to establish an apprentice program for training, qualifications, and registration of applicants for registration of pharmacist interns. This administrative regulation establishes the standards for training, qualifications, and registration of pharmacist interns.

Section 1. Definitions. (1) "Academic experience program" means a course or series of courses taken by a pharmacist intern at a school or college of pharmacy approved by the board that involves actual practice of pharmacy experiences.

(2) "Preceptor" means the pharmacist who is responsible to the board for the practice of pharmacy experiences [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. The applicant shall attach [; 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 [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 awarded for hours worked in a pharmacy or in related research during the time the pharmacist intern is completing the academic coursework. Credit shall not be awarded for hours worked in a pharmacy or in related research during the period the pharmacist intern is completing clinical rotations.

(3) Credit for internship shall be limited to:

(a) Forty-eight (48) hours per week if the pharmacist intern is not actively enrolled in a college or school of pharmacy;

(b) Twenty (20) hours per week if the pharmacy intern is actively enrolled in a college or school of pharmacy. The maximum credit allowed for this enrolled time shall be 500 hours.

(4)(a) Credit shall be given for the following forms of internship:

1. Completion of an academic experience program;

2. Work performed in a pharmacy under the supervision of a preceptor; or

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, pharmacy business, or other entity if the pharmacist intern has received prior approval by the board. The maximum credit allowed for this time shall be 400 hours.

(b) An internship performed outside of Kentucky shall be credited if the:

1. Requirements for internship in that state are at least equivalent to the requirements established in this administrative regulation; and

2. Board of licensure in that state has certified that the preceptor, pharmacy, government body, college or university, pharmaceutical business, or other entity is in good standing.

(5) Credit shall not be awarded for internship completed prior to registration with the board. [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 the [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:

1. Currently enrolled in a college or school of pharmacy approved by the board;

2. A current applicant for licensure as a pharmacist in Kentucky; or

3. Awaiting the results of an examination.

(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 when the intern is not currently enrolled in a college or school of pharmacy approved by the board if the board finds that:

1. The intern is on a semester break; or

2. Personal or family health concerns or other reasons beyond the control of the pharmacist intern that necessitates a temporary absence from enrollment. [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.

Section 6. (1) Until July 31 [(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.

(2) [(b)] Beginning August 1, 2000, a preceptor shall be a pharmacist who:

(a) [1-] Has been licensed by the board for at least one (1) year; and

1. [2-] Is a community-based faculty member of the College of Pharmacy of the University of Kentucky; or

2. Meets the standards established by the College of Pharmacy of the University of Kentucky for a community-based faculty member.

(3) [(c)] A preceptor shall be actively engaged in the practice of pharmacy in the location where the pharmacist intern performs his internship.

(4) The preceptor shall supervise only one (1) pharmacist intern at a time for the purpose of the intern obtaining credit for

the practice of pharmacy experience, unless the pharmacist is supervising interns as a faculty member at a school or college pharmacy approved by the board during an academic experience program.

[(d) A preceptor shall supervise only one (1) pharmacist intern at a time.]

Section 7. [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) An academic experience program [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 8. Credit for Academic Experience Programs. (1) The maximum number of hours of internship credit for completion of an academic experience program shall be:

(a) 710 hours for a Bachelor of Science in Pharmacy; or

(b) 960 hours for a Doctor of Pharmacy.

(2) For a Doctor of Pharmacy degree received after January 1, 2001, credit shall be awarded for each hour of successful completion of an academic experience program at a college or school of pharmacy approved by the board. [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 9. [8:] Incorporation by Reference. (1) The following material is [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) This material [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.

**TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, December 14, 1999)**

301 KAR 1:085. Mussel shell harvesting.

RELATES TO: KRS 150.025, 150.110, 150.170, 150.175, [150.190, 150.510;] 150.520

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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 mussel 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 not be a [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 Lindeys 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], *Megaloniais 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 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.

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(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 [14. 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

JUSTICE CABINET

Department of Criminal Justice Training
(As Amended at ARRS, December 14, 1999)

503 KAR 3:010. Basic law enforcement training course recruit conduct requirements; [misconduct,] procedures and penalties [; discipline procedures].

RELATES TO: KRS 15A.070

STATUTORY AUTHORITY: KRS Chapter 13A, 15A.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.070 authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel. This administrative regulation prescribes conduct requirements of recruits attending basic law enforcement training courses conducted by the Department of Criminal Justice Training, prescribes procedures for disciplinary action, and sets penalties.

Section 1. Uniforms and Operator's License Required. A recruit shall provide the uniforms required in Section 6(8) of this administrative regulation [by the department] and present a valid motor vehicle operator's license to participate in the basic training course.

Section 2. Removing a Recruit from the Course. (1) Unqualified recruit. If [The director or section supervisor shall remove from basic training] a recruit [who] is not qualified to participate in the basic training course, he shall:

(a) Be removed from basic training by the:

1. Commissioner;
2. Director;
3. Branch manager; or
4. Section supervisor;

(b) [- The recruit shall] Receive no credit for the part of the course he has completed.

(c) If a recruit is removed from training, pursuant to subsection (1) of this section, within thirty (30) days of the removal, he may request in writing an administrative hearing, which shall comply with KRS Chapter 13B.

(d) A recruit shall be considered unqualified if he:

1. Or his law enforcement agency files an incomplete or fraudulent application to attend basic training, or otherwise fails to comply with admissions requirements;
2. Is not presently employed as a law enforcement officer and has not received special permission to attend;
3. Arrives at the beginning of basic training physically unable to participate because of:
 - a. Physical injury; or
 - b. Being under the influence of alcohol or drugs (prescription or illegal); or
- c. Failure of the physical training entry requirements as found in 503 KAR 1:0110 if the recruit is required to complete basic training in order to fulfill the peace officer certification provisions as found in KRS 15.380 to 15.402;
4. Has had prior disciplinary action while at DOCJT which would prevent participation (expelled or suspended from training), or has a pending disciplinary action which was initiated during a previous DOCJT training course;
5. Is unprepared to participate in training due to his arrival with-

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out the required equipment, license, uniform, or preparation:

(2) Agency's request: The department shall remove a recruit [shall be removed] from basic training upon the department's receipt of a written request from the recruit's law enforcement agency. The recruit shall receive no credit for the part of the course he has completed.

Section 3. Gifts. Gifts from recruits to department staff members shall conform with the Executive Branch Code of Ethics (KRS [Chapter] 11A.040).

Section 4. Penalties for Misconduct. (1) The following penalties shall apply to a recruit's failure to meet conduct or Honor Code requirements of the department. The penalties are listed in order of decreasing severity.

(a) Expulsion. The recruit is dismissed from the course, and all privileges are terminated. The recruit may not reapply for admission to the department's basic training course for five (5) years from the date of expulsion.

(b) Suspension. The recruit is suspended from training for a specified period of time, not to exceed one (1) year [three (3) years]; all privileges are rescinded during the suspension period.

(c) Probation. The recruit is placed on probation for a specified period of time, not to exceed the final date of the basic training course in which he is currently enrolled. A loss of privileges may be imposed during the period of probation. A violation of any conduct or Honor Code requirement during the period of probation shall result in an extension of the period of probation, additional loss of privileges, suspension, or expulsion.

(d) Loss of privileges. The recruit's privileges as specified in the imposed penalty are rescinded for a stated period of time. The recruit's participation in training activities is not affected.

(e) [(d)] Written reprimand. The recruit is reprimanded in writing for violating a conduct or Honor Code requirement.

(f) [(e)] Verbal warning. The recruit is warned verbally that he has violated a conduct or Honor Code requirement.

(2) Second and subsequent violations.

(a) If a recruit has received a penalty for violating a conduct or Honor Code requirement, upon a second violation of any conduct or Honor Code requirement the next higher penalty shall be added to the list of penalties which may be imposed for the second violation.

(b) If a recruit has previously received two (2) penalties for violating two (2) conduct or Honor Code requirements, upon a third or subsequent violation of any conduct or Honor Code requirement the next two (2) higher penalties shall be added to the list of penalties which may be imposed for the third or subsequent violation.

(3) Giving notice of disciplinary action to recruit ~~[and recruit's agency]. The department shall give written notice to a recruit of any penalty imposed upon him. [The recruit's agency shall be given written notice of any penalty imposed upon the recruit except a verbal warning, and shall be given verbal notice when a recruit has been charged with a violation of a conduct or Honor Code requirement and has requested a hearing.]~~

(4) Penalty records.

(a) The department shall keep a written record of any penalty imposed on a recruit.

(b) A copy of any penalty imposed on a recruit shall be placed in his basic training file.

(c) Only the department, the recruit, and the recruit's agency head shall have access to the penalty records in a recruit's basic training file unless broader access is required by law.

Section 5. Termination of Dangerous or Disruptive Situation. If the conduct or condition of a recruit constitutes an immediate danger or an immediate threat of danger to self or others, or is disruptive of, or is an immediate threat to be disruptive of a department activity, a department staff member may take all reasonable steps necessary to terminate the situation.

Section 6. Conduct Requirements. A recruit attending the basic training course shall meet the following conduct requirements:

(1) General conduct, chain of command. All communications shall follow chain of command of the department. Exceptions are the

unavailability of a supervisor, or the recruit's complaint regarding a supervisor. Penalty: verbal warning or written reprimand.

(2) General conduct, insubordination. A recruit shall:

(a) Obey a lawful order from a department staff member. Penalty: verbal warning, written reprimand, loss of privileges, probation, or suspension.

(b) Refrain from vulgarity, rudeness, violent, threatening, or offensive confrontation, or other disrespectful conduct directed toward a department staff member, recruit or other department trainee or guest. Penalty: verbal warning, written reprimand, probation, or suspension.

(3) General conduct, grooming. The recruit shall be clean shaven with sideburns no longer than the bottom of the ear lobe. A mustache is permitted if the recruit has the mustache upon arrival and keeps it neatly trimmed. A beard shall not be permitted unless the recruit receives permission from the department based upon a written request from the recruit's agency and good cause shown. A recruit's hair shall not be unkempt and shall not be over the collar. Penalty: verbal warning or written reprimand.

(4) General conduct, alcoholic beverages and other intoxicants.

(a) A recruit shall not possess, consume nor be under the influence of alcoholic beverages, controlled substances, or other intoxicating substances not therapeutically prescribed by a physician while attending ~~[enrolled in]~~ a basic training course. For purposes of this section, "attending a basic training course" shall include all dates of training and periods when residing in the dormitory. A recruit shall not report to the dormitory having consumed alcoholic beverages, controlled substances, or other intoxicating substances. A recruit shall submit to testing as requested by the department to determine the presence of alcoholic beverages, or controlled or other intoxicating substances at the department's expense. Testing shall be requested if a department or dormitory staff member, instructor, section supervisor, branch manager, director or commissioner has a reasonable suspicion that the recruit has violated the provisions of this section. Testing may be randomly requested of all members of a basic training class or all dormitory residents. Penalty: written reprimand, loss of privileges, probation, suspension or expulsion.

(b) If a recruit has taken a controlled substance as prescribed by a physician or has taken any other medication, whether prescribed or not, he shall not participate in any training activity if he is under the influence thereof to the extent that the recruit may be impaired or may endanger himself or other persons or property. A recruit shall advise the class coordinator or the section supervisor in writing of the use of controlled substance or medication whether or not it has been prescribed by a physician. Penalty: verbal warning, written reprimand, probation, or suspension.

(c) Confiscation.

1. If a dormitory staff member, department instructor, section supervisor, or branch manager observes an unlawfully-possessioned intoxicating substance, he shall immediately confiscate it.

2. Confiscated items shall be stored in a safe and secure facility of the department pending appropriate disposition.

(5) General conduct, weapons and other dangerous devices.

(a) A recruit shall not possess deadly weapons (as defined in KRS 500.080), ammunition, destructive devices or booby trap devices (as defined in KRS 237.030), hazardous substances (as defined in KRS 224.01-400), knives other than an ordinary pocket knife, fireworks, or instruments used by law enforcement for control purposes including [(such as)] batons, stun guns, Mace, and pepper spray, [b] on property used by the department except under circumstances specifically authorized by the department. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension, or expulsion.

(b) Weapons specifically designated by the department to be used for training purposes shall be stored in a vault provided by the department at all times when they are not being used directly in training activities and may be removed only for scheduled training, servicing, cleaning, or repair. Servicing, cleaning, and repairs of weapons (other than repairs which may require the expertise of a qualified gunsmith) shall be carried out only as authorized by the section supervisor and only in the presence of a certified firearms instructor. Penalty: verbal warning, [or] written reprimand, loss of

privileges, or probation.

(c) Confiscation.

1. If a dormitory staff member, department instructor, section supervisor, branch manager, director or commissioner observes an unlawfully-possessed weapon or other dangerous device he shall immediately confiscate it.

2. Confiscated items shall be stored in a safe and secure facility of the department pending appropriate disposition.

(6) General conduct, department property.

(a) A recruit shall not recklessly, negligently, or intentionally ~~or negligently~~ damage, destroy, fail to return, or be wasteful of property of the department or any other facility used by the department. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.

(b) A recruit shall not have successfully completed basic training, and shall not be allowed to graduate until he has returned all issued items or made satisfactory arrangements to pay for unreturned or damaged items.

(7) General conduct, conduct unbecoming a recruit. A recruit shall not:

(a) Engage in criminal activity, including acts which would constitute a felony, misdemeanor or violation, while enrolled in a basic training class. Depending on the nature of the conduct, the recruit shall be penalized by a verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion. Additionally, the appropriate prosecutorial authority shall [may] be notified of the activity if it constitutes a felony or class A misdemeanor, and may be notified of other activity when appropriate.

(b) Engage in conduct which creates a danger or risk of danger to the recruit or another, possess obscene matter as defined in KRS 531.010, engage in conduct which is unreasonably annoying, engage in fighting or in violent, tumultuous or threatening conduct, engage in sexual harassment or conduct which is patently offensive. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.

(c) Engage in conduct which violates an Eastern Kentucky University policy or rule. A copy of the policies and rules shall be given to each recruit at the beginning of the course. Penalty: verbal warning, written reprimand, loss of privileges, or probation.

(8) Training activities, uniforms.

(a) A recruit shall acquire all necessary uniforms and wear them as required by the department. Penalty: verbal warning, ~~or~~ written reprimand, loss of privileges, or probation.

(b) Navy blue utility uniforms shall be:

1. Clean, pressed and in good condition;

2. Appropriately sized to fit the recruit and not excessively loose, baggy, or tight;

3. Worn over a clean white tee-shirt, visible at the neck; and

4. ~~[3:]~~ Worn with a wide black police-type belt, clean black police-type footwear, black or navy blue socks, and when outdoors, a department cap. Penalty: verbal warning or written reprimand.

(c) Jewelry. The recruit may wear:

1. One (1) ring per hand. A wedding and engagement ring worn together on the left hand shall be considered one (1) ring; or

2. Necklaces if worn under the tee-shirt and not visible. [The only collar pins a recruit may wear are ones provided by his agency:] Penalty: verbal warning or written reprimand.

(d) A name tag, provided by the department, shall be worn on the left shirt-pocket flap. Penalty: verbal warning or written reprimand.

(e) Sleeves on winter shirts shall not be rolled up outside the classroom. Penalty: verbal warning or written reprimand.

(f) The physical fitness uniform shall be provided by the recruit and shall consist of solid dark blue athletic shorts, solid dark blue sweat shirt and sweat pants, solid white athletic socks, and a pair of athletic shoes. A department-issued tee shirt shall be worn during physical training. Penalty: verbal warning or written reprimand.

(g) Additional clothing may be worn during a training activity if authorized by the instructor.

(9) Training activities, absences.

(a) A recruit is absent if he is not physically present in a class or other required department activity for ~~[more than]~~ ten (10) minutes or more. A recruit is tardy if he is not physically present at a class or

other required department activity for fewer than ten (10) minutes. A recruit shall give advance notice of an absence when possible. Penalty for an unexcused absence: verbal warning, ~~or~~ written reprimand, loss of privileges, probation, or suspension; penalty for an unexcused tardiness: verbal warning or written reprimand.

(b) All absences from basic training must be approved by the section supervisor or branch manager.

(c) If a trainee is absent, excused or unexcused, he shall make up for the absence by completing an assignment provided by the instructor who taught the missed unit. Failure to make up the work shall be deemed a failure for that training area.

(10) Training activities, breaks. Recruits shall be allowed a ten (10) minute break per hour of instruction if possible. Breaks shall be taken only in areas designated by the department. Penalty: verbal warning or written reprimand.

(11) Training activities, general conduct.

(a) A recruit shall be attentive during training activities. Penalty: verbal warning or written reprimand.

(b) A recruit shall not use tobacco products during, or bring food or drink into a training activity unless so permitted by the training director or commissioner. Penalty: verbal warning or written reprimand.

(c) A recruit shall not engage in conduct which creates or may create a risk of injury to others during a training session. Penalty: probation, suspension, or expulsion.

(d) A recruit shall complete assignments by the deadline established by the instructor or coordinator. Penalty: verbal warning or written reprimand.

(12) Training activities, dishonesty.

(a) A recruit shall not cheat or attempt to cheat on a test ~~or on any other assignment or activity~~, or alter or attempt to alter a test grade or other evaluation result. A recruit shall not permit, assist or facilitate this [such] conduct by another recruit. Penalty: suspension or expulsion.

(b) A recruit shall not cheat or attempt to cheat on any other assignment or activity, [; or] engage in any other conduct intended to gain an undeserved evaluation, or falsify a document provided to the department during basic training. A recruit shall not permit, assist or facilitate this [such] conduct by another recruit, [for himself or another:] Penalty: ~~[verbal warning;]~~ written reprimand, loss of privileges, probation, suspension or expulsion.

(13) Residence hall.

(a) During the basic training course, when attending in Madison County, a recruit shall reside in the residence hall designated by the department.

(b) A recruit shall return to his residence hall at curfew times designated by the commissioner, Sunday through Thursday evenings, and Friday or Saturday if a training session is scheduled for the following day, and remain there until 5 a.m. the next morning. Exceptions shall be approved by the class coordinator and reported in writing through channels to the director. Penalty: verbal warning, written reprimand, loss of privileges, probation.

(c) A recruit shall observe "lights out" by 11:30 p.m. Sunday through Thursday, and Friday or Saturday if a training session is scheduled for the following day, except on nights prior to an academic test when the time shall be extended to 12 midnight. Penalty: verbal warning or written reprimand.

(d) Each recruit shall be responsible for cleaning his area. Each morning, prior to leaving for class training, a recruit shall ensure his room is clean and free of trash, with beds made and the room ready for inspection. Penalty: verbal warning, written reprimand, loss of privileges.

(e) Doors shall be locked whenever a room is unoccupied. Penalty: verbal warning or written reprimand.

(f) The use of cooking appliances or space heaters is prohibited. Penalty: verbal warning, written reprimand, loss of privileges.

(g) All residence hall rooms, closets, and containers therein may be inspected by department staff for purposes of safety, sanitation and rule violations.

(h) A recruit residing at the residence hall shall not:

1. Have any person of the opposite sex in his room, or visit in the room of a recruit of the opposite sex without the permission of the department. Penalty: verbal warning, written reprimand, loss of

privileges, probation, or suspension.

2. Have a visitor in his room after 9 p.m. Penalty: verbal warning or written reprimand, loss of privileges.

3. Keep pets, animals, or birds of any kind in his room. Penalty: verbal warning, written reprimand, loss of privileges.

4. Engage in dangerous, disruptive, immoral or obscene behavior. Penalty: verbal warning, written reprimand, loss of privileges, probation, [or] suspension, or expulsion.

Section 7. Honor Code. (1) The recruit shall abide by the provisions of the Honor Code which reads as follows:

We are a dynamic team of individuals who possess a wide array of talent and strengths. In order for our team to grow and be successful, we will respect the leadership of the agency and follow directives to the best of our ability. We will make sacrifices for the benefit of the team. We will practice humility and show a spirit of compromise. As recruits of the Department of Criminal Justice Training, Law Enforcement Basic Training class, we will not lie, steal or cheat nor tolerate any among us who do.

We will keep our private lives honorable as an example to all. We will be exemplary in obeying the laws of the Commonwealth and the administrative regulations of the Department of Criminal Justice Training. Whatever we see or hear of a confidential nature or confided to us in our official capacity shall be kept confidential unless revelation is necessary in the performance of duty. We will never allow personal feelings, prejudices, ill will or friendships to influence our decisions.

We know that each of us is individually responsible for standards of professional performance. Therefore, we will make the utmost effort to improve our level of knowledge and competence.

We recognize the badge of our office as a symbol of public faith and accept it as a public trust to be held so long as we are true to the ethics of the police service. We will constantly strive to achieve these ideals, dedicating ourselves to our chosen profession - law enforcement. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.

(2) The coordinator, in cooperation with the class shall designate a minimum of one (1) [elect an] Honor Code representative during the first week of basic training. The Honor Code representative may be replaced:

(a) In the case of nonperformance of duties, including conduct violations; or

(b) When the coordinator, in cooperation with the class, determines that a rotating assignment as Honor Code representative is in the best interest of the class.

(3) All recruits shall report Honor Code violations to the Honor Code representative who shall report the offense to the class coordinator. The representative will recommend the penalty to be imposed for the violation.

(4) All disciplinary procedures contained in this administrative regulation shall apply to the Honor Code violation. The department may pursue separately any additional offenses discovered during the investigation of the Honor Code violation. The department may charge a recruit with an Honor Code violation without a prior report from the Honor Code representative. A penalty recommendation for the violation shall be solicited from the Honor Code representative.

Section 8. Department's Responsibilities to Recruit's Agency. In order to keep the agency advised of the recruit's progress and performance in basic training so that the agency may adequately assess the recruit's ability to perform required duties, the department shall provide the following to the police chief, sheriff or chief administrator of the recruit's agency:

(1) Recruit performance report which shall be completed at four (4) week intervals and shall include recruit conduct, demonstrated leadership abilities, examination scores, physical fitness scores and overall effort on performance, observed social and [f] interpersonal skills, and appearance.

(2) Immediate notice of specific nonperformance[~~misconduct~~] or lack of progress.

(3) Immediate notice of any off-campus activity which reflects negatively on the profession, including the following:

(a) Parking a marked police vehicle at a:

1. Bar;

2. Tavern;

3. Lounge;

4. Nightclub; or

5. Other establishment with the primary purpose of serving alcoholic beverages;

(b) Disorderly conduct;

(c) Speeding; or

(d) Other behavior that gives rise to a citizen's complaint.

(4) Written notice of any conduct or Honor Code penalty imposed upon the recruit.

(5) Notice when a recruit has been charged with a violation of a conduct or Honor Code requirement and has requested a hearing.

(6) Notice when a recruit has been removed from training pending an initial appearance before the commissioner as defined in Section 10 of this administrative regulation, or when a recruit has been removed from training pending a disciplinary hearing as defined in Section 14(3) of this administrative regulation.

(7) Immediate notice of concerns related to the recruit's safety, or physical or emotional health.

Section 9. Summary Discipline. Except for summary discipline, no penalty shall be imposed upon a recruit unless charges have first been brought by the legal officer.

(1) The following department staff members have the authority to impose the specified penalties summarily without meeting the requirements of the formal disciplinary procedures provided by Sections 10 through 16 of this administrative regulation. To have the authority to impose summary discipline, the staff member must have reasonable grounds to believe the recruit has engaged in the misconduct.

(a) A department instructor may summarily impose a verbal warning.

(b) The section supervisor, branch manager, director, or commissioner may summarily impose a verbal warning, or written reprimand[~~or loss of privileges~~].

(c) The branch manager, director, or commissioner may summarily impose a verbal warning, written reprimand, or loss of privileges consisting only of a change in curfew.

(2) Before imposing a penalty summarily, the staff member shall give the recruit the opportunity to give an explanation.

(3) A summarily imposed penalty shall be reviewed by, and may be rescinded or modified by, the immediate supervisor of the staff member imposing the penalty. The reviewer shall provide the recruit with the opportunity to give an explanation.

Section 10. Removal From Training Pending an Initial Appearance Before the Commissioner. (1) When a ~~charge~~ [request for charges] is filed against a recruit, the commissioner or director may remove the recruit from some or all training until the recruit's initial appearance before the commissioner if he has reasonable grounds to believe the alleged misconduct took place and:

(a) He has reasonable suspicion to believe the recruit would be dangerous or disruptive if not removed; or

(b) The recruit ~~has been~~ [may be] charged with misconduct ~~for which suspension or [serious enough to authorize] expulsion is authorized, and the facts demonstrate that suspension or expulsion is the appropriate penalty should the recruit be found guilty of the conduct violation.~~

(2) A recruit who has been removed from training pending an initial appearance before the commissioner shall be provided the initial appearance within three (3) training days of the removal.

Section 11. Complaint. Anyone having reasonable grounds to ~~believe~~ [for believing] that a recruit has violated any of the conduct or Honor Code requirements identified in this administrative regulation may file a complaint with the section supervisor. This complaint shall be in writing setting forth the facts upon which the complaint is based.

Section 12. Investigation by Section Supervisor. (1) If the section supervisor receives a complaint of or witnesses apparent misconduct, he shall take statements and otherwise investigate the

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matter.

- (2) After investigating the matter, the section supervisor shall:
 - (a) Take no action if none is justified by the evidence; or
 - (b) Impose appropriate summary discipline; or
 - (c) File, with the legal officer, a written request that charges be brought against the recruit. The request for charges shall describe the alleged misconduct and designate the specific conduct requirements violated. All pertinent evidence and documents including the complaint, and statements of the recruit and witnesses shall be forwarded to the legal officer.

Section 13. Review by Legal Officer; Placing Charges. (1) The legal officer shall review the request for charges and the supporting evidence and documents.

(2) The legal officer may make or cause further inquiry into the matter for additional information.

(3) The legal officer shall [either]:

- (a) File such charges against the recruit as he believes are justified by the evidence; or
- (b) Deny the request for charges if the evidence does not support any charges. If the legal officer declines to file charges, he shall provide the commissioner with a statement of his reasons for not filing charges.

(4) The charging document shall:

- (a) Be in writing;
- (b) Particularly describe the alleged misconduct so as to reasonably inform the recruit of the nature of the allegation;
- (c) State the time, date and place the recruit shall make an initial appearance before the commissioner to answer the charges;
- (d) Be signed by the legal officer; and
- (e) Be served upon the recruit at least forty-eight (48) hours [one (1) hour] before his initial appearance before the commissioner.

Section 14. Initial Appearance Before the Commissioner. (1) The initial appearance before the commissioner shall be held no more than five (5) [~~three (3)~~] training days after the charges have been served on the recruit. If the recruit after receiving proper notice, fails to appear, the commissioner may proceed in his absence and the recruit shall be notified in writing of any action taken.

(2) At the initial appearance before the commissioner:

(a) The legal officer shall:

1. Read the charges to the recruit;
2. Explain to the recruit:

a. The charges;

b. His right to a hearing in accordance with KRS Chapter 13B; and

c. His right to be represented by legal counsel.

(b) The legal officer shall explain to the recruit the possible answers to the charges: admit the charges are true, deny the charges are true but waive a hearing, or deny the charges are true and ask for a hearing.

(c) The commissioner shall advise the recruit of the penalty which shall be imposed if the recruit admits the charges or waives a hearing.

(d) The recruit shall be requested to answer the charges.

(e) If the recruit chooses to waive his rights and admits the charges or denies the charges but waives a hearing:

1. He shall be permitted to make a statement of explanation; and

2. The commissioner shall impose a penalty.

(f) If the recruit denies the charges and requests a hearing, the commissioner shall set a date for the hearing. A notice of administrative hearing as required by KRS 13B.050 shall be served on the recruit within forty-eight (48) hours of the initial appearance before the commissioner.

(g) If the recruit remains silent or refuses to answer the charges, the commissioner may suspend the recruit from training until the recruit answers the charges or the legal officer drops the charges.

(3) The commissioner may remove the recruit from some or all training until the hearing if:

(a) He has reasonable grounds to believe the recruit would be dangerous or disruptive if not removed; or

(b) The recruit is charged with misconduct serious enough to

authorize expulsion as a possible penalty.

Section 15. Hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.

Section 16. Appeal. (1) A trainee may appeal an order entered by the commissioner which imposes a penalty adverse to the trainee by filing a written notice of appeal to the Secretary of the Justice Cabinet.

(a) The notice of appeal shall state the points on which the appeal is based and shall be on a form provided by the department. The form is made a part hereof by reference.

(b) A copy of the order being appealed shall be attached to the notice of appeal.

(c) A copy of the notice of appeal shall be delivered to the commissioner of the department by certified mail.

(2) The appeal shall not be heard de novo but shall be determined upon the audio record and any written or physical evidence introduced at the hearing.

(3) The Secretary of the Justice Cabinet shall render an opinion within sixty (60) days of receipt of the notice of appeal.

JOHN W. BIZZACK, Ph.D., Commissioner

STEPHANIE C. BINGHAM, General Counsel

APPROVED BY AGENCY: November 5, 1999

FILED WITH LRC: November 5, 1999 at noon

TRANSPORTATION CABINET

Department of Highways

Division of Traffic

(As Amended at ARRS, December 14, 1999)

603 KAR 5:120. Access control of highways.

RELATES TO: KRS 175.450(7), (9), 176.050(1)(i), 177.106, 177.230, 177.240(1), 177.315, 177.410(8), 177.440

STATUTORY AUTHORITY: KRS 174.080(2), 175.450(7), (9), 176.050(1)(i), 177.230, 177.240(1), 177.410(6), (8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 177 provides the authority [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) "Access by permit" means all highways designated as access by permit on the department's plans.

(2) "Access control" means the condition where the privilege to access a highway by abutting owners, occupants, or other persons is controlled by public authority. Types of access control include access by permit, fully-controlled access, and partially-controlled access.

(3) "Commissioner" means the Commissioner of Highways.

(3) "Department" is defined by KRS 176.010(1).

(4) "Department's plans" means the department's 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.

(5) "Fully-controlled access" means 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.

(6) "Partially-controlled access" means 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.

(7) "Railroad access" 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.

(8) "Rural" means all areas other than urban.

(9) "Urban" 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. ["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. The offset distance between access points located on opposite sides of the highway shall not be less than the minimum spacing distance established in KRS 177.315. [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. The offset distance between access points located on opposite sides of the highway shall not be less than the minimum spacing distance established in KRS 177.315. [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) If [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 Transportation Cabinet Form TC 99-1, Encroachment Permit revised 3/99 [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 established in 603 KAR 5:150 [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) Except as provided in Section 3(3)(a) of this administrative regulation, when the State Highway Engineer recommends approval of a permit request where access control is full or partial, the commissioner shall provide an opportunity for a public hearing to be held in accordance with 600 KAR 1:030. [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 Commissioner 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 **documentation contained in 603 KAR 5:150** [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 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 issued the department's final approval or disapproval.

Section 9. Incorporation by Reference. (1) Transportation Cabinet form TC 99-1, "Encroachment Permit" revised 3/99 is incorporated by reference.

(2) This material may be inspected, copied, or obtained Monday through Friday between 8 a.m. and 4:30 p.m. at:

(a) Office of Policy and Budget, Policy and Procedures Branch, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622;

(b) Division of Traffic, State Office Building, Frankfort, Kentucky 40622; or

(c) Any of the twelve (12) highway district offices.

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.

TRANSPORTATION CABINET

Department of Highways

Division of Traffic

(As Amended at ARRS, December 14, 1999)

603 KAR 5:150. Encroachment permits.

RELATES TO: KRS 176.050(1)(i), 177.047, 177.103, 177.106

STATUTORY AUTHORITY: KRS 176.050(1)(i), 177.047, 177.106

NECESSITY, FUNCTION, AND CONFORMITY: KRS 176.050(1)(i) requires the Department of Highways to **promulgate** [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. **Incorporation by Reference. (1) "Kentucky Transportation Cabinet Permits Manual", Chapters PE-100 through PE-990 as revised and effective September 22, 1999, Revision No. 01 is incorporated by reference.**

(2) This material may be inspected, copied, or obtained Monday through Friday between 8 a.m. and 4:30 p.m. at:

(a) Office of Policy and Budget, Policy and Procedures Branch, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622;

(b) Division of Traffic, State Office Building, Frankfort, Kentucky 40622; or

(c) Any of the twelve (12) highway district offices. [(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-990 [One through Nineteen], as revised and effective September 22, 1999, Revision No. 01 [April 4, 1999]. 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.

EDUCATION, ARTS & HUMANITIES CABINET
Kentucky Board of Education
Department of Education
(As Amended at ARRS, December 14, 1999)

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 **School** Program Guidelines. 704 KAR **3:303, Required** [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.

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(As Amended at ARRS, December 14, 1999)

704 KAR 20:300. Part-time adjunct instructor certificate.

RELATES TO: KRS 161.020, 161.028(1)(a), (c) [161.025], 161.030, 161.046, 161.048(5), 161.120

STATUTORY AUTHORITY: KRS 161.028(1)(a), (c) [156.070], 161.030, 161.046(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.046 and 161.048(5) establish [establishes] the position of adjunct instructor and **require** [direct] [directs] the Education Professional Standards Board [State Board of Education] to **promulgate** [establish/implementing] administrative regulations to **establish certification requirements**; and KRS 161.020, 161.025, and 161.030 set forth the general certification authority of the state board. This administrative regulation **establishes** [sets] the minimum requirements for **an** adjunct instructor **certificate** [certificates] [and sets forth the procedure for making a determination that qualified teachers with regular certifi-

cates 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) **An adjunct instructor** [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:] **An adjunct instructor** [instructors] employed in middle school or secondary school [for departmentalized instruction in grades seven (7) through twelve (12)] shall hold:

1. A bachelor's degree from a regionally accredited institution with:
a. An overall minimum grade point average of 2.50 on a 4.00 scale; and

b. 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

2. 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)1. **Except as provided in subparagraph 2 of this paragraph, an adjunct instructor** [adjunct-instructors] in elementary school [for the elementary grades kindergarten through eight (8)] shall hold:

a. A bachelor's degree from a regionally-accredited institution with:

(i) A minimum overall grade point average of 2.50 on a 4.0 scale; and

(ii) 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

b. 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.

2. 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) **An adjunct instructor** [instructors] for vocational education-industrial education shall:

1. Be **a high school graduate; and**

2. ~~[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 **TC-25** signed by the local district superintendent and approved by the local board of education shall be

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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 the [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. Incorporation by Reference. (1) Form TC-25, revised 8/99, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Office of Teacher Education and Certification, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [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

EDUCATION, ARTS, AND HUMANITIES CABINET Education Professional Standards Board (As Amended at ARRS, December 14, 1999)

704 KAR 20:475. Probationary certificate for teachers of technology education.

RELATES TO: KRS 161.020, 161.028(1)(a), (c), 161.030

STATUTORY AUTHORITY: KRS 161.028(1)(a), (c), 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 a particular certificate on the basis of standards and procedures established [adopted] by the Education Professional Standards Board. This administrative regulation establishes a plan for recruiting certified classroom teachers into positions [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 to 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]

(e) [(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 established 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 educator [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 required by KRS 161.030 and [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 for an approved teacher preparation program, 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 insti-

tution, 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

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(As Amended at ARRS, December 14, 1999)

704 KAR 20:590. Alternative training program eligibility requirements for middle school [grade] and secondary school [classroom] teachers.

RELATES TO: KRS 161.028(1)(a), (c), 161.030, 161.048(3), 161.049

STATUTORY AUTHORITY: KRS 161.028(1)(a), (c), 161.030, 161.048(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048(3) 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 shall be [is] responsible for development, submission and implementation of the district plan required by KRS 161.048(3). The plan shall be signed by:~~

~~(1)(a) The district superintendent; or~~

~~(b) If the plan is submitted by a consortium, each superintendent involved in the consortium; and~~

~~(2) The dean of the teacher education unit at the sponsoring college or university, [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 required by [defined in] 704 KAR 20:600.

Section 3. **Prerequisites for Participation. (1) A candidate shall provide evidence of compliance with KRS 161.048(3) to participate in a state-approved local district alternative training program for middle school or secondary school teachers.**

(2) A candidate seeking eligibility to take a subject field test based on experience in the subject field pursuant to KRS 161.048(3)(b) shall submit documentation of the candidate's employment history, including a position description that shows a direct relationship to the subject matter of the candidate's teaching field for:

(a) The candidate's current position; or

(b) If the candidate is currently unemployed, the position held immediately prior to application for entry to the alternative training program. [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. **A [(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:

(1) Recommended for reentry to an alternative training program; and

(2) [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 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

EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(As Amended at ARRS, December 14, 1999)

704 KAR 20:610. Kentucky primary alternative certification program.

RELATES TO: KRS 161.028(1)(a), (c), 161.030, 161.048(3), 161.049

STATUTORY AUTHORITY: KRS 161.028(1)(a), (c), 161.030, 161.048(3), 161.049

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048(3) **requires** [directs] the Education Professional Standards Board to **promulgate** [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 **requirements for Kentucky's primary alternative certification program**. [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 [20:005], except for the preparation of teachers of exceptional children.]

Section 1. School District Plan. (1) Submission and approval. **A school district certification plan required by KRS 161.048(3) and 161.049(3) shall** [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.

(2) A district plan shall be signed by:

(a)1. The district superintendent; or

2. If the plan is submitted by a consortium, each superintendent involved in the consortium; and

(b) The dean of the teacher education unit at the sponsoring college or university.

(3) [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; **and**

(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.

(4) [(2)] Review criteria and procedures.

(a) [Staff in the] Office of Teacher Education and Certification staff shall review each plan in terms of:

1. Compliance with established alternative certification program administrative regulations;

2. Adequacy of financial and personnel resources; and

3. 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.

(c) The board shall:

1. Review the staff recommendations;

2. Approve or deny each plan; and

3. Transmit the decision and rationale for the decision to the district or group of districts.

(d) Approval decisions granted by the board shall specify the period for which approval is granted. The approval period shall not exceed five (5) years.

(e) If the plan is denied approval, it may be revised and resubmitted.

(5) [(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.

(6) [(4)] Program revisions.

(a) Significant deviations in program components shall be submitted to the Education Professional Standards Board for approval prior to implementation of program changes.

(b) The proposed revision along with the corresponding section of the original plan and a rationale for the revision **shall [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.

(a) The principal, as chair, [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:

1. [(a)] All informal classroom observations and critiques;

2. [(b)] All formal classroom observations and evaluations; **and**

3. [(c)] Documented changes made in the candidate's professional growth [development] plan.

(b) [(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.

(a) Each member of the professional support team shall successfully complete the Kentucky Teacher Internship Program (KTIP) training for classroom observers.

(b) 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.

(c) Training for a team member shall not occur after Phase 1 of the candidate training begins.

Section 3. Procedures for Admission. All candidates for entry into an alternative certification program shall:

(1) Receive a one (1) year provisional teaching certificate prior to program participation;

(2) Be classified as Rank IV for salary purposes; and

(3) Apply to the Office of Teacher Education and Certification in the Kentucky Department of Education for the one (1) year provisional teaching certificate by submitting:

(a) A completed Form TC-1, with the local district completing Section 4 of this form; and

(b) The following items with the application: [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. [(1)] Official transcripts of all college work;

2. [(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. [(3)] [(4)] Evidence of a criminal record review;

4. [(4)] [(5)] Three (3) recent letters of reference from persons not related to the candidate who are familiar with the candidate's professional work; and

5. Documentation of the candidate's employment history, including a position description that shows a direct relationship to the subject matter of the candidate's teaching field for:

a.(i) The candidate's current position; or

(ii) If the candidate is currently unemployed, the position held immediately prior to application for entry to the alternative training program; and

b. Each position submitted by the candidate to meet the experience requirement.

[(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 indi-

vidual professional growth plan shall:

(a) Be consistent with:

1. The district plan for assisting a teacher toward proficiency, as required by KRS 156.101(6)(c)6;

2. The requirements of the New Teacher Standards established in 704 KAR 20:730; and

3. The district's approved alternative certification proposal;

(b) Be developed for each candidate;

(c) Be discussed with the candidate prior to the beginning of the program;

(d) Address all phases of the training program; and

(e) Meet the requirements for formal instruction established in KRS 161.049(5). Formal instruction shall:

1. Be designed to ensure that the candidate meets the requirements of the new teacher standards established in 704 KAR 20:730; and

2. Relate directly to the:

a. Candidate's professional growth plan; and

b. Knowledge base of the Kentucky Teacher Internship Program (KTIP). [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 Standards 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, TEC 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.

(a) Each candidate's professional growth [development] plan shall be submitted to the Education Professional Standards Board for review and approval.

(b) If the board judges that the professional growth [development] plan is not consistent with the approved district plan, the board shall [may] deny approval of the individual plan and [may deny] the candidacy until an appropriate professional growth [development] plan is approved.

(c) 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:

1. [(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;

2. [(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;

3. [(c)] The proposed daily work load appropriate for Rank IV and a schedule of the candidate for each phase of the training;

4. [(d)] A copy of the official letter offering employment to the candidate;

5. [(e)] Evidence that the candidate has accepted the offered employment; and

6. [(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 [i] 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 comply with KRS 161.049(4)(a)

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~~and 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 comply with KRS 161.049(4)(b) and 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 comply with KRS 161.049(4)(c) and 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 pro-

gram, 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 certificate [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) The professional support team shall make a recommendation pursuant to KRS 161.049(6). ~~[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

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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) A schedule for short-range program evaluation, including an evaluation of the effectiveness of the:

1. Formal instruction in relation to acquisition by the candidate of the knowledge and competencies specified in this administrative regulation;

2. Supervised teaching;

3. Assistance provided by the professional support team;
and

4. Candidate in the classroom during the two (2) eighteen (18) week training sessions; and

(b) A schedule for long-range program evaluation, including an evaluation of the:

1. Goals of the alternative preparation program; and

2. Effectiveness of the program in meeting these goals. [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)(a) 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.

(b) The on-site evaluations shall be scheduled in advance with the district to:

1. Allow sufficient time for the district to provide evaluation results and other necessary records and documents;

2. Ensure availability of program staff and candidates; and

3. Provide other facilities for the conduct of evaluation.

(c) The Education Professional Standards Board shall:

1. Provide a copy of its evaluation report to the district within thirty (30) working days of receipt of the board's evaluation report;

2. [The board shall] Review the report and response; and

3. [shall] Take appropriate action. If in the judgement of the board an alternative training program exhibits continuing and insurmountable weaknesses, the board shall [may] direct termination of the program at the end of the school year.

Section 9. Incorporation by Reference. (1) Form TC-1, revised 7/99, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Office of Teacher Education and Certification, 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

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(As Amended at ARRS, December 14, 1999)

907 KAR 1:060. Medical transportation.

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194A.030, 194A.050 [194.050], [Chapter] 205.520, 42 CFR 440.170, 42 USC 1396d [(d)], [EO 96-862]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. [Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services.] KRS 205.520 authorizes [empowers] the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes [sets forth] the provisions relating to the service of transportation for access to medical services for which payment shall be made by the Medicaid Program in behalf of both the categorically needy and the medically needy.

Section 1. Definitions. (1) "Household" means a single housing unit which is legally considered the residence of one (1) or more persons who may or may not be related. An apartment building, duplex, four-plex, etc. shall not be considered a single housing unit.

(2) "Medical necessity" means a condition requiring medical attention.

[(3) "Medical service area" means a county of residence and contiguous counties.]

Section 2. Transportation under the Medicaid Program shall be provided only to a Medicaid eligible recipient [recipients] and if necessary, an attendant or parent who accompanies [to accompany] the recipient.

Section 3. Ambulance Services. (1) Ambulance services shall be provided only if:

(a) Service is of medical necessity; and

(b) [medically necessary and if] The criteria shown in this section are met.

(2) [(1)] Emergency ambulance services shall be provided without preauthorization to and from the nearest hospital emergency room or appropriate medical facility or provider in accordance with [as defined in] 907 KAR 1:061 and specified in the [incorporated] Medical Transportation Services Manual. A statement that the Medicaid recipient received emergency services shall be provided by [obtained from] the medical personnel of the facility which treated the recipient.

(3) [(2)] Nonemergency ambulance services to a hospital, clinic, physician's office or other health facility shall be provided if preauthorized.

(4) If the Department for Community Based Services (DCBS) [Social Insurance] local office is closed, the nonemergency ambulance service shall be postauthorized. Preauthorization and postauthorization shall be performed by the Department for Medicaid Services or its authorized representative in accordance with Section 4 of [utilizing criteria shown in] this administrative regulation.

(5) If a recipient has both Medicare and Medicaid, and if the transportation may be covered by Medicare, the provider shall bill Medicare first, and preauthorization by the local DCBS office shall not be required. If Medicare subsequently denies the payment for the transportation, the provider shall obtain postauthorization. In order to have the transportation postauthorized, the provider shall give a copy of the Medicare denial to the local DCBS office and a voucher shall be issued by DCBS. The voucher shall require only the signature of the transportation provider.

Section 4. Locally Authorized Medical Transportation. (1) A system of preauthorization shall be [transportation preauthorization sys-

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tem] administered at each local Department for Community Based Services office and [Social Insurance office] shall provide for preauthorized nonemergency transportation approvals, including nonemergency ambulance services. A Medicaid-eligible recipient may receive these services if he meets, [limited to the provision of the services under] the following conditions:

(a) The recipient shall be traveling to or from a Medicaid covered service, exclusive of pharmaceutical services;

(b) The service shall be determined to be of medical necessity [medically necessary];

(c) [Payment for transportation shall be necessary to ensure that the medical service is secured; and

(d) Failure by the Medicaid Program to pay for transportation results in a hardship to the Medicaid recipient. A hardship shall not be considered to exist if] Free transportation which is appropriate for the recipient's medical needs is not available or [if] use of an appropriate operational household vehicle is not available [appropriate, and is not used for commercial purposes].

(2) Locally authorized medical transportation shall be provided [as necessary] on a [an exceptional] postauthorization basis if:

(a) 1. [with the additional limitation that postauthorization shall be justified by] The recipient justifies [indicating] the need for medical transportation;

2. [(b)] The need for transportation services was [arose and was provided] outside normal working hours; and

3. [(c)] [that] Payment for the transportation has not been made;

or
(b) [(d)] Medicare payment has been denied.

Section 5. Determination of Necessity. (1) [All] Approvals for nonemergency transportation services and the provision of preauthorization and postauthorization, shall be made by the Department for Medicaid Services or by the department's authorized representative.

(2) If criteria established in Section 4 are met, [Only] transportation within the medical service area shall be approved. Transportation services provided outside the medical service area shall be approved by the Department for Medicaid Services or the department's authorized representative if:

(a) The medical service required by the recipient is not available in the medical service [that] area; and

(b) The recipient is [has been appropriately] referred by a [the] medical provider within his medical service area.

(3) [Only] The least expensive available transportation suitable for the recipient's needs shall be approved.

Section 6. Appeal Rights. A recipient shall have the right of appeal as established in 907 KAR 1:563.

Section 7. Incorporation [Material Incorporated] by Reference. (1) The following material is incorporated by reference:

(a) MAP-720 Authorization for emergency ambulance services to facility other than a hospital emergency room, July 1997 edition, Department for Medicaid Services; and

(b) MAP-13 Medical Transportation Voucher, July 1997 edition, Department for Medicaid Services.

(2) This material may be inspected, copied, or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. ["Medicaid Transportation Services Manual", dated January 1996 shall be incorporated by reference in this administrative regulation.

(2) The manual shall be on file in the Office of the Commissioner, Department for Medicaid Services, Cabinet for Health Services, 275 East Main Street, Third Floor East, Frankfort, Kentucky, 40621.

(3) The manual shall be available for review during the normal business week, Monday through Friday, 8 a.m. through 4:30 p.m. (eastern standard time), excluding state holidays.

(4) Each participating in-state provider shall be provided one (1) copy of the manual and appropriate manual updates following their incorporation by reference. Additional copies may be obtained from the Department for Medicaid Services upon payment of an appropriate fee which approximates cost in accordance with KRS 61.872.

Section 7. The provisions of this administrative regulation as

amended shall be effective for services provided on or after January 18, 1996.]

JIMMY D. HELTON, Secretary

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

APPROVED BY AGENCY: October 28, 1999

FILED WITH LRC: October 28, 1999 at 10 a.m.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(As Amended at ARRS, December 14, 1999)**

907 KAR 1:061. Payments for medical transportation.

RELATES TO: KRS 205.520, 42 USC 1396, 440.170, 447.200 through 447.205

STATUTORY AUTHORITY: KRS 194A.030, 194A.050 [194.050, Chapter 205, 42 CFR 440.170, 447.200 through 447.205, 42 USC 1396(d), EO 96-862]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. [Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services.] KRS 205.520 authorizes [empowers] the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes [sets forth] the method for determining amounts payable by the Department for Medicaid Services for medical transportation services.

Section 1. Definitions. [For purposes of this administrative regulation, the following definitions apply:]

(1) "Advanced life support[?]" (ALS) ambulance services" means ambulance services meeting the standards for advanced life support services established in accordance with 902 KAR 14:070, 907 KAR 14:080, 907 KAR 14:082, and 907 KAR 14:084.

(2) "Advanced Life Support (ALS) Medical First Response Providers" means the utilization of certified and licensed emergency medical professionals in accordance with 902 KAR 14:100 to provide advanced prehospital medical care.

(3) "Affiliate ambulance service" means a Class I ground ambulance provider who has entered into a formal written agreement with an ALS medical first response provider to jointly respond to prehospital medical emergencies for coordinated medical care and transportation [as set by the Department for Health Services, if provided by a Medicaid provider appropriately licensed by the Cabinet for Health Services for the provision of ALS services.

(2) "Appropriate medical facility or provider" means a local medical provider other than an emergency room of a hospital who can provide necessary emergency care when a hospital emergency room is not located within the medical service area.

(3) "Air ambulance provider" means an air ambulance service meeting the standards for provision of air ambulance services [as set by the Department for Health Services], if provided by a Medicaid provider [appropriately] licensed [by the Cabinet for Health Services] for the provision of air ambulance services in accordance with 902 KAR 14:090.

(5) [(4)] "Ambulatory recipient who is disoriented" means an individual who is confused, especially with respect to time, place, and identity of persons or objects. The extent of disorientation shall be sufficient to preclude the recipient from safely utilizing, unaccompanied, alternate methods of transportation.

(6) "Appropriate medical facility or provider" means a local medical provider other than an emergency room of a hospital who can provide necessary emergency care when a hospital emergency room is not located within the medical service area.

(7) [(5)] "Attendant" means an individual who accompanies the recipient, if necessary, to, from, and while receiving medical services.

A parent who accompanies [must accompany] a minor child shall be [is] considered to be an attendant.

(8) [(6)] "Basic life support[]" (BLS) ambulance services" means ambulance services meeting the standards for basic life support services established in 902 KAR 14:080 [as set by the Department for Health Services] if provided by a Medicaid provider appropriately licensed [by the Cabinet for Health Services] for the provision of BLS services in accordance with 902 KAR 14:080, 907 KAR 14:082 and 907 KAR 14:084.

(9) [(7)] "Commercial transportation carrier [carriers]" means a commercial carrier which:

(a) is [those commercial carriers] licensed in accordance with KRS 281A.010(8) [the laws of Kentucky], other states, or of the United States to transport members of the general public; and

(b) Has the authority provided by the Transportation Cabinet to operate in the county in which the transportation services is initiated.

(10) [such as a taxi cab:

(8)] "Department" means the Department for Medicaid Services.

(11) [(9)] "Loaded miles" means the miles in which [when] the transportation carrier is transporting at least one (1) recipient to or from a Medicaid covered service. [Reimbursement shall be made to a provider for loaded miles only (patient).]

(12) [(10)] "Medical condition" means a [is defined as any] condition of the recipient which does not allow him to travel alone or without physical assistance.

(13) "Membership or subscription fee" means a charge from the provider to the recipient which entitles the recipient to free or discounted ambulance transportation services.

(14) [(11)] "Noncommercial group carrier [carriers]" means a vendor licensed in accordance with KRS 281.619, [those vendors] who provides [provide] bus or bus-type medical transportation to an identifiable segment of the eligible recipient group, but not including a vendor [vendors] whose transportation costs are allowable costs under their reimbursement system (except community mental health centers). The segment may be identifiable by geographical boundary, type of medical service required, common medical destination (i.e., clinic, primary care center, etc.), or other similar grouping method. Included within this definition are:

(a) Community action agencies (or successor agencies) providing bus or bus-type service for a poverty or near-poverty area target population; and

(b) Other similar providers as identified by the department.

(15) [(12)] "Nonemergency health transportation services (NEHT)" means transportation services provided by a Medicaid provider meeting the standards for nonemergency health transportation services and licensed in accordance with 902 KAR 14:060 and 902 KAR 14:070. (16) [as set by the Department for Health Services, if provided by a Medicaid provider appropriately licensed by the Cabinet for Health Services for the provision of NEHT services.

(13)] "Private automobile carrier" means a person owning or having access to a private vehicle not used for commercial transportation purposes and who uses that vehicle for the occasional medical transportation of eligible recipients.

(17) [(14)] "Recipient" means an individual who is eligible for Medicaid benefits and meets the criteria for transportation services as defined in 907 KAR 1:060.

(18) [(15)] "Specialty carrier" means a vendor who:

(a) Provides, through specially equipped vehicles, medical transportation for nonambulatory recipients [(those who are required to travel by wheelchair)] or for ambulatory but disoriented recipients;

(b) [(those who are sufficiently disoriented as to time, place, person or objects so as to be unable to travel to or from medical services unaccompanied or unsupervised), and who] Provides services not [normally] available from other transportation vendors; and

(c) Has a disabled persons certificate in accordance with KRS 281.014(5) [- The equipment required shall be a van or similar type vehicle with a ramp or lift for wheelchairs; and the service shall be the accompaniment of the recipient from point of origin to point of destination where the recipient is placed in the charge of the receiving individual, including physical assistance or guidance to the recipient. To be considered a specialty carrier for purposes of reimbursement from the department, the carrier shall be recognized by the department as a specialty carrier] with approval [given] by the department for reimbursement

at specialty carrier rates and is licensed appropriately in accordance with KRS Chapter 281.

(19) [- The department may require the submission of documentation designed to show that the vendor is capable of providing specialty carrier service in an adequate and safe manner.

(16)] "Upper limit" means the maximum reimbursement rate that the department shall pay the transportation provider for the services provided.

(17) "Waiting time" means that period of time following provision of transportation to a medical vendor during which the private automobile vendor is waiting for the recipient to receive medical treatment, in order to provide the return trip required by the recipient. In the instance of an eligible recipient being admitted to a medical institution for inpatient care, waiting time is considered to have occurred if the private automobile vendor waits a sufficient period of time to ensure the recipient's admittance to the facility.]

Section 2. Licensed Ambulance Services Reimbursement. (1) The department shall reimburse licensed participating ambulance services at the lesser of their usual and customary charges or the maximum rate established by the department.

(2) The maximum rate shall be the amount arrived at by combining the base rate, mileage allowance, oxygen rate, and cost of other supplies, as applicable:

(a) The base rate for ALS emergency transportation to the emergency room of a hospital shall be set at eighty-five (85) dollars per one (1) way trip; the mileage allowance for trips shall be three (3) dollars and fifty (50) cents per mile for mileage from mile one (1); a flat rate of twenty-five (25) dollars shall be set for an [each] additional recipient with no additional allowance for mileage.

(b) The rate for air ambulance transportation shall be an all-inclusive rate. Reimbursement shall be the provider's usual and customary charge not to exceed the upper limit of \$3,500. A claim [All claims] for air ambulance transportation services shall be submitted to the department and shall be reviewed for determination that air transport was medically necessary and appropriate.

(c) The base rate for BLS emergency transportation to the emergency room of a hospital shall be set at sixty-five (65) dollars per one (1) way trip; the mileage allowance for trips shall be two (2) dollars and fifty (50) cents per mile for mileage from mile one (1); a flat rate of twenty (20) dollars shall be set for an [each] additional recipient with no additional allowance for mileage.

(d) The base rate for an [any] ALS or BLS providing emergency ambulance transportation to an appropriate medical facility or provider which is not the emergency room of a hospital shall be set at fifty-five (55) dollars per one (1) way trip; the mileage allowance for trips shall be two (2) dollars per mile from mile one (1); a flat rate of fifteen (15) dollars shall be set for an [each] additional recipient with no additional rate for mileage. Payment shall be contingent upon review of required documentation. Claims shall be reviewed by the department. Required documentation shall be a statement of a medical emergency by the attending medical provider.

(e) The base rate for NEHT services if [when] transporting a recipient who is on a stretcher to a medical provider, other than a pharmacy, shall be set at forty (40) dollars per one (1) way trip; the mileage allowance for trips shall be one (1) dollar and fifty (50) cents per mile. The reimbursement for NEHT services if [when] transporting a recipient who is in a wheelchair shall be in accordance with Section 6 of this administrative regulation.

(f) The base rate for nonemergency transportation for a [all] licensed ambulance service if [services when] no medical care or treatment of a recipient is required or indicated during transport shall be the rate specified in paragraph (e) of this subsection.

(g) An oxygen rate, which is set at ten (10) dollars per one (1) way trip; for a [all] licensed ambulance service [services], excluding air ambulances.

(h) The cost of other itemized supplies for ALS or BLS emergency transportation services shall be the actual cost as reflected on the transportation provider's invoice which shall be maintained in the provider's files and shall be produced upon request by the department.

(i) The base rate for BLS emergency transportation with an ALS medical first response provider to stabilize the patient before the BLS run is completed to the emergency room of a hospital, shall be:

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1. Eighty-five (85) dollars per one (1) way trip;
2. Two (2) dollars and fifty (50) cents per mile for mileage from mile one (1); and

3. Flat rate of twenty-five (25) dollars for an additional recipient with no additional allowance for mileage.

(i) The base rate for BLS providing emergency transportation with ALS medical response provider assistance to medical facility or provider which is not the emergency room of a hospital shall be:

1. Fifty-five (55) dollars per one (1) way trip;
2. Two (2) dollars per mile from mile one (1); and
3. Flat rate of fifteen (15) dollars for an additional recipient with no additional rate for mileage.

(k) Payment for services identified in paragraphs (i) or (j) of this subsection shall be contingent upon review of required documentation by the department. Required documentation shall be a statement of medical emergency by the attending medical provider and ALS medical first response provider.

(3) The department shall not reimburse a licensed participating ambulance service provider who charges a membership or subscription fee that entitles the recipient to free or discounted ambulance transportation if a recipient has paid that membership or subscription fee.

Section 3. Commercial Transportation Carrier [Carriers] Reimbursement. The department shall reimburse a participating commercial transportation carrier [carriers] at usual commercial rates with limitations as follows:

(1) For taxi services provided in regulated areas in accordance with KRS 281.635(4), the provider shall be reimbursed the normal passenger rate charged to the general public for a one (1) way trip regardless of the number of Medicaid eligible recipients transported when the trip is within the medical service area [(as defined in 907 KAR 1:060)], i.e., the taxi shall be paid the single passenger rate regardless of the number of additional passengers; and [-]

(2) For a taxi service in an area [taxi services in those areas] of the state where taxi rates are not regulated by the appropriate local rate setting authority, and for taxi services in regulated areas when they go outside the medical service area [(as defined in 907 KAR 1:060)], the provider shall be reimbursed the normal passenger rate charged the general public for a single passenger [(without payment for additional passengers, if any)], up to the upper limit [-reimbursement for transport of a parent or attendant shall be considered included within the upper limit allowed for the trip]. The upper limit for a taxi transporting a recipient shall be:

(a) The usual and customary charge up to a maximum of six (6) dollars for trips of five (5) miles or less, one (1) way, loaded miles;

(b) The usual and customary charge up to a maximum of twelve (12) dollars for trips of six (6) to ten (10) miles, one (1) way, loaded miles;

(c) The usual and customary charge up to a maximum of twenty (20) dollars for trips of eleven (11) to twenty-five (25) miles, one (1) way, loaded miles;

(d) The usual and customary charge up to a maximum of thirty (30) dollars for trips of twenty-six (26) miles to fifty (50) miles, one (1) way, loaded miles; or

(e) For trips of fifty-one (51) miles or above, the lesser of the usual and customary charge or an amount derived by multiplying one (1) dollar by the actual number of miles, not to exceed a maximum of seventy-five (75) dollars per trip, one (1) way, loaded miles; and

(f) Inclusive of the cost for transporting a parent or attendant

Section 4. Private Automobile Carrier [Carriers] Reimbursement.

(1) The department shall reimburse private automobile carriers the minimum rate per mile paid to state employees in accordance with 200 KAR 2:006 [at the basic rate of twenty-two (22) cents per mile plus a flat fee of four (4) dollars per recipient if waiting time is required. For round trips of less than five (5) miles the rate shall be computed on the basis of a maximum allowable fee of six (6) dollars for the first recipient plus four (4) dollars each for waiting time for additional recipients].

(2) A private automobile carrier [carriers] shall have a signed participation agreement with the department prior to furnishing a reimbursable medical transportation service and provide proof of a current

driver's license and minimum state-required insurance coverage.

(3) [services:

(2) For round trips of five (5) to twenty-five (25) miles the rate for private automobile carriers shall be computed on the basis of a maximum allowable fee of ten (10) dollars for the first recipient plus four (4) dollars each for waiting time for additional recipients. The maximum allowable fee rates shall not be utilized in situations where mileage is paid.

(3) Even though the maximum allowable fee rate when computed on the basis of twenty-two (22) cents per mile plus four (4) dollars for waiting time would not equal the six (6) dollars or ten (10) dollars allowable amounts, the higher amount may be paid to encourage private automobile carriers to provide necessary medical transportation. Additionally, nothing in this section requires the department to pay the amounts specified if the private automobile carrier expresses a preference for reimbursement in a lesser amount; then the lesser amount shall be paid.] Toll charges shall be reimbursable if [when] presented with a receipt.

(4) [Waiting time shall be a reimbursable component of the private automobile carrier transportation fee only if waiting time occurs. If waiting time occurs due to admittance of the recipient into the medical institution, the private automobile carrier may be reimbursed for the return trip to the point of recipient pickup as though the recipient were in the vehicle; that is, the total reimbursable amount shall be computed on the basis of the maximum allowable fee or mileage rate plus waiting time as shown in this section. Waiting time shall not be paid for the attendant or caretaker relative (e.g., mother, father) who is accompanying the recipient and not personally being transported for Medicaid covered service.

(5) If a private automobile carrier is transporting more than one (1) recipient, only one (1) mileage payment shall be allowed. Mileage shall be computed on the basis of the distance between the most remote recipient and the most remote medical service utilized[-to include any necessary additional mileage to pick up and discharge the additional recipients].

Section 5. Noncommercial Group Carriers. The department shall reimburse a participating noncommercial group carrier for [carriers based on] actual reasonable, allowable costs [cost] to the provider based on cost data submitted to the department by the provider; however, the minimum rate shall be twenty (20) cents per recipient per mile transported and the rate upper limit shall be fifty (50) cents per recipient per mile transported. Payment for a parent or other attendant shall be at the recipient rate.

Section 6. Specialty Carriers. (1) Participating specialty carriers shall be reimbursed at the lesser of the following rates:

(a) The actual charge for the service; or

(b) The usual and customary charge for that service by the carrier, as shown in the schedule of usual and customary charges submitted by the carrier to the department; or

(c) The program maximum established for the service.

(2) Program maximums shall be:

(a) For nonambulatory recipients who require the use of a wheelchair, the upper limit shall be twenty-five (25) dollars for the first recipient plus four (4) dollars for each additional [nonambulatory] recipient transported on the same trip, for each time a recipient is transported to or transported from the medical service site. To this base rate shall be added one (1) dollar and fifty (50) cents per loaded mile for the first recipient for miles the recipient is transported, and toll charges actually incurred and verified; mileage charges shall not be allowed for additional recipients.

(b) For ambulatory recipients who are disoriented, the upper limit shall be twelve (12) dollars and fifty (50) cents for the first recipient plus four (4) dollars for each additional [ambulatory disoriented] recipient transported on the same trip, for each time a recipient is transported to or transported from the medical service site. To this base rate shall be added one (1) dollar and fifty (50) cents per loaded mile for the first recipient for miles the recipient is transported, and toll charges actually incurred and verified; mileage charges shall not be allowed for additional recipients.

(c) For [both] paragraphs (a) and (b) of this subsection, empty vehicle miles shall not be included when computing allowable reim-

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bursement for mileage.

(3) Reimbursement shall be made at specialty carrier rates for the following types of recipients only:

(a) Nonambulatory recipients who need to be transported by wheelchair, but shall not include recipients who need to be transported as stretcher patients; and

(b) Ambulatory recipients who are disoriented and require an attendant as authorized by a physician.

(4) The recipient or guardian [specialty carrier] shall obtain a statement from the recipient's physician (or, if the recipient is in a nursing facility, from the director of nursing, charge nurse, or medical director in lieu of a physician) to verify that transportation by the specialty carrier is medically necessary due to the recipient's nonambulatory or disoriented condition. Claims for payment which are submitted without the required statement of verification shall not be paid.

Section 7. Specially authorized transportation services authorized in unforeseen circumstances may be paid for at a rate adequate to secure the necessary service. The amount allowed shall not exceed the usual and customary charge of the provider. The department shall review and approve or disapprove requests for specially authorized transportation services based on medical necessity.

Section 8. Use of Flat Rates. Transportation payment shall not exceed the lesser of:

(1) Six (6) dollars per trip, one (1) way (or twelve (12) dollars for a round trip); or

(2) The usual fee for the participating transportation provider computed in the usual manner, if:

(a) [(1)] The recipient chooses to use a medical provider outside the medical service area as (defined in 907 KAR 1:060); and

(b) [(2)] The medical service is available in the recipient's medical service area; and

(c) [(3)] The recipient has not been appropriately referred by the medical provider within his medical service area.

Section 9. Posting of Rates. A [All] transportation provider [providers], except a private auto provider [providers], shall be allowed to post his [their] rates with the Department for Community-Based Services [Social Insurance] offices in the counties they serve. These rates shall apply for all Medicaid recipients and shall be effective for a twelve (12) month period and may be revised once per quarter. The rate charged to the Medicaid Program shall not exceed the rate charged to the general public.

Section 10. Meals and Lodging. The flat rate for meals and lodgings for a recipient or attendant if [recipients and attendants when] preauthorized (or postauthorized, if appropriate) by the department shall be reimbursed at the actual charge up to the upper limits as paid to state employees in accordance with 200 KAR 2:006. [as follows:

(1) Standard area:

(a) Meals: breakfast – four (4) dollars per day; lunch – five (5) dollars per day; dinner – eleven (11) dollars per day; and

(b) Lodgings: forty (40) dollars per day;

(2) High rate area:

(a) Meals: breakfast – five (5) dollars per day; lunch – six (6) dollars per day; dinner – fifteen (15) dollars per day; and

(b) Lodgings: fifty-five (55) dollars per day.]

Section 11. Limitations. (1) Reimbursement shall be made to a provider for loaded miles only.

(2) [Any] Reimbursement for medical transportation shall be contingent upon the recipient receiving the appropriate pre- or postauthorization, for medical transportation as required by the department.

(3) [(2)][(a)] Authorization shall not be granted for a recipient [recipients] transported for purposes other than to take the recipient to or from a covered Medicaid service [services] being provided to that recipient, except in the instance of one (1) parent accompanying a child to or from a covered medical service [services] being provided to the child or if one (1) attendant is authorized for a recipient traveling to or from a covered medical service [services] based on the medical condition of the recipient.

(4) [(3)] [(b)] Reimbursement shall be limited to a transportation service [services] and shall not include the service [services], salary or time of the attendant or parent.

[(3) ~~An individual who owns a taxi company and who uses the taxi as his personal vehicle shall be reimbursed at the private auto rate when transporting household family members.]~~

(5) [(4)] Mileage for reimbursement purposes shall be computed by the most direct accessible route from point of pick up to point of delivery.

(6) [(5)] Provisions of this administrative regulation do not apply to recipients in counties served by a human service transportation delivery system in accordance with 603 KAR 7:080 and 907 KAR 3:065.

Section 12. Appeal Rights. A recipient shall have the right of appeal as established in 907 KAR 1:563.

~~[Section 12. The provisions of this administrative regulation as amended shall be effective for services provided on or after January 18, 1996.]~~

JIMMY D. HELTON, Secretary

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

APPROVED BY AGENCY; October 26, 1999

FILED WITH LRC: October 28, 1999 at 10 a.m.

CABINET FOR HEALTH SERVICES Department for Medicaid Services Division of Children's Health Programs (As Amended at ARRS, December 14, 1999)

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, is required [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(10).

(6) "Health insurance" is defined in KRS 304.5-040.

(7) "KCHIP" means the Kentucky Children's Health Insurance Program administered 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) **Provided** in accordance with professionally recognized standards of health care generally accepted at the time services are provided; and

(c) **Provided** 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 dissatisfied 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 211.461 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.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, DECEMBER 15, 1999

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(Amendment)

11 KAR 5:130. Student application.

RELATES TO: KRS 164.744(2) to 164.753(4), 164.7535, 164.780, 164.785

STATUTORY AUTHORITY: KRS 164.746(6), 164.748(4), 164.7535

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires KHEAA to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. This administrative regulation prescribes the form to be used by a student to apply for and establish financial need for KHEAA grant programs.

Section 1. (1) In order to receive a KHEAA grant, the 2000-2001 [1999-2000] Free Application for Federal Student Aid (FAFSA) shall be completed and submitted in accordance with the instructions provided on the FAFSA.

(2) An applicant shall indicate the choice of an educational institution on the application to be considered for the KHEAA grant. The educational institution listed first shall be used in the determination of a KHEAA grant program award.

(3) A person who submits a completed FAFSA shall not be eligible for a KHEAA grant for an academic year in which the person:

(a) Did not select on the application an educational institution that participates in a KHEAA grant program;

(b) Is not a:

1. United States citizen or eligible noncitizen; and

2. A resident of Kentucky;

(c) Is a graduate student; or

(d) Will obtain a first baccalaureate degree before July 1 of the academic year for which he is seeking financial assistance.

Section 2. Change of Educational Institution Choice. (1) KHEAA grant eligibility shall be redetermined and award determination shall be recomputed by the authority based upon the new choice of educational institution, if the student provides written notification of a change of the first choice educational institution, on or before:

(a) The latter of August 1 or ten (1) workdays following the date on which the authority notifies the student of the award for the fall academic term for which a KHEAA grant is sought; or

(b) The latter of December 1 or ten (10) workdays following the date on which the authority notifies the student of the award for the spring academic term for which a KHEAA grant is sought.

(2) If the student changes his choice of educational institution after August 1 and more than ten (10) workdays following the date the authority notifies the student of the award:

(a) A KHEAA grant awarded for the fall academic term shall be revoked; and

(b) Except as provided in subsection (3) of this section, the KHEAA grant amount awarded for the spring academic term shall be recomputed, based upon the new choice of educational institution.

(3) If the student changes his choice of educational institution after December 1 and more than ten (10) workdays following the date the authority notifies the student of the award, the KHEAA grant awarded for the spring academic term shall be revoked.

Section 3. Incorporation by Reference. (1) The 2000-2001 [1999-2000] Free Application for Federal Student Aid (FAFSA) and its instructions are incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Suite 102, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

WAYNE STRATTON, Chairman
RICHARD F. CASEY, General Counsel, KHEAA

APPROVED BY AGENCY: December 15, 1999

FILED WITH LRC: December 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, January 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Thursday, January 13, 2000, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (502) 696-7290, Fax (502) 696-7293.

REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: A total of 80 Kentucky postsecondary institutions are eligible for attendance by recipients of KHEAA grants. In the academic year ending June 30, 1999, there were 198,800 applicants and 38,200 students received KHEAA grants.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Neither cost of living nor employment will be affected. The Free Application for Federal Student Aid (FAFSA) is processed free of charge.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Cost of doing business will not be affected.

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

1. First year following implementation: There will be no increase in reporting or paperwork, nor any increase or decrease in cost. There is no effect upon competition. The application process for KHEAA grants is not changed. The proposed amendment to this administrative regulation merely updates the reference to the version of the form used as an application because of the new academic year.

2. Second and subsequent years: Same as (2)(c)(1) above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will be no significant direct or indirect costs or savings. The application for KHEAA grants is not changed. The proposed amendment to this administrative regulation merely updates the reference to the version of the form used as an application because of the new academic year.

2. Continuing costs or savings: Same as (3)(a)(1) above.

3. Additional factors increasing or decreasing costs: None. The application is processed free of charge for the student, and the information is provided to the promulgating administrative body free of charge, electronically from the central processor.

(b) Reporting and paperwork requirements: There will be no change in reporting and paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No effect on state and local revenue is anticipated.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation. N/A

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

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(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated. No comments were received.

(b) Kentucky: Same as (6)(a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered. This amendment to the administrative regulation 11 KAR 5:130 would identify the appropriate application form that is revised merely to reflect the 2000-2001 academic year.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on the environment or public health would result if not implemented: N/A

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: KHEAA uses the Free Application for Federal Student Assistance (FAFSA) as the application for KHEAA grants. Use of that form provides a uniform application process for students at no cost and makes administration of student aid more efficient for KHEAA and participating schools. The form is therefore incorporated by reference into this administrative regulation. Each year the form is revised to reflect the new academic year. Amendment of the administrative regulation is necessary to incorporate the revised form. There are no substantive changes in the new form.

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U. S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Division of Student Services (Amendment)

11 KAR 6:010. KHEAA Work-study Program.

RELATES TO: KRS 164.744(2), 164.748(4), 164.753(6)

STATUTORY AUTHORITY: KRS 164.748(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations governing work-study payments. This administrative regulation establishes the KHEAA Work-study Program.

Section 1. Definitions. (1) "Administrative cost allowance" means a payment negotiated between the authority and a participating institution for annual costs directly related to the administration of the KWSP not to exceed eight (8) percent of the gross wages earned, the amount requested by the institution, or \$15,000 annually, whichever is least.

(2) "Alternate work plan" means a work-study arrangement in which a participating student alternates a school term with a work term.

(3) "Authority" is defined in KRS 164.740(1).

(4) "Business school" is defined in KRS 164.740(3).

(5) "Career-related work experience" means a job which has a correlation with the participating student's career direction determined by the participating institution and evidenced by the student's major course of study.

(6) "College" is defined in KRS 164.740(4).

(7) "Cost of education" means those expenses commonly related to obtaining an education at the participating institution plus those costs directly related to the participating student's KWSP work experience, including required dues and travel (at the rate of thirty (30) [twenty-five (25)] per mile) from the school to the place of employment or, under an alternate work plan, from the student's residence to the place of employment.

(8) "Eligible program of study" means a program not leading to a certificate, diploma, or degree in theology, divinity, or religious education.

(9) "Financial need" means the total cost of education less financial assistance received from all sources, other than KWSP employment, including grants, loans, and scholarships.

(10) "Full-time" means the number of credit hours determined by the participating institution to constitute full-time enrollment, which:

(a) Is generally twelve (12) semester hours, twenty-four (24) clock hours, or six (6) summer school hours; and

(b) Shall not include academic credit earned from KWSP employment.

(11) "KWSP" means the KHEAA work-study program.

(12) "Prevailing wage rate" means a base rate of pay per hour for a KWSP participating student who is or would be performing equal job tasks as another employee, plus benefits paid to another employee having the same status as the KWSP employee.

(13) "School of nursing" is defined in KRS 164.740(20).

(14) "School term" means the equivalent of one (1) semester, one (1) quarter, or one (1) summer school term.

(15) "Vocational school" is defined in KRS 164.740(22).

(16) "Wage reimbursement" means a payment:

(a) Made to a participating employer by a participating institution as reimbursement for wages paid to a participating student; and

(b) Specified in an agreement between the participating employer and the participating institution.

(17) "Work study" is defined in KRS 164.740(23).

Section 2. Alternate Work Plan. A participating student shall be considered a participant under an alternate work plan if the student:

(1) Attends school full time one (1) school term;

(2) Works full time the next school term, including a summer, for a participating employer;

(3) Is not enrolled at least half-time during the term of employment; and

(4) Returns to school full time the following school term.

Section 3. Institutional Eligibility. To participate in the KWSP, an educational institution shall:

(1) Be a college, business school, vocational school, or school of nursing, located within Kentucky;

(2) Offer an eligible program of study;

(3) Have in force an administrative agreement with the authority pursuant to 11 KAR 4:040;

(4) Submit a request for funding; and

(5) Execute a supplemental contractual arrangement with the authority and a participating employer.

Section 4. Funding Allocation Process. (1) Each year, the authority shall invite an eligible institution to submit a proposal for funding and shall provide instructions for submitting the proposal. The authority shall consider a proposal properly submitted by an eligible institution by the date specified in the invitation to participate. The authority shall award an administrative cost allowance, if the institution demonstrates need, to administer the KWSP for one (1) year. At least seventy-five (75) percent of wage reimbursement dollars shall be utilized with private employers.

(2) The authority shall consider the institution's request for funding and its past performance in the KWSP in the determination of approval for funding and the funding level. The authority shall evaluate the institution's level of participation in and administration of other programs of student financial assistance funded or administered by the authority and the institution's ability to:

(a) Comply with this administrative regulation and contractual obligations under the KWSP;

(b) Administer the program cost-effectively with the greatest results for students, evidenced by previous years' program records;

(c) Utilize the wage-reimbursement dollars allocated, evidenced by previous years' program records;

(d) Avoid using KWSP dollars to supplant existing work-related programs for students; and

(e) Adequately monitor program activities, including eligibility determination of students and employers, continued eligibility of students and employers, and actual job activities as they relate to students' career-related work experience.

(3)(a) At least ninety (90) percent of the available funds that do not exceed the appropriation for the preceding fiscal year shall be awarded to eligible institutions that participated and expended all or the major portion of their wage reimbursement allotment during the prior year.

(b) If available funds do not exceed the appropriation for the preceding fiscal year, the authority shall not award more than ten (10) percent of available funds to eligible institutions that did not participate or had minimal participation in the KWSP during the preceding fiscal year.

(c) Allocation by the authority of available funds that exceed the appropriation for the preceding fiscal year shall not be constrained by the level of participation by an eligible institution during the prior year.

(d) If available funds are not sufficient to award each institution the amount requested, the authority shall allocate funds to some or all of the eligible institutions that submit requests for funding, taking into consideration the institution's past performance and level of funding under the KWSP, and the institution's level of participation and demonstrated capability to administer other programs of student financial assistance funded or administered by the authority.

Section 5. Employer Eligibility. To participate in the KWSP, an employer shall:

(1) Provide a bona fide career related work experience for a participating student as determined by the participating institution in which the student is enrolled and submit a descriptive position analysis to the participating institution;

(2)(a) If the employer is not a participating institution, execute a KWSP employer agreement with each participating institution from which a participating student is hired; or

(b) If the employer is a participating institution, agree with the authority to be bound by the terms of a KWSP employer agreement;

(3) Provide a Kentucky worksite for a participating student employed by the employer;

(4) Not be a business entity formed substantially for the purpose or intention of participating in the KWSP; and

(5) Not utilize a participating student in a work environment that is sectarian in nature or that involves political activity.

Section 6. Student Eligibility. To participate in the KWSP, a student shall:

(1) Be a citizen of the United States;

(2) Be a Kentucky resident, as determined by the participating institution in accordance with 13 KAR 2:045;

(3) Be enrolled or accepted for enrollment on at least a half-time basis at a participating institution;

(4) Demonstrate financial need;

(5) Be in good standing and making satisfactory academic progress toward completion of his educational program, as determined by the participating institution, and have a cumulative grade point average of not less than the equivalent of a "C" (inclusive of all postsecondary courses attempted for a postsecondary student or secondary school grade point average for an entering freshman);

(6) Not be participating in another work program administered by the participating institution;

(7) Not be enrolled in a major course of study in religion, theology, or divinity;

(8) Submit a completed Work-study Program Student Application to the participating institution, properly completed in accordance with the instructions, and be approved for participation by the participating institution;

(9) Not be in default on a financial obligation to the authority under a program administered by the authority pursuant to KRS 164.740

through 164.785, except that ineligibility for this reason may be waived by the executive director of the authority, at the recommendation of a designated staff review committee, for cause; and

(10) Execute an employment agreement required by the participating institution.

Section 7. Employer Responsibilities. To receive wage reimbursement, a participating employer shall:

(1) Immediately notify the participating institution in writing if a participating student's employment is terminated, stating the reason for and effective date of termination;

(2) Report promptly to the participating institution a significant change of the position analysis or the student's work assignment;

(3) Submit to the participating institution on a regular basis a certified, accurate proof of wages paid to a participating student;

(4) Pay a participating student the prevailing wage rate, which shall not be less than the federal minimum wage;

(5) Comply with all federal and state employment, safety and civil rights laws applicable to the position filled;

(6) Not, without prior consent of the participating institution, permit or require a participating student to work in excess of:

(a) Thirty (30) hours per week for a student currently enrolled less than full time;

(b) Twenty (20) hours per week for a student currently enrolled full time; and

(c) Forty (40) hours per week for a student employed under an alternate work plan;

(7) Permit on-site inspection and review of records by a representative of the participating institution and the authority during normal business hours; and

(8) Ensure that a regular employee is not displaced by a KWSP participating student.

Section 8. Student Responsibilities. A participating student shall:

(1) Participate in all screening or preplacement activities required by the participating institution;

(2) Maintain eligibility pursuant to Section 5 of this administrative regulation, and immediately notify the participating institution in writing of a change that affects the student's continued eligibility;

(3) Be available for a job interview if requested by a participating employer; and

(4) Perform all reasonable employment obligations and comply with all reasonable policies and requirements of the participating employer.

Section 9. (1) An appeal regarding student or employer participation shall be directed to the participating institution and shall be reviewed, settled or determined by an appeal committee consisting of no fewer than three (3) individuals.

(2) An appeal regarding institutional eligibility or participation shall be determined by the authority in accordance with 11 KAR 4:020.

Section 10. Incorporation by Reference. (1) "KHEAA Work-study Program Student Application" form, November, 1997, is incorporated by reference.

(2) It may be inspected, copied, or obtained at a participating institution during that institution's regulation business hours.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel, KHEAA
APPROVED BY AGENCY: December 15, 1999

FILED WITH LRC: December 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, January 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Thursday, January 13, 2000, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you

may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (502) 696-7290, Fax Number (502) 696-7293.

REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: A total of 14 Kentucky postsecondary institutions are eligible for attendance by recipients of KHEAA Work-Study Program benefits. In the academic year ending June 30, 1999, there were 1,130 students employed under the Work-Study 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: Neither cost of living nor employment will be affected. The increase in the amount for mileage merely reflects the rate at which the state reimburses mileage for public employment. That rate is factored into the student's cost of transportation as part of the overall cost of education used in determining financial need.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Cost of doing business will not be affected.

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

1. First year following implementation: There will be no increase in reporting or paperwork, nor any increase or decrease in cost. There is no effect upon competition. The proposed amendment to this administrative regulation merely updates the amount for mileage that is used for determining the student's cost of education.

2. Second and subsequent years: Same as (2)(c)(1) above.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will be no significant direct or indirect costs or savings. The process of determining eligibility for the KHEAA Work-Study Program is not changed. The proposed amendment to this administrative regulation merely updates the amount for mileage that is used for determining the student's cost of education.

2. Continuing costs or savings: Same as (3)(a)(1) above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: There will be no change in reporting and paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No effect on state and local revenue is anticipated.

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

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

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated. No comments were received.

(b) Kentucky: Same as (6)(a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered. The increase in the amount for mileage merely reflects the rate at which the state reimburses mileage for public employment. That rate is factored into the student's cost of transportation as part of the overall cost of education used in determining financial need.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on the environment or public health would result if not implemented: N/A

(c) If detrimental effect would result, explain detrimental effect: N/A

(9) Identify any statute, administrative regulation or government

policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Division of Student Services (Amendment)

11 KAR 8:030. Teacher scholarships.

RELATES TO: KRS 164.744(2), 164.753(3), 164.769

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(3), 164.769(5), (6)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.744(2) authorizes the authority to provide scholarships, and KRS 164.753(3) requires the Kentucky Higher Education Assistance Authority to promulgate administrative regulations pertaining to standards for scholarship programs. KRS 164.769 establishes a teacher scholarship program and requires the Kentucky Higher Education Assistance Authority to establish the terms and conditions for the award, cancellation, and repayment of teacher scholarships, awarded under KRS 164.769 and under prior teacher scholarship programs administered by the Kentucky Higher Education Assistance Authority. This administrative regulation establishes selection criteria, disbursement procedures, cancellation of repayment procedures and repayment obligations related to scholarships provided under the program.

Section 1. Definitions. (1) "Authority" is defined in KRS 164.740(1).

(2) "Critical shortage area" is defined in KRS 164.769(2)(a).

(3) "Eligible program of study" is defined in KRS 164.769(2)(b).

(4) "Expected family contribution" is defined in KRS 164.769(2)(c).

(5) "Participating institution" is defined in KRS 164.769(2)(d).

(6) "Public school" means the common schools of the Commonwealth providing preschool, elementary, middle school, and secondary instruction.

(7) "Qualified teaching service" is defined in KRS 164.769(2)(e).

(8) "Semester" is defined in KRS 164.769(2)(f).

(9) "Summer term" is defined in KRS 164.769(2)(g).

(10) "Teaching" means performing classroom instruction in a position for which teacher certification is a prerequisite to perform such instruction.

Section 2. Eligibility of Renewal Applicants and Selection Process.

(1) Eligibility of renewal applicants. A person who previously received a loan or scholarship pursuant to KRS 156.611, 156.613, 164.768, 164.769 or 164.770 prior to July 15, 1996 shall be eligible to apply for and be awarded a renewal teacher scholarship without consideration of expected family contribution if, at the time of application and disbursement, the renewal applicant has made satisfactory progress toward completion of the eligible program of study in accordance with standards prescribed by the participating institution.

(2) After awards are made to all qualified renewal applicants, applicants shall be considered and teacher scholarships shall be awarded to recipients in the following order until funds are depleted:

(a) Initial applicants who meet the standards and requirements established by the Education Professional Standards Board pursuant

to KRS 161.028 and have been unconditionally admitted to a teacher education program shall be ranked in ascending order by expected family contribution.

(b) Initial applicants who have not yet been admitted to a teacher education program but who meet the standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program shall be ranked in ascending order by expected family contribution.

(c) Otherwise eligible initial applicants seeking admission to a teacher education program shall be ranked in ascending order by expected family contribution.

Section 3. Award Maximums. (1) The amount of a teacher scholarship award shall be calculated by determining the student's total cost of education minus expected family contribution and the amount of financial aid received or expected to be received during the academic period. The amount of financial aid received or expected to be received during the academic period shall not include any amounts available from any student loan or work-study programs.

(2) The maximum teacher scholarship award for a student classified as a junior, senior, postbaccalaureate, or graduate shall be \$1,250 for a summer session, \$2,500 for a semester, and \$5,000 for an academic year (exclusive of a summer session).

(3) [(2)] The maximum teacher scholarship award for a student classified as a freshman or sophomore student shall be \$325 for a summer session, \$625 for a semester, and \$1,250 for an academic year (exclusive of a summer session).

(4) [(3)] The maximum award to an eligible student enrolled less than full time in the last semester or summer term during [in] which a baccalaureate, postbaccalaureate or master's degree [the eligible program of study] will be completed shall be:

(a) \$210 per credit hour if the student is enrolled during a regular semester; or

(b) \$105 per credit hour if the student is enrolled in a summer term.

Section 4. Disbursements. (1) Disbursement of a teacher scholarship shall be made at the beginning of each semester or summer session and each disbursement shall be evidenced by a promissory note, prescribed by the authority, in which the scholarship recipient shall agree to repay the scholarship funds or render qualified teaching service in lieu thereof.

(2) The monies awarded under the Teacher Scholarship Program shall be transmitted directly to the participating institution on behalf of all students eligible to receive the scholarship by electronic funds transfer.

(3) The authority shall send to the participating institution a disbursement roster containing each recipient's name and Social Security number.

(4) The participating institution shall hold the funds solely for the benefit of the student eligible to receive the scholarship and the authority until the recipient has registered for classes for the period of enrollment for which the scholarship is intended.

(5) Upon the recipient's registration, the participating institution shall immediately credit the recipient's account and notify the recipient in writing that it has so credited that account, and deliver to the recipient any remaining scholarship proceeds.

(6) The participating institution shall indicate on the disbursement roster the date funds were either credited to the student's account or disbursed to the student, the name of a recipient for whom funds are being returned, the amount being returned, and the reason funds are being returned.

(7) If a recipient does not register for the period of enrollment for which the scholarship was awarded, or a registered student withdraws or is expelled prior to the first day of classes of the period of enrollment for which the scholarship is awarded, the school shall return the proceeds to the authority by electronic funds transfer within ten (10) days of the recipient's withdrawal, expulsion, or failure to register.

(8) The school shall retain a copy of the disbursement roster for its records and forward the original roster and any undisbursed scholarship funds to the authority not later than thirty (30) days fol-

lowing receipt of the roster and the funds.

(9)(a) If a recipient subsequently refuses to repay the scholarship on grounds that he was unaware of or did not receive delivery of the scholarship proceeds from the school, upon written request from the authority, the school shall promptly provide documentary evidence to the authority that the recipient received or had funds credited to his student account and was notified of this transaction.

(b) The school shall otherwise reimburse the authority for any amount of the scholarship that is unenforceable absent that documentary evidence.

(c) The obligation of the school to provide the documentary evidence specified in paragraph (a) of this subsection shall continue until the recipient's obligations for repayment of the scholarship is paid in full or otherwise discharged.

Section 5. Cancellation. (1) A recipient rendering qualified teaching service in a designated critical shortage area shall remain eligible for the critical shortage credit provided by KRS 164.769(6)(c) if:

(a) The authority determines that an area is no longer a critical shortage area; and

(b) The recipient continues to render qualified teaching service in the area.

(2) A recipient who received a teacher scholarship prior to July 15, 1996, in return for agreeing to obtain the appropriate recertification and to teach in a critical shortage area upon completion of the recertification program shall receive cancellation of the repayment obligation if the recipient renders qualified teaching service in that area or in another critical shortage area.

(3) If a recipient has received loans or scholarships from more than one (1) program administered by the authority, which require a period of qualified teaching service for repayment or cancellation, the teaching requirements shall not be fulfilled concurrently. Unless the authority determines otherwise for cause, loans or scholarships from more than one (1) program shall be repaid or cancelled by qualified teaching service in the same order in which they were received. If a recipient has received a loan or scholarship pursuant to KRS 156.611, 156.613, 164.768, 164.769 or 164.770 during the same semester as receiving a scholarship pursuant to KRS 161.165, the loan or scholarship received pursuant to KRS 156.611, 156.613, 164.768, 164.769 or 164.770 shall be repaid or cancelled by qualified teaching service prior to the scholarship received pursuant to KRS 161.165.

(4) Verification of qualified teaching service shall be submitted to the authority in writing, signed by the local school district superintendent or building principal.

Section 6. Repayment. (1) A recipient failing to attain certification after completion of the eligible program of study or to commence rendering qualified teaching service within the six (6) month period following completion of the eligible program of study shall immediately become liable to the authority to pay the sum of all promissory notes and accrued interest thereon, unless the authority grants a deferment for cause.

(2) The interest rate applicable to repayment of a teacher scholarship under this section shall be twelve (12) percent per annum.

Section 7. Notifications. A recipient shall notify the authority within thirty (30) days of:

- (1) Change in enrollment status;
- (2) Cessation of full-time enrollment in an eligible program of study;
- (3) Employment in a qualified teaching service position; or
- (4) Change of name or address.

Section 8. Repayment Schedule. Written notification of demand for repayment shall be sent by the authority to the scholarship recipient's last known address and shall be effective upon mailing. The authority may agree, in its sole discretion, to accept repayment in installments in accordance with a schedule established by the authority. Payments shall first be applied to interest and then to principal on the earliest unpaid promissory note.

Section 9. Records. A participating institution shall maintain complete and accurate records pertaining to the eligibility, enrollment and

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progress of each student receiving aid under this program and the disbursement of funds and institutional charges as may be necessary to audit the disposition of these funds. The institution's records shall be maintained for at least five (5) years after the student ceases to be enrolled at the institution.

Section 10. Refunds. A participating institution shall refund to the authority, within forty (40) days of a recipient's last date of attendance, any amount attributable to this program which is determined to be due under the institution's published refund policy.

Section 11. Information Dissemination and Recruitment. The authority shall disseminate information through high school principals, counselors, and school superintendents about this program to potential recipients. The participating institution shall provide assurances that program information will be disseminated to students enrolled at the institution. The participating institution shall actively recruit students from minority population groups for participation in this program.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel, KHEAA

APPROVED BY AGENCY: December 15, 1999

FILED WITH LRC: December 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, January 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Thursday, January 13, 2000, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (502) 696-7290, Fax Number (502) 696-7293.

REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: This administrative regulation delineates selection criteria, disbursement procedures, cancellation of repayment procedures and repayment obligations related to scholarships provided under the Teacher Scholarship Program. During fiscal year 2000 there will be 304 initial and 201 renewal scholarships awarded under this program, for a total dollar amount of \$1,528,000.

(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 have been received. There will be minimal savings to the public. This administrative regulation only delineates selection criteria, scholarship calculation disbursement procedures, cancellation of repayment procedures and repayment obligations related to scholarships provided under the Teacher Scholarship Program. The proposed amendments clarify the determination of financial need by excluding other loan or work-study benefits from the calculation of the amount of teacher scholarship available; clarify the eligibility exception for less than full-time study described in KRS 164.769(6)(a); and provide for disbursement by electronic funds transfer. The program reduces the direct out-of-pocket expenditure by residents of the Commonwealth who wish to attend participating institutions of postsecondary education and to teach in the Commonwealth.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent from the public comments received: Disbursement by electronic funds transfer may result in a negligible cost savings for the State Treasury and

the participating institutions in contrast to issuing, receiving and processing individual checks for the teacher scholarships. Otherwise, The proposed amendment to this administrative regulation will have no effect on the cost of doing business for any entity.

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

1. First year following implementation: The proposed amendment to this administrative regulation only sets forth the scholarship calculation method and specifies that funds are to be disbursed by electronic funds transfer. The proposed amendment will not affect the compliance, reporting and paperwork requirements for the public, or the authority. A participating school will be required to have available for the authority documentation that a teacher scholarship recipient received or had funds credited to his or her account. The conditions for electronic funds transfer of Teacher Scholarships are substantially similar to the process used by participating institutions for electronic funds transfer of federal family education loans.

2. Second and subsequent years:

(3) Effect on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: The proposed amendments to this administrative regulation clarify the determination of financial need by excluding other loan or work-study benefits from the calculation of the amount of teacher scholarship available; clarify the eligibility exception for less than full-time study described in KRS 164.769(6)(a); and provide for disbursement by electronic funds transfer. It is anticipated that there will be no indirect or direct costs or savings to the authority.

2. Continuing costs or savings: The proposed amendments to this administrative regulation clarify the determination of financial need by excluding other loan or work-study benefits from the calculation of the amount of teacher scholarship available; clarify the eligibility exception for less than full-time study described in KRS 164.769(6)(a); and provide for disbursement by electronic funds transfer. It is anticipated that there will be no indirect or direct costs or savings to the authority.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The proposed amendment to this administrative regulation will have no effect on the reporting and paperwork requirements of the authority.

(4) Assessment of anticipated effect on state and local revenues: The proposed amendments clarify the determination of financial need by excluding other loan or work-study benefits from the calculation of the amount of teacher scholarship available; clarify the eligibility exception for less than full-time study described in KRS 164.769(6)(a); and provide for disbursement by electronic funds transfer. There will be no effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The revenue for the implementation and enforcement of this administrative regulation is provided by three sources: the General Fund, Special Deposit Trust Fund, consisting of money collected from previous recipients, and net lottery proceeds transferred from a Student Financial Aid and Advancement 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: It is anticipated that there will be no economic impact as the result of the proposed amendment to this administrative regulation.

(b) Kentucky: It is anticipated that there will be no economic impact as the result of the proposed amendment to this administrative regulation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered as the calculation for scholarship awards is the total cost of education minus expected family contribution and the amount of financial aid expected or received, excluding amounts available from student loans or work-study programs. No methods other than electronic funds transfer were considered since that is the current method of disbursement in the industry.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no effect on public health and environmental welfare.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: There is no effect on public health and environmental welfare.

(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: There are no known conflicts.

(a) Necessity of proposed regulation if in conflict: There are no known conflicts.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There are no known conflicts.

(10) Any additional information of comments: None

(11) Tiering: Was tiering applied? No. This administrative regulation prescribes uniform procedures for administration of the Teacher Scholarship Program. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the authority. 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.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(Amendment)

11 KAR 14:030. Osteopathic Medicine Scholarship Program disbursement process.

RELATES TO: KRS 164.7891 [1998 Ky. Acts ch. 256, sec. 1]

STATUTORY AUTHORITY: KRS 164.748(4), 164.7891(9) [1998 Ky. Acts ch. 256, sec. 1(9)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7891 [1998 Ky. Acts ch. 256] requires the authority to promulgate administrative regulations for administration of the Osteopathic Medicine Scholarship Program. This administrative regulation establishes procedures for disbursement of the monies awarded under the Osteopathic Medicine Scholarship Program.

Section 1. Definition. "Authority" is defined in KRS 164.740(1).

Section 2. Disbursement of Funds. (1)[(a)] Within thirty (30) days following receipt by the authority of the original signed promissory notes for all students eligible to receive the osteopathic medicine scholarship, the monies awarded under the Osteopathic Medicine Scholarship Program shall be transmitted directly to the school of osteopathic medicine [in the form of a single check made payable to the school of osteopathic medicine] on behalf of all students eligible to receive the osteopathic medicine scholarship [or] by electronic funds transfer.

(2) [(b)] The authority shall send to the school a disbursement roster [check-register] containing each recipient's name and social security number.

(3) The school shall hold the funds solely for the benefit of the student eligible to receive the osteopathic medicine scholarship and the authority until the recipient has registered for classes for the period of enrollment for which the scholarship is intended.

(4) Upon the recipient's registration, the school shall immediately credit the recipient's account and notify the recipient in writing that it has so credited that account, and deliver to the recipient any remaining osteopathic medicine scholarship proceeds.

(5) The school shall indicate on the disbursement roster the date funds were either credited to the student's account or disbursed to the student, the name of a recipient for whom funds are being returned, the amount being returned, and the reason funds are being returned.

(6) If a recipient does not register for the period of enrollment for

which the scholarship was awarded, or a registered student withdraws or is expelled prior to the first day of classes of the period of enrollment for which the scholarship is awarded, the school shall return the proceeds to the authority by electronic funds transfer within ten (10) days of the recipient's withdrawal, expulsion, or failure to register.

(7) [(c)] The recipient shall sign the check-register in the presence of an official of the school to acknowledge disbursement of the osteopathic medicine scholarship.

(d) The school shall retain a copy of the disbursement roster [check-register] for its records and forward the original roster [register] and any undisbursed osteopathic medicine scholarship funds to the authority not later than thirty (30) days following receipt of the roster [check-register] and the funds.

[(2)] The student shall present to the school official adequate identification, including a driver's license, a school identification, or other item of identification satisfactory to the school official to ensure that the person signing the check-register is the student named on the promissory note.]

Section 3. (1)(a) If a recipient subsequently refuses to repay the osteopathic medicine scholarship on grounds that he was unaware of or did not receive delivery of the scholarship proceeds from the school, upon written request from the authority, the school shall promptly provide documentary evidence to the authority that the recipient received or had funds credited to his student account and was notified of this transaction.

(b) The school shall otherwise reimburse the authority for any amount of the scholarship that is unenforceable absent that documentary evidence.

(2) The obligation of the school to provide the documentary evidence specified in subsection (1)(a) of this section shall continue until the recipient's obligations for repayment of the osteopathic medicine scholarship is paid in full or otherwise discharged.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel, KHEAA

APPROVED BY AGENCY: December 15, 1999

FILED WITH LRC: December 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, January 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Thursday, January 13, 2000, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (502) 696-7290, Fax Number (502) 696-7293.

REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: During fiscal year 2000, 100 students will receive scholarship awards to attend the Pikeville College School of Osteopathic Medicine for a total amount of \$1,211,000.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: This administrative regulation only sets forth the procedures for the disbursement of the monies awarded under this program. The proposed amendment sets forth the procedure for disbursement by electronic funds transfer. There is no anticipated impact of this particular administrative regulation upon the cost of living or employment in the state. This program, however, will reduce the direct out-of-pocket expenditure

by residents of the Commonwealth who wish to attend the Pikeville College School of Osteopathic Medicine and plan to practice osteopathic medicine in the Commonwealth.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent from the public comments received: The proposed amendment to this administrative regulation only sets forth the procedures for the disbursement of the monies awarded under this program by electronic funds transfer. There is no anticipated impact of this particular administrative regulation upon the cost of doing business in the state.

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

1. First year following implementation: The monies awarded under the Osteopathic Medicine Scholarship Program will be transmitted by electronic funds transfer. The school will receive a disbursement roster containing each recipient's name and social security number and will retain a copy of the disbursement roster for its records. The school will be required to have available for the authority documentation that the recipient received or had funds credited to his/her account.

2. Second and subsequent years: The monies awarded under the Osteopathic Medicine Scholarship Program will be transmitted by electronic funds transfer. The school will receive a disbursement roster containing each recipient's name and social security number and will retain a copy of the disbursement roster for its records. The school will be required to have available for the authority documentation that the recipient received or had funds credited to his/her account.

(3) Effect on the promulgating body: It is anticipated that there will be no indirect or direct costs or significant savings to the agency. There will be minimal savings in the cost of processing and postage as the agency will no longer be mailing checks to schools.

(a) Direct and indirect costs or savings:

1. First year: It is anticipated that there will be no indirect or direct costs or significant savings to the agency. There will be minimal savings in the cost of processing and postage as the agency will no longer be mailing checks to schools.

2. Continuing costs or savings: Same as #1 above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: It is anticipated that the amendment will have no effect on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: This proposed amendment to the administrative regulation will have no effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funding for this program shall be transferred to a special trust fund from the coal severance tax revenues levied under KRS 143.020 in an amount that permits each student eligible under this program to be awarded a scholarship. No more than 4% of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. The trust fund for this program may also receive state appropriations, gifts and grants from public and private sources, 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: There is no anticipated economic impact of this proposed amendment to the administrative regulation. The program, as a whole, is anticipated to have a positive, but unquantified, economic impact upon the geographical area where the award recipients attend school, resulting from a flow of funds disbursed to the recipients to meet educational costs at the Pikeville College School of Osteopathic Medicine.

(b) Kentucky: This administrative regulation only sets forth the procedures for the disbursement of monies awarded under this program. There is not anticipated economic impact of this particular administrative regulation. The program, as a whole, is anticipated to have a positive, but unquantified, economic impact upon the state, resulting in a flow of funds disbursed to the recipients to meet edu-

cational costs at the Pikeville College School of Osteopathic Medicine.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Disbursement of scholarship funds by electronic funds transfer is the most efficient method available. No other alternative methods for disbursement of monies awarded under this program were considered as electronic funds transfer is the most current and efficient method of disbursement in the industry.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no anticipated impact of this particular administrative regulation upon public health and environmental welfare.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: There is no anticipated impact of this administrative regulation upon public health and environmental welfare.

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information of comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute and, consequently, does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U. S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Division of Student Services (Amendment)

11 KAR 14:060. Osteopathic Medicine Scholarship Program application of payments.

RELATES TO: KRS 164.7891 [1998 Ky. Acts ch. 256, sec. 1]

STATUTORY AUTHORITY: KRS 164.748(4), 164.7891(9) [1998 Ky. Acts ch. 256, sec. 1(9)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7891(9) [1998 Ky. Acts ch. 256, sec. 1(9)] requires the authority to promulgate administrative regulations for administration of the Osteopathic Medicine Scholarship Program. This administrative regulation establishes procedures for the application of payments made under the Osteopathic Medicine Scholarship Program.

Section 1. Definitions. (1) "Authority" is defined in KRS 164.740(1).

(2) "Disbursement" means the date the school indicates on the disbursement roster that funds were either credited to the student's account or disbursed to the student [student signed the check register] described in 11 KAR 14:030, Section 2.

(3) "Qualified service" is defined in KRS 164.7891(3)(c). [1998 Ky. Acts ch. 256, sec. 1(3)(c)-]

Section 2. If the authority has reason to believe that the scholarship recipient has ceased enrollment at the school of osteopathic medicine prior to completion of the program of study or that the scholarship recipient has otherwise failed to perform qualified service after obtaining a license to practice osteopathic medicine, written notification of demand for payment of all outstanding promissory

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notes, including unpaid principal and interest accrued since the date of disbursement, shall be sent by the authority to the scholarship recipient's last known address and shall be effective upon mailing.

Section 3. If the scholarship recipient obligated for repayment remits a partial payment, the payment shall first be applied to accrued interest and then to unpaid principal on the earliest unpaid promissory note and on each unpaid promissory note in the order in which the promissory notes were executed.

Section 4. The interest rate applicable to repayment of a promissory note under this program shall be twelve (12) percent per annum.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel, KHEAA

APPROVED BY AGENCY: December 15, 1999

FILED WITH LRC: December 15, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, January 21, 2000, at 10 a.m., at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Thursday, January 13, 2000, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (502) 696-7290, Fax Number (502) 696-7293.

REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: During fiscal year 2000, 100 students will receive scholarship awards to attend the Pikeville College School of Osteopathic Medicine for a total amount of \$1,211,000.

(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 proposed amendment merely changes the definition of "disbursement" in order for the regulation to comport with the current technology and practice transferring funds electronically. There is no anticipated impact on 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, to the extent from the public comments received: There is no anticipated impact on the cost of doing business in the state.

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

1. First year following implementation: The monies awarded under the Osteopathic Medicine Scholarship Program will be transmitted by electronic funds transfer. The school will receive a disbursement roster containing each recipient's name and social security number and will retain a copy of the disbursement roster for its records. The school will be required to have available for the authority documentation that the recipient received or had funds credited to his/her account.

2. Second and subsequent years: The monies awarded under the Osteopathic Medicine Scholarship Program will be transmitted by electronic funds transfer. The school will receive a disbursement roster containing each recipient's name and social security number and will retain a copy of the disbursement roster for its records. The school will be required to have available for the authority documentation that the recipient received or had funds credited to his/her

account.

(3) Effect on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: It is anticipated that there will be no indirect or direct costs or significant savings to the agency. There will be minimal savings in the cost of processing and postage as the agency will no longer be mailing checks to schools.

2. Continuing costs or savings: It is anticipated that there will be no indirect or direct costs or significant savings to the agency. There will be minimal savings in the cost of processing and postage as the agency will no longer be mailing checks to schools.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: It is anticipated that the amendment will have no effect on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: The proposed amendment to the administrative regulation is anticipated to have no effect on state or local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funding for this program shall be transferred to a special trust fund from the coal severance tax revenues levied under KRS 143.020 in an amount that permits each student eligible under this program to be awarded a scholarship. No more than 4% of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. The trust fund for this program may also receive state appropriations, gifts and grants from public and private sources, 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: It is anticipated that there will be no economic impact as a result of the proposed amendment to this administrative regulation.

(b) Kentucky: It is anticipated that there will be no economic impact as a result of the proposed amendment to this administrative regulation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Disbursement of scholarship funds by electronic funds transfer is the most efficient method available. No other alternative methods for disbursement of monies awarded under this program were considered as electronic funds transfer is the most current and efficient method of disbursement in the industry.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no anticipated impact of this administrative regulation on public health or the environment.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: None.

(c) If detrimental effect would result, explain detrimental effect: There is no impact on public health or the environment.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no known conflict.

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information of comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute and, consequently, does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and

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3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

KENTUCKY BOARD OF PHARMACY (Amendment)

201 KAR 2:030. License transfer.

RELATES TO: KRS 315.191(1)(c), (d)

STATUTORY AUTHORITY: KRS 315.191(1)(a), (c), (d), 315.210
NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.210 requires the board to establish conditions for licensure by reciprocity. This administrative regulation establishes conditions, forms, and examination, for licensure by reciprocity.

Section 1. Definitions. (1) "Board" means the Kentucky Board of Pharmacy.

(2) "NABP" means the National Association of Boards of Pharmacy.

(3) "License transfer" means a license to practice pharmacy in Kentucky issued by the board to a pharmacist licensed in another jurisdiction.

Section 2. An applicant licensed in another jurisdiction shall be eligible for license transfer, if the:

(1) Requirements for initial licensure of the jurisdiction that granted his license met or exceeded Kentucky requirements for licensure at the time the license in the other jurisdiction was granted;

(2) Applicant has not failed a board licensure examination;

(3) Applicant has:

(a) Completed and certified the "NABP Preliminary Application for Transfer of Pharmaceutic Licensure" form; and

(b) Received an "NABP Official Application for Transfer of Pharmaceutic Licensure";

(4) Applicant is in good standing in the jurisdiction from which he has applied;

(5) Applicant has successfully completed an examination in jurisprudence; and

(6) Applicant has met the requirements established by the provisions of this administrative regulation.

Section 3. Required Information. An applicant shall provide the information required by the "NABP Preliminary Application for Transfer of Pharmaceutic Licensure" form, including:

(1) Name, maiden, and other names used currently or previously;

(2) Address, telephone number;

(3) Date and place of birth, and current age;

(4) Social Security number;

(5) Citizenship;

(6) Gender;

(7) State of original license by examination, including:

(a) License number;

(b) Original date of issue;

(c) Current status of original licensure; and

(d) State for which license transfer is requested;

(8) Pharmacy education, including:

(a) Name and location of pharmacy school;

(b) Name of pharmacy degree;

(c) Date degree was received;

(d) Other professional degrees, including the information specified by paragraphs (a) to (c) of this subsection;

(9) Whether the applicant has earned certification by the Foreign Pharmacy Graduate Examination Committee, and, if so, the examination equivalency number assigned;

(10) Total hours of practical experience prior to licensure as a pharmacist, including the State Board of Pharmacy with which the hours are filed;

(11) States, dates, and results of pharmacist licensure examinations;

(12) Pharmacist licenses obtained by:

(a) Score transfer; and

(b) Licensure transfer;

(13) Practice and employment, including nonpharmacist employment, from initial licensure to date of filing application; and

(14) Record of charges, convictions, and fines imposed, or certification that the applicant has not been convicted, fined, disciplined, or had a license revoked.

Section 4. The board shall accept a license transfer from a jurisdiction that:

(1) Is an active member of the NABP; and

(2) Grants license transfer to a pharmacist pursuant to conditions and requirements that are the equivalent of conditions and requirements established by the board.

Section 5. An applicant shall take and pass the Multistate Pharmacy Jurisprudence Examination administered by the NABP.

Section 6. (1) An applicant who has not actively engaged in the practice of pharmacy for at least 1500 hours as a registered pharmacist during the year preceding the time of filing the application shall take a practical examination.

(2) The 1500 hours of active practice as a registered pharmacist shall be accepted as meeting the board's internship requirement for an applicant for license transfer from a jurisdiction that requires less than a 1500 hour internship for licensure.

Section 7. Fee. An applicant shall include the fee specified by 201 KAR 2:050, Section 1(3).

Section 8. Incorporation by Reference. (1) "NABP Preliminary Application for Transfer of Pharmaceutic Licensure", is incorporated by reference.

(2) It may be inspected, copied, or obtained at Kentucky Board of Pharmacy, 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky 40601-8204, Monday through Friday, 8 a.m. to 4:30 p.m.

RODNEY C. STACEY, President

CHERYL LALONDE-MOONEY, J.D., Assistant Attorney General

APPROVED BY AGENCY: December 14, 1999

FILED WITH LRC: December 14, 1999 at 10 a.m.

PUBLIC HEARING; A public hearing on this proposed administrative regulation shall be held at 2:30 p.m. on January 25, 2000 at 1024 Capital Center Drive, Suite 210, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 18, 2000, 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, 1027 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: Only those pharmacists who request license transfer into the Commonwealth. It is unknown the number of pharmacists who will elect to move into the Commonwealth.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None other than the cost of licensure as a pharmacist which is required of everyone who is ac-

tively engaged in the practice of the profession in Kentucky.

(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 licensees.

2. Second and subsequent years: None other than those required of all licensees.

(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: Application renewals.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Application for licensure.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Appropriated budget from the Kentucky Board of Pharmacy Trust Fund.

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

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None appropriate.

(8) Assessment of expected benefits:

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

(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 the transfer of pharmacists who are not current in their knowledge and practice of pharmacy. The proposed amendment provides greater certainty of the term actively engaged in the practice of pharmacy.

(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 pharmacists who elect this process are treated identically by this amended administrative regulation.

KENTUCKY BOARD OF NURSING (Amendment)

201 KAR 20:070. Licensure by examination.

RELATES TO: KRS 314.041(1), (2), 314.051(3)

STATUTORY AUTHORITY: KRS 314.041(1), (2), 314.051(3), 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.041(2) requires an applicant for licensure as a registered nurse to pass an examination prescribed by the board. KRS 314.051(3) requires an applicant for licensure as a licensed practical nurse to pass an examination prescribed by the board. KRS 314.131(1) authorizes the board to promulgate administrative regulations to implement the provisions of KRS Chapter 314. This administrative regulation establishes the requirements for the licensure of nurses by examination.

Section 1. Eligibility for Licensure by Examination for a Graduate of a Kentucky Program or Other State or Territorial Nursing Program.

(1) To be eligible for licensure by examination an applicant shall:

(a) Submit:

1. A properly executed application for licensure, as required by 201 KAR 20:370, Section 1(1);

2. The licensure application fee as established in 201 KAR

20:240; and

3. One (1) current passport type photograph;

(b) Submit a certified copy of the court record of each misdemeanor or felony conviction and a letter of explanation that addresses each conviction;

(c) Notify the board as soon as a new address is established after submitting the application;

(d) Submit a copy of a marriage certificate or court order to change the applicant's name, if the applicant's name is changed after the original application is filed;

(e) When taking the examination, abide by and cooperate with security procedures adopted by the board;

(f) Apply to take and pass the National Council Licensure Examination; and

(g) Meet the requirement for completion of an educational course on the human immunodeficiency virus and acquired immunodeficiency syndrome, as required by KRS 214.615 and 902 KAR 2:150.

(2) An application for licensure shall be valid for a period of one (1) year from the date the application is filed with the board office. This requirement shall apply to each application received by this board after the effective date of this administrative regulation and each application pending on the effective date.

(3) The name of the applicant shall appear on the "Certified List of Program of Nursing Graduates" as established in 201 KAR 20:260 or the applicant shall request that the program submit to the board an official transcript verifying completion of program requirements.

Section 2. Graduates of Foreign Nursing Schools. To be eligible for application for licensure by examination, a graduate of a foreign nursing school shall comply with the provisions of this section.

(1) If licensed in another country, or in a jurisdiction or territory governed by the United States, the applicant shall submit a statement from the licensing authority that the:

(a) Applicant is a licensee in good standing;

(b) License has not been revoked, suspended, or probated; and

(c) Licensee has not been suspended or otherwise disciplined in the licensing country.

(2) An applicant shall maintain ~~submit~~ proof of legal permanent or temporary residency under the laws and regulations of the United States.

(3) An applicant shall meet the requirements of Section 1 of this administrative regulation.

(4) Credentials in a foreign language shall be translated at the applicant's expense by an official translation agency or approved college or university.

Section 3. Retaking the Examination. (1) An examination candidate who fails to achieve a passing result may retake the examination after meeting the requirements of Section 1 of this administrative regulation.

(2) The applicant shall not be eligible to take the examination more often than once every ninety-one (91) days.

Section 4. Release of Examination Scores. The board shall release examination results to:

(1) The candidate;

(2) Other state boards of nursing;

(3) The National Council of State Boards of Nursing, Inc.; and

(4) An individual or agency who submits an applicant's or licensee's written authorization for their release.

Section 5. Incorporation By Reference. (1) "Certified List of Program of Nursing Graduates", (2/96), Kentucky Board of Nursing, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky, Monday through Friday, 8:30 a.m. to 4:30 p.m.

JUNE BELL, President

NATHAN GOLDMAN, General Counsel

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: December 13, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be

held on January 21, 2000, at 9 a.m. in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 13, 2000, 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 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 329-7009, Fax: (502) 329-8206.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman, General Counsel

(1) Type and number of entities affected: Graduates of foreign nursing schools. Number unknown.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Will require less paperwork and reporting by applicants.

(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: N/A

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

(a) Geographical area in which administrative regulation will be implemented: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A

(b) State whether a detrimental effect on environment and public health would result if not implemented: N/A

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not applicable since the amendment affects all foreign applicants in the same manner.

KENTUCKY BOARD OF NURSING (Amendment)

201 KAR 20:110. Licensure by endorsement.

RELATES TO: KRS 314.031(4), 314.041(4), 314.051(5), 314.101(4)

STATUTORY AUTHORITY: KRS 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.041(4) and 314.051(5) authorize the board to issue a license to practice nursing as a registered nurse or a licensed practical nurse to an applicant who has passed the required examination or its equivalent and who was licensed to practice nursing in another jurisdiction. KRS 314.101(4) authorizes the board to issue a temporary work permit to a person who has completed the requirements for, applied for, and paid the fee for licensure by examination or endorsement. This administrative regulation establishes the requirements for licensure by endorsement and establishes the requirements for a temporary work permit for an applicant to practice nursing while the application for a license is being processed.

Section 1. Eligibility for Licensure by Endorsement. (1) To be eligible for licensure by endorsement, an applicant shall:

(a) Have completed a state approved program of practical nursing for licensed practical nurse licensure or a state approved program of registered nursing for registered nurse licensure equivalent to Kentucky requirements;

(b) Have taken the State Board Test Pool Examination or National Council Licensure Examination or an examination that is consistent with Section 5 of this administrative regulation;

(c) Have and submit a copy of a current active license to practice nursing in another U.S. jurisdiction, or territory, or foreign country;

(d) Complete the application form, as required by 201 KAR 20:370, Section 1(1);

(e) Submit one (1) current passport type photograph;

(f) Submit the current fee for a licensure application, as established by 201 KAR 20:240;

(g) Report each disciplinary action taken or pending on a license by another jurisdiction;

(h) Submit a certified copy of the court record of each misdemeanor or felony conviction and a letter of explanation that addresses each conviction;

(i) Request the U.S. jurisdiction or territory or foreign country of initial licensure to submit a verification of licensure by examination to the board which shall include the following information:

1. Date of initial licensure;

2. Examination results;

3. Name of the program of nursing completed and date of graduation; and

4. A statement that the applicant's license has not been revoked, suspended, limited, probated or otherwise disciplined by the licensing authority and is not subject to disciplinary action; and

(j) Meet the requirement for completion of an educational course on the human immunodeficiency virus and acquired immunodeficiency syndrome, as required by KRS 214.615 and 902 KAR 2:150.

(2) An application shall be valid for a period of six (6) months. The applicant shall:

(a) Submit a copy of a marriage certificate or court order to change the applicant's name after the original application is filed; and

(b) Notify the board in writing as soon as a new address is established after submitting the application.

(3) After six (6) months, the applicant shall:

(a) Submit a new application;

(b) Submit the current licensure application fee; and

(c) Meet the requirements established in this section.

Section 2. Graduates of Foreign Nursing Schools. (1) A graduate of a foreign nursing school shall:

(a) Meet the requirements established in Section 1 of this administrative regulation; and

(b) Submit an official transcript of the nursing program.

(2) A graduate of a foreign nursing school who is not a citizen of the United States shall maintain submit evidence of legal permanent

or temporary residency in the United States.

(3) Credentials in a foreign language shall be translated at the applicant's expense by an official translation agency or approved college or university.

Section 3. Nursing Practice and Continuing Education Requirements. (1) Except as provided in subsection (2) of this section, an applicant shall complete fifteen (15) contact hours in continuing education for each year since the last year in which the applicant can demonstrate at least 100 hours of practice.

(2) The requirement established in subsection (1) of this section shall not apply to an applicant who:

(a) Has been licensed for less than five (5) years from the date of initial licensure; or

(b)1. Has been actively licensed and engaged in nursing practice for at least 500 hours during the preceding five (5) years; and

2. Submits evidence that verifies this practice.

(3) An applicant shall not be required to complete more than 150 contact hours in continuing education, if at least thirty (30) contact hours were earned within the twenty-four (24) months preceding the date of application for active Kentucky licensure status.

(4) Continuing education earned more than ten (10) years preceding the date of application shall not be counted toward meeting the requirements established in subsections (1) and (3) of this section.

Section 4. Temporary Work Permit. (1) An applicant for licensure by endorsement who meets the requirements of Section 1(1)(a) through (h) of this administrative regulation shall be issued a temporary work permit.

(2) A temporary work permit shall be valid for a period not to exceed six (6) months.

(3) An individual who practices as a nurse in this state without a current temporary work permit prior to issuance of a current active license shall be considered to be practicing without a license in violation of KRS 314.031 and subject to the penalties listed in KRS Chapter 314.

Section 5. Licensing Examination Standards. An applicant who has taken an examination other than the State Board Test Pool Examination, the [or] National Council Licensure Examination, or the Canadian Nurses Association Testing Service Examination (in English) [subsequent to 1953] shall provide evidence to the board that the examination met the following standards of equivalency:

(1) Accepted psychometric procedures are used in the development of the examination;

(2) The examination is available to the board in the English language;

(3) The examination test plan blueprint is available for board review and adequately identifies test content and content weighting;

(4) Test items are available for board review and demonstrate the testing of competency necessary for safe practice;

(5) At least one (1) of the reliability estimates for the examination is 0.80 or higher;

(6) The examination is revised after each administration to insure currency and security of content; and

(7) The examination is given under strict security measures.

JUNE BELL, President

NATHAN GOLDMAN, General Counsel

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: December 13, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on January 21, 2000, at 9 a.m. in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 13, 2000, 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 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 contract person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 329-7009, Fax: (502) 329-8206.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman, General Counsel

(1) Type and number of entities affected: Foreign nurses. Number unknown.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Will require less paperwork and reporting by applicant.

(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: N/A

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

(a) Geographical area in which administrative regulation will be implemented: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A

(b) State whether a detrimental effect on environment and public health would result if not implemented: N/A

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not applicable since the amendment affects all foreign nurses in the same manner.

KENTUCKY BOARD OF NURSING (Amendment)

201 KAR 20:240. Fees for applications and for services.

RELATES TO: KRS 61.874(3), 314.041(5), 314.042(3), (6), 314.051(2), 314.071(1), (2), 314.073(7), 314.142(1)(b), 314.161

STATUTORY AUTHORITY: KRS 61.874(3), 314.041(5), 314.042(3), (6) 314.051(2), 314.071(1), (2), 314.073(7), 314.131(1), 314.142(1)(b), 314.161

NECESSITY, FUNCTION, AND CONFORMITY: KRS

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314.142(1)(b) requires the board to establish an application fee for a registered nurse who applies to the board to be credentialed as a "sexual assault nurse examiner". KRS 314.161 authorizes the board to establish fees necessary to implement KRS Chapter 314. KRS 314.041(5), 314.042(3), (6), 314.051(2), 314.071(1), (2), and 314.073(7) require the board to establish fees for licensure, registration, examination, renewal, reinstatement, and continuing education. This administrative regulation establishes those fees.

Section 1. Fees for Licensure or Registration Applications. (1) The board shall collect a fee for:

- (a) An application for licensure;
- (b) An application for registration;
- (c) Licensure renewal or reinstatement.
- (2) The fee for an application shall be:
 - (a) Licensure as a registered nurse - eighty (80) dollars.
 - (b) Licensure as a licensed practical nurse - eighty (80) dollars.
 - (c) Biennial renewal of active license - fifty-five (55) dollars.
 - (d) Biennial renewal of inactive license - thirty-five (35) dollars.
 - (e) Reinstatement of license - eighty (80) dollars.
 - (f) Active to inactive license status - forty (40) dollars.
 - (g) Inactive to active license status - fifty (50) dollars.
 - (h) Full verification of licensure, temporary work permit, credential or registration history - twenty-five (25) dollars.
 - (i) Duplicate license or registration card or letter - twenty (20) dollars.
 - (j) Registration as an advanced registered nurse practitioner - eighty (80) dollars.
 - (k) Biennial renewal of registration as an advanced registered nurse practitioner - fifty-five (55) dollars.
 - (l) Reinstatement of registration as an advanced registered nurse practitioner - eighty (80) dollars.
- (3) An application shall not be evaluated unless the current fee is submitted.

Section 2. Fees for Applications for Continuing Education Approvals. The fee for an application for approval of a provider of continuing education and for a renewal or reinstatement of the approval shall be:

- (1) Initial provider approval - \$200.
- (2) Reinstatement of provider approval - \$100.
- (3) Biennial renewal of approval - \$100.
- (4) Individual review of continuing education offerings - ten (10) dollars.

Section 3. Fees for Services. (1) The fee for a service shall be:

- (a) Verification of temporary work permit, licensure, registration, or credential status:
 1. If requested in individual nurse format - ten (10) dollars;
 2. If requested in list format - one (1) dollar per name with a minimum charge of ten (10) dollars.
- (b) Copy of an examination result or transcript - five (5) dollars.
- (c) Nursing certificate (optional) - thirty (30) dollars.
- (2) An applicant for licensure who takes or retakes the licensure examination shall pay:
 - (a) The current examination fee required by the national council of state boards of nursing; and
 - (b) Application for licensure fee pursuant to Section 1 of this administrative regulation.
- (3) An applicant shall pay the current examination fee required by the national council of state boards of nursing, and the fees established by the board for application for licensure, if the nurse:
 - (a) Is licensed in another state, United States territory, or country;
 - (b) Submits an application for licensure in Kentucky as a registered nurse, or a licensed practical nurse; and
 - (c) Is required to take the licensure examination.
- (4) A graduate of a foreign school of nursing shall be responsible for:
 - (a) Costs incurred to submit credentials translated into English;
 - (b) Immigration documents; and
 - (c) Other documents needed to verify that the graduate has met Kentucky licensure requirements.

Section 4. An application shall lapse and the fee shall be forfeited

if the application is not completed as follows:

- (1) For an application for licensure by endorsement, within six (6) months from the date the application form is filed with the board office; and
- (2) For an application for licensure by examination, within one (1) year from the date the application form is filed with the board office.

Section 5. An applicant who meets all requirements for approval, licensure, credential or registration shall be issued the appropriate approval, license, credential or registration without additional fee.

Section 6. ~~Refunds. An overpayment of five (5) dollars or more of a current fee shall be refunded.~~

Section 7. ~~A partial application fee may be held on record for one (1) year and shall be applied toward the fee to meet the requirements for licensure or registration.~~

Section 8. ~~A fee properly collected by the board shall not be refunded, except as provided in Section 6 of this administrative regulation.~~

Section 9. Fees for Sexual Assault Nurse Examiners. (1) The application fee shall be fifty (50) dollars.

(2) The credential renewal fee shall be forty (40) dollars.

(3) The credential reinstatement fee shall be fifty (50) dollars.

Section 7. A payment for an application fee which is in an incorrect amount shall be returned and the application shall not be posted until the correct fee is received.

JUNE BELL, President

NATHAN GOLDMAN, General Counsel

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: December 13, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on January 21, 2000, at 9 a.m. in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 13, 2000, 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 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 contract person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 329-7009, Fax: (502) 329-8206.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman, General Counsel

(1) Type and number of entities affected: Applicants for licensure. All existing licensee and new licensee.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

- (3) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings
 - 1. First year: N/A
 - 2. Continuing costs or savings: N/A
 - 3. Additional factors increasing or decreasing costs: N/A
 - (b) Reporting and paperwork requirements: N/A
- (4) Assessment of anticipated effect on state and local revenues: None
- (5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A
- (6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
 - (a) Geographical area in which administrative regulation will be implemented: N/A
 - (b) Kentucky: N/A
- (7) Assessment of alternative methods; reasons why alternatives were rejected: N/A
- (8) Assessment of expected benefits:
 - (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A
 - (b) State whether a detrimental effect on environment and public health would result if not implemented: N/A
 - (c) If detrimental effect would result, explain detrimental effect: N/A
- (9) Identify any statute, administrative regulation, or governmental policy which may be in conflict, overlapping or duplication: N/A
 - (a) Necessity of proposed regulation if in conflict: N/A
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
- (10) Any additional information or comments: None
- (11) TIERING: Is tiering applied? Tiering is not applicable since the amendment affects all applicants in the same manner.

KENTUCKY BOARD OF NURSING (Amendment)

201 KAR 20:390. Nursing Incentive Scholarship Fund.

RELATES TO: KRS 314.011, 314.025, 314.026, 314.027
 STATUTORY AUTHORITY: KRS 314.026(1), 314.131(1)
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.025 through 314.027 create the Kentucky Nursing Incentive Scholarship Fund for Kentucky residents. KRS 314.026 requires the Board of Nursing to promulgate administrative regulations to implement and administer the scholarship fund. This administrative regulation implements the Kentucky Nursing Incentive Scholarship Fund Program and establishes the requirements relating to the program.

Section 1. Definitions. (1) "Academic year" means, for a registered nursing program, a minimum of two (2) semesters or its equivalent; and for a practical nursing program, the completion of the required program.

(2) "Board" is defined by KRS 314.011(1).

(3) "Committee" means the Kentucky Nursing Incentive Scholarship Fund Committee.

(4) "Kentucky resident" is defined by 13 KAR 2:045, Section 1(15).

(5) "Program of nursing" means either a prelicensure, BSN completion or graduate nursing program.

(6) "Successful academic progression" means:

(a) For a prelicensure or BSN completion nursing program, the completion of a minimum of eight (8) credit hours per semester of published requirements for the program of nursing and maintenance of a minimum grade point average which would allow continuation in a program of nursing; or

(b) For a graduate nursing program, the completion of a minimum of six (6) credit hours per semester of published requirements for the program of nursing and maintenance of a minimum grade point average which would allow continuation in the graduate program.

Section 2. Application. (1) To be eligible for a nursing incentive

scholarship, an applicant shall:

- (a) Be a Kentucky resident; and
 - (b) Have been accepted for admission to a program of nursing.
- (2) An applicant shall submit a completed "Nursing Incentive Scholarship Application" by June 1 to apply for a scholarship for the following academic year.

(3) An applicant shall attach to the application a copy of the Student Aid Report from the Free Application for Federal Student Aid (FAFSA) for the current year.

Section 3. The Committee. (1) A member of the committee shall serve for two (2) years and may be reappointed.

(2) The committee shall meet at least annually by July 15 and more often if necessary to decide on scholarships for the upcoming academic year.

(3) A member of the committee shall:

- (a) Serve without compensation; and
- (b) Be reimbursed for actual and necessary expenses related to serving on the committee.

Section 4. Criteria for Awards. The committee shall consider the following criteria in evaluating an applicant and shall award points as follows:

(1) Preference categories as specified in KRS 314.025(2):

- (a) Licensed practical nurses, twenty-five (25) points;
- (b) Registered nurses pursuing graduate nursing education, twenty-five (25) points; and

(c) Financially needy Kentucky residents, ~~forty~~ (40) [twenty-five (25)] points. Financial need shall be determined by the annual FAFSA Pell Grant Indicator of Eligibility for Financial Aid.

(2) Potential for academic success, as follows: ~~[(a)]~~ High school, vocational school, college or university grade point average for which-ever institution the applicant most recently attended:

~~[(a)]~~ [1-] Three and five-tenths (3.5) to four (4.0), twenty-five (25) points;

~~[(b)]~~ [2-] Three (3) to three and four-tenths (3.4), twenty (20) points; and

~~[(c)]~~ [3-] Two and five-tenths (2.5) to two and nine-tenths (2.9), fifteen (15) points.

~~[(b)] Successful progression in a program of nursing shall be equal to five (5) points for each semester or quarter, to a maximum of ten (10) points.]~~

(3) Previous health care experience, either paid or volunteer, shall be equal to five (5) points for each year in which service is validated, to a maximum of ten (10) points.

Section 5. Amount of Award. (1) The committee shall be notified by the board's fiscal officer as to the current fund balance prior to making an award.

(2)(a) The committee shall first make awards to those recipients who:

- 1. Received an award in the previous year; and
- 2. Remain eligible to receive an award pursuant to Section 7 of this administrative regulation in the current year.

(b) If funds remain available after the awards are made pursuant to paragraph (a) of this subsection, the committee shall make an award to other eligible applicants.

Section 6. Procedure for Disbursement of Awards. (1) Disbursement of funds shall be made directly to the recipient.

(2) Disbursement shall be made annually.

(3) Each educational institution in which a student receiving a nursing incentive scholarship award is enrolled shall certify to the board no later than thirty (30) days from the beginning of each semester, that the recipient:

- (a) Has enrolled; and
- (b) Is in good standing in the nursing program.

Section 7. Continuing Eligibility Criteria. (1) A recipient of a nursing incentive scholarship shall be eligible to continue to receive an award if the recipient:

- (a) Maintains successful academic progression through the program;

(b) Has continued maintenance of a preference category; and
(c) Submits to the board a completed "Nursing Incentive Scholarship Fund Request for Continuation" form by June 1.

(2) The educational institution shall immediately notify the board of a change in a recipient's enrollment status.

(3) An award recipient in a practical nursing program shall not be eligible for a continued award while enrolled in that program.

Section 8. Disbursement Contract. (1) Prior to disbursement of initial funds, the recipient shall sign a "Nursing Incentive Scholarship Fund Contract".

(2) The recipient shall sign a "Nursing Incentive Scholarship Fund Promissory Note" for each year in which funds are disbursed.

Section 9. Repayment and Deferral. (1) A recipient shall immediately become liable to the board to pay the sum of all scholarships received and the accrued interest on the scholarships if the recipient fails to complete the:

(a) Nursing program in which he is enrolled within the time specified by the program of nursing; or

(b) Required employment as specified in the contract.

(2) Written notification of demand for repayment shall be sent by the board to the scholarship recipient's last known address and shall be effective upon mailing. The board may agree, in its sole discretion, to accept repayment in installments in accordance with a schedule established by the board. Payments shall first be applied to interest and then to principal on the earliest unpaid contracts.

(3) Repayment may be deferred in the case of disability, major illness or accident which prevents a recipient from completing a program of nursing or being employed as a nurse in Kentucky.

(4) A student enrolled in a program of nursing may defer repayment if the student fails to achieve successful academic progression. This deferment shall apply for one (1) academic year. If the student fails to achieve successful academic progression after that time, repayment shall be due. If the student achieves successful academic progression within the allotted time, he may apply for a continuation award pursuant to Section 7 of this administrative regulation.

(5)(a) If a deferment is requested, the recipient shall submit the request to the committee on a "Nursing Incentive Scholarship Fund Request for Deferment" form.

(b) If the request for deferment is submitted pursuant to subsection (3) of this section, the form shall be accompanied by a physician's statement.

(6) If a recipient fails to pass the licensure examination within two (2) years of graduation, the sum of all nursing incentive scholarships received by the recipient, and the accrued interest, shall become due and payable.

Section 10. Verification. (1) Verification of employment as a nurse in Kentucky pursuant to the contract shall be submitted to the board when the recipient's employment commitment begins and when it is completed. A termination of employment prior to completion shall be reported to the board within thirty (30) days by the employer and the recipient.

(2) A recipient shall notify the board immediately of a change of name or address or enrollment status in school.

Section 11. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) "Nursing Incentive Scholarship Fund Application (10/96)";

(b) "Nursing Incentive Scholarship Fund Request for Continuance (10/96)";

(c) "Nursing Incentive Scholarship Fund Request for Deferral (10/96)";

(d) "Nursing Incentive Scholarship Fund Contract (10/96)";

(e) "Nursing Incentive Scholarship Fund Promissory Note (10/96)".

(2) These forms may be inspected, copied, or obtained at the Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, 8:30 a.m. to 4:30 p.m., Monday through Friday.

JUNE BELL, President

NATHAN GOLDMAN, General Counsel

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: December 13, 1999 at 11 a.m.

PUBLIC HEARING; A public hearing on this regulation shall be held on January 21, 2000, at 9 a.m. in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 13, 2000, 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 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 contract person.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 329-7009, Fax: (502) 329-8206.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman, General Counsel

(1) Type and number of entities affected: Scholarship applicants. Number unknown.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A

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

(a) Geographical area in which administrative regulation will be implemented: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A

(b) State whether a detrimental effect on environment and public health would result if not implemented: N/A

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not applicable since the amendment affects all applicants in the same manner.

KENTUCKY BOARD OF NURSING
(Amendment)

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

RELATES TO: KRS 314.142

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

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

Section 1. Definition. "SANE course" means a formal, organized course of instruction that is designed to prepare a registered nurse to perform forensic evaluation of a sexual assault victim fourteen (14) years of age or older and to promote and preserve the victim's biological, psychological and social health.

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

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

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

(3) Course syllabus. The syllabus shall include:

(a) Course prerequisites, requirements and fees.

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

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

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

1. The SANE course shall include:

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

b. The clinical practice experience required by subparagraph 2 of this paragraph.

2. Clinical practice. The clinical portion of the course shall by a minimum of sixty (60) hours and must include: ~~[include supervised clinical practice, whereby students complete ten (10) pelvic and rectal examinations to include both male and female, and two (2) forensic examinations of sexual assault victims.]~~

a. Supervised detailed genital inspection, speculum examination, visualization techniques and equipment - twenty six (26) hours.

b. Supervised mock sexual assault history taking and examination techniques with evaluation - ten (10) hours.

c. Observing criminal trials or meeting with Commonwealth Attorney - sixteen (16) hours.

d. Meeting with rape crisis victim advocate or mental health professional with expertise in the treatment of sexual assault individuals - four (4) hours.

e. Meeting with members of law enforcement - four (4) hours.

3. The didactic portion of the course shall include instruction in the following topics related to forensic evaluation of individuals reporting sexual assault [victims]:

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

b. Application of the statewide medical protocol relating to the forensic and medical examination of individuals reporting [victims-of]

sexual assault pursuant to KRS 216B.400(2);

c. Principles and techniques of evidence identification, collection, evaluation, [and] preservation and chain of custody;

d. Assessment of [victim] injuries, including injuries of forensic significance;

e. Physician consultation and referral;

f. Medicolegal documentation;

g. Victim's bill of rights, KRS 421.500 through 421.550;

h. Crisis intervention;

i. Dynamics of sexual assault;

j. Testifying in court;

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

l. Available community resources including rape crisis centers;

m. Historical development of forensic nursing conceptual model;

n. Cultural diversity and special populations;

o. Ethics;

p. Genital anatomy, normal variances and development stages;

q. Health care implications and interventions; and

r. Developing policies and procedures.

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

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

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

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

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

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

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

(a) Provider name, date and site of the course; and

(b) Participant roster, with a minimum of names, Social Security numbers and license numbers.

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

(a) Name of participant;

(b) Title of course, date and location;

(c) Provider's name; and

(d) Name and signature of authorized provider representative.

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

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

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

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

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

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

(2) The board, or its designee, shall conduct a review in which the SANE course administrator may appear in person and with counsel to

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present reasons why the board's decision should be set aside or modified.

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

- (a) Hold a current, active registered nurse license in Kentucky.
- (b) Have completed a board approved SANE educational course or a comparable course. The board or its designee shall evaluate the applicant's course to determine its course comparability. The board or its designee shall advise an applicant if the course is not comparable and specify what additional components shall be completed to allow the applicant to be credentialed.

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

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

(e) Pay the fee established in 201 KAR 20:240.

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

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

(2) Upon completion of the required continuing education, completion of the "Application for Renewal of SANE Credential" and payment of the fee established in 201 KAR 20:240, the SANE credential shall be renewed at the same time the registered nurse license is renewed.

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

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

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

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

(b) Paying the fee established in 201 KAR 20:240; and

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

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

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

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

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

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

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

(2) This material may be inspected, copied, or obtained at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8:30 a.m. to 4:30 p.m.

JUNE BELL, President
NATHAN GOLDMAN, General Counsel

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: December 13, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on January 21, 2000, at 9 a.m. in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 13, 2000, 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 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 329-7009, Fax: (502) 329-8206.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman, General Counsel

(1) Type and number of entities affected: All SANE applicants. Number unknown.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: N/A

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

1. First year following implementation: N/A

2. Second and subsequent years: N/A

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: N/A

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

(a) Geographical area in which administrative regulation will be implemented: N/A

(b) Kentucky: N/A

(7) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: N/A

(b) State whether a detrimental effect on environment and public health would result if not implemented: N/A

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not applicable since the amendment affects all applicants in the same manner.

VOLUME 26, NUMBER 7 – JANUARY 1, 2000

JUSTICE CABINET Department of Corrections Division of Adult Institutions (Amendment)

501 KAR 6:030. Kentucky State Reformatory.

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 commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.

Section 1. (1)(a) Kentucky State Reformatory policies and procedures December 14 [September 14], 1999, are incorporated by reference.

(b) There will be no public hearing on these policies and procedures as they are secured policies under the provisions of KRS 197.025 which states that such policies shall not be accessible to the public or inmates.

(2) Kentucky State Reformatory policies and procedures include:

KSR 01-00-09 Public Information and News Media Relations [(Amended 9/14/99)]
KSR 01-00-10 Entry Authorization for All Cameras and Tape Recorders Brought into the Institution [(Amended 9/14/99)]
KSR 01-00-15 Cooperation and Coordination with Oldham County Courts [(Amended 9/14/99)]
KSR 01-00-19 Personal Service Contract Personnel [(Amended 9/14/99)]
KSR 02-00-01 Inmate Canteen
KSR 02-00-03 Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11 Inmate Personal Accounts
KSR 02-00-12 Institutional Funds and Issuance of Checks
KSR 04-00-02 Staff Training and Development
KSR 05-00-01 Officers' Daily Housing Security and Safety Log
KSR 05-00-02 Research Activities
KSR 05-00-03 Management Information Systems
KSR 06-00-01 Inmate Master File [(Amended 9/14/99)]
KSR 06-00-03 Kentucky Open Records Law and Release of Psychological/ Psychiatric Information
KSR 07-00-02 Institutional Tower Room Regulations
KSR 07-00-04 Handling of PCB Articles and Containers
KSR 07-00-05 Proper Removal of Transformers
KSR 07-00-06 Asbestos Abatement [(Amended 9/14/99)]
KSR 07-00-07 Discharge Monitoring Report (DMR) [(Amended 9/14/99)]
KSR 07-00-08 Control of Hazardous Energy (Lockout or Tagout) [(Amended 9/14/99)]
KSR 07-00-09 Inventory Control of Underground Storage Tanks [(Amended 9/14/99)]
KSR 08-00-07 Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family
KSR 08-00-08 Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery or Death
KSR 08-00-10 Hazardous Materials and Chemicals [and Material] Safety Data Sheet (Amended 12/14/99)
KSR 09-00-21 Crime Scene Camera
KSR 09-00-22 Collection, Preservation, and Identification of Physical Evidence
KSR 09-00-23 Drug Abuse Testing
KSR 09-00-26 Contraband Outside Institutional Perimeter
KSR 09-00-28 Restricted Areas
KSR 09-00-29 Transportation of Inmates
KSR 09-00-30 Parole Board

KSR 09-00-31 Forced Cell Move in Medium or Maximum Area
KSR 10-00-10 Segregation - Special Management Inmate Legal Access
KSR 10-00-11 Unit D - Behavior Problem Control
KSR 10-01-13 Unit D - Property Room Access
KSR 10-01-01 Segregation Unit - Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training and Evaluation
KSR 10-01-02 Segregation - General Operational Procedures
KSR 10-01-03 Segregation - Inmate Tracking System and Records System
KSR 10-01-04 Segregation - Administrative Segregation
KSR 10-01-05 Segregation - Disciplinary Segregation
KSR 10-01-06 Segregation - Protective Custody
KSR 10-01-07 Segregation - Convalescent Care Unit
KSR 10-01-08 Unit D - Safekeepers and Pretrial Contract Hold Status Inmates
KSR 10-01-09 Unit D - Hold Ticket Residents
KSR 10-01-11 Segregation Unit - Behavior Problem Control
KSR 10-01-13 Segregation Unit - Property Room Access
KSR 10-02-01 Department of Corrections Division of Mental Health's Intensive Services Transitional Program: Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training, Time and Attendance
KSR 10-02-02 Unit E Designated Staff Visits
KSR 10-02-03 Unit E-1 Convalescent Care
KRS 10-02-04 Department of Corrections Division of Mental Health's Intensive Services Transitional Program: General Operating Procedures
KSR 10-02-07 Correctional Psychiatric Treatment Unit: Inmate Tracking System and Record System [(Added 9/14/99)]
KSR 10-02-08 Correctional Psychiatric Treatment Unit (Added 12/14/99)
KSR 11-00-01 Meal Planning and Procedure [(Amended 9/14/99)]
KSR 11-00-02 Special Diets
KSR 11-00-03 Food Service Inspections [(Amended 9/14/99)]
KSR 11-00-04 Dining Room Rules and Dress Code for Inmates [(Amended 9/14/99)]
KSR 11-00-06 Health Standards and Regulations for Food Service Employees [(Amended 9/14/99)]
KSR 11-00-07 Early Chow Line Passes for Medically Designated Inmates
KSR 12-00-01 Inmate Summer Dress Regulations
KSR 12-00-03 State Items Issued to Inmates
KSR 12-00-05 Sanitation Policy and Standards
KSR 12-00-07 Regulations for Inmate Barbershop
KSR 12-00-09 Treatment of Inmates with Body Lice
KSR 13-00-02 Hospital Operations, Rules and Regulations
KSR 13-00-03 Medication for Inmates Leaving Institution Grounds
KSR 13-00-04 Medical and Dental Care
KSR 13-00-05 Medical Records
KSR 13-00-08 Institutional Laboratory Procedures
KSR 13-00-09 Institutional Pharmacy Procedures
KSR 13-00-10 Requirements for Medical Personnel
KSR 13-00-11 Health Evaluation
KSR 13-00-12 Vision Care/Optomety Services
KSR 13-00-14 Periodic Health Examinations for Inmates
KSR 13-00-15 Medical Alert System
KSR 13-00-16 Suicide Prevention and Intervention Program
KSR 13-00-17 Special Care
KSR 13-02-01 Mental Health Services
KSR 13-02-02 Mentally Retarded Inmates
KSR 13-02-03 Suicide Prevention and Intervention Program
KSR 13-02-04 Department of Corrections Division of Mental Health's Intensive Services Transitional Program: Program Description
KSR 13-02-05 Access to Intensive Services Programs Operated at Kentucky State Reformatory by the Division of Mental Health
KSR 14-00-01 Inmate Rights
KSR 14-00-02 Americans with Disabilities Act Inmate Program Access

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KSR 14-00-04 Inmate Grievance Procedure
KSR 15-00-02 Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)
KSR 15-00-06 Inmate I.D. Cards
KSR 15-00-07 Inmate Rules and Discipline - Adjustment Committee Procedures
KSR 15-00-08 Firehouse Living Area
KSR 15-00-09 Use of Tobacco Products for Inmates and Staff [(Amended 9/14/99)]
KSR 15-00-10 Program Services for Special Housing Placement
KSR 15-01-01 Operational Procedures and Rules and Regulations for Unit A, B & C: Functions of Assigned Personnel
KSR 15-01-02 Operational Procedures and Rules and Regulations for Unit A, B, & C: Staff Operational Procedures
KSR 15-01-03 Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Rules and Regulations
KSR 15-01-04 Operational Procedures and Rules and Regulations for Unit A, B & C: Institutional Medical and Fire Safety Service: Unit Application
KSR 15-01-05 Operational Procedures Rules and Regulations for Unit A, B, & C: Institutional Inmate Services
KSR 15-01-06 Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Honor Housing Criteria and Regulations
KSR 16-00-02 Inmate Correspondence and Mailroom Operations (Amended 12/14/99)
KSR 16-00-03 Inmate Access to Telephones
KSR 16-01-01 Visiting Regulations (Amended 12/14/99)
KSR 16-01-02 Lawn Visit Procedure and Regulations
KSR 16-01-03 Night Visit Regulations (Amended 12/14/99)
KSR 17-00-05 Assessment and Orientation, Consent Decree Notification to Inmates
KSR 17-00-07 Inmate Personal Property
KSR 17-00-08 Repair of Inmate Owned Appliances by Outside Dealers
KSR 18-00-04 Intratransfers, Identification Department, Departure - Admission and Discharge
KSR 18-00-05 Transfer of Residents to Kentucky Correctional Psychiatric Center, and Referral Procedure for Residents Adjudicated Guilty but Mentally Ill
KSR 18-00-06 Classification
KSR 18-00-07 Kentucky State Reformatory Placement Committee
KSR 19-00-01 Inmate Work Incentives
KSR 19-00-02 On-the-job (OJT) Training Program [(Amended 9/14/99)]
KSR 19-00-03 Safety Inspections of Inmate Work Assignment Locations [(Amended 9/14/99)]
KSR 20-00-01 Technical and Adult Basic Level Learning Center Programs [(Amended 9/14/99)]
KSR 20-00-04 Criteria for Participation in A College Program
KSR 20-00-06 English as a Second Language [(Amended 9/14/99)]
KSR 21-00-01 Legal Aide Office and Inmate Law Library Services and Supervision
KSR 21-00-02 Inmate Library Services
KSR 21-00-03 Library Services for Unit D
KSR 21-00-05 Library Services for Correctional Psychiatric Treatment Unit
KSR 22-00-03 Inmate Organizations
KSR 22-00-07 Inmate Magazine
KSR 22-00-08 Privilege Trips
KSR 23-00-02 Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03 Religious Programming
KSR 24-00-02 Substance Abuse and Chemical Dependency Program
KSR 25-00-01 Discharge of Inmates to Hospital or Nursing Home
KSR 26-00-01 Volunteer Services Program

DOUG SAPP, Commissioner
TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: December 6, 1999
FILED WITH LRC: December 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on January 21, 2000, at 9 a.m., in the 5th Floor Conference Room of the State Office Building. Individuals interested in being heard at this hearing shall notify this agency in writing by January 13, 2000, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, Telephone (502) 564-2024, Facsimile (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Contact person: Tamela Biggs

(1) Type and number of entities affected: 532 employees of the correctional institutions, 1608 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 1994-1996 biennium.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed administrative regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th

Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

JUSTICE CABINET
Department of Corrections
Division of Adult Institutions
(Amendment)

501 KAR 6:130. 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, December 14 [October 13], 1999, 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 [(Amended 10/13/99)]
WKCC 01-08-01	Smoking Policy (Added 12/14/99)
WKCC 02-00-03	Invoice and Voucher Processing
WKCC 02-00-04	Monetary Receipts During Nonbusiness Hours
WKCC 02-00-06	Purchasing Procedures [(Amended 10/13/99)]
WKCC 02-01-01	Inmate Funds [(Amended 10/13/99)]
WKCC 02-01-02	Inmate Canteen [(Amended 10/13/99)]
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 [(Amended 10/13/99)]
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	Administrative Process for Inmate Court Orders [(Amended 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 [(Amended 10/13/99)]
WKCC 13-00-01	Special Health Programs [(Amended 10/13/99)]
WKCC 13-01-01	Use of Pharmaceutical Products [(Amended 10/13/99)]
WKCC 13-02-01	Health Care Services [(Amended 10/13/99)]
WKCC 14-04-01	Legal Services Program
WKCC 15-01-01	Hair and Grooming Standards [(Amended 10/13/99)]
WKCC 16-01-01	Visiting Policy and Procedures [(Amended 10/13/99)]
WKCC 16-02-01	Inmate Correspondence [(Amended 10/13/99)]
WKCC 16-03-01	Inmate Access to Telephones
WKCC 16-04-01	Inmate Packages [(Amended 10/13/99)]
WKCC 17-01-01	Inmate Personal Property [(Added 10/13/99)]

WKCC 17-02-01	Inmate Reception and Orientation
WKCC 20-01-01	Education Program [(Amended 10/13/99)]
WKCC 22-00-01	Inmate Recreation and Leisure Time Activities
WKCC 22-00-02	Inmate Organizations [(Amended 10/13/99)]
WKCC 23-00-01	Religious Services [(Amended 10/13/99)]
WKCC 24-00-01	Social Services [(Added 10/13/99)]
WKCC 25-02-01	Inmate Release Process [(Amended 10/13/99)]
WKCC 25-03-01	Prerelease Programs

DOUG SAPP, Commissioner

TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: December 6, 1999

FILED WITH LRC: December 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on January 21, 2000, at 9 a.m. in the State Office Building Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by January 13, 2000, 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.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Office of District Support Services
(Amendment)

702 KAR 7:065. Designation of agent to manage high school interscholastic athletics.

RELATES TO: KRS 156.070(2)

STATUTORY AUTHORITY: KRS 156.070(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 requires the Kentucky Board of Education (KBE) to manage and control the common schools, including interscholastic athletics in the schools, and authorizes the KBE 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.

Section 1. The Kentucky High School Athletic Association (KHSAA) shall be the Kentucky Board of Education's agent to manage interscholastic athletics at the high school level in the common schools, including a private school desiring to associate with KHSAA and to compete with a common school.

Section 2. To remain eligible to maintain the designation as the agent to manage interscholastic athletics, the KHSAA shall:

- (1) Accept four (4) at-large members appointed by the Kentucky Board of Education to its governing body;
- (2) Sponsor an annual meeting of its member schools;
- (3) Provide for each member school to have a vote on constitution and bylaw changes submitted for consideration at the annual meeting;
- (4) Provide for regional postseason tournament net revenues to be distributed to the member schools in that region participating in that sport, utilizing a share approach determined by the schools within that region playing that sport;
- (5) Require its governing body to establish goals and objectives and perform a self-assessment and submit them annually to the KBE.
- (6) Advise the Department of Education of all legal action brought against the KHSAA;
- (7) Permit a board of control member to serve a maximum of two (2) four (4) year terms with no region represented for more than eight (8) years;
- (8) Employ a commissioner and evaluate that person's performance annually and establish all staff positions upon recommendation of the commissioner;
- (9) Permit the commissioner to employ other personnel necessary to perform the staff responsibilities;
- (10) Permit the Board of Control to assess fines on a member school;
- (11) Utilize a trained independent hearing officer instead of an eligibility committee for an appeal;
- (12) Establish a philosophical statement of principles to use as a guide in an eligibility case;

(13) As a condition precedent ~~present~~ to membership, require each member school and superintendent to annually submit a written certification of compliance with 20 USC Section 1681 (Title IX); ~~and~~

(14) Conduct all meetings in accordance with KRS 61.805 through 61.850; ~~and~~

(15) provide written reports of any investigations into possible violations of statute, administrative regulation, KHSAA Constitution, bylaws, and other rules governing the conduct of interscholastic athletics conducted by KHSAA or their designees to the superintendent and principal of the involved school district and school prior to being made public.

Section 3. Financial Planning and Review Requirements. (1) KHSAA shall submit the following financial documents to the KBE:

(a) Draft budget for the next two (2) years in November of each year;

(b) Annual audit with KHSAA Commissioner's letter addressing an exception within thirty (30) days of receipt of the audit; and

(c) Midyear and end-of-year budget status reports by July 30 and January 30, respectively.

(2) KHSAA shall submit a strategic plan to KBE by June 1 of each year.

(3) KHSAA shall submit a midyear and annual report by July 30 and January 30, respectively.

(4) KHSAA shall complete an annual review of its bylaws by October 30 of each year, including the following:

- (a) Athletic appeals;
- (b) Eligibility rules;
- (c) Duties of school officials;
- (d) Contests; and
- (e) Requirements for officials and coaches.

(5) KHSAA shall submit to KBE a report of all athletic appeals and their disposition by September 1 of each year. The annual report on appeals shall include the name of the individual, grade, school, and the action taken by KHSAA.

Section 4. The bylaws, tournament rules, due process procedures, and officials' guidebook ~~rules~~ of the KHSAA Handbook, October, 1999 ~~[1998-99]~~ shall apply to high school interscholastic athletics in Kentucky.

Section 5. Incorporation by Reference. (1) "Kentucky High School Athletic Association Handbook, October, 1999 ~~[1998-99]~~", Kentucky High School Athletic Association, is incorporated by reference.

(2) This material may be inspected and copied at the Office of Legal Services, Department of Education, First Floor, Capital Plaza Tower, Frankfort, 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: December 14, 1999

FILED WITH LRC: December 14, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on January 21, 2000, 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 January 13, 2000, 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 the Kentucky High School Athletic Association and all its member schools.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
Bureau of Management Support Services
(Amendment)

704 KAR 4:020. School health services. [Comprehensive school health.]

RELATES TO: KRS 156.160[-; HJR 124 (1990 RS)]

STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education [State Board for Elementary and Secondary Education] to adopt administrative regulations governing medical inspection, physical education and recreation, and other rules and administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children[-; and HJR 124 (1990 RS) directs the Cabinet for Human Resources, in conjunction with the Department of Education, to develop a policy to promote appropriate and early diagnosis and

treatment of scoliosis by licensed members of the healing arts]. This administrative regulation establishes standards and criteria for preventative health care examinations at the local school district level [implements the duty of the State Board relative to medical inspections and the physical welfare and safety of public school children; and it formalizes the appropriate interagency agreement on scoliosis detection and treatment].

Section 1. School Employee Medical Examinations [shall be required as follows for the protection of the physical welfare and safety of the public school children].

(1) A [All] local board [boards] of education shall require a medical examination of each certified and classified employee, including each substitute teacher, prior to [teacher upon] initial employment that [which] shall include a tuberculin (TB) skin test. This medical examination requirement shall not apply to bus drivers who are covered by 702 KAR 5:080. A local board of education may require by policy that a school employee physical examination be conducted no earlier than a ninety (90) day period prior to initial employment.

(2) A medical examination shall be reported on the form, "Medical Examination of School Employees".

(3) A person who tests positive for TB [All positive reactors] shall be required to comply with the directives [recommendations] of the local board of health and the Department for Public Health, Cabinet for Health Services [Cabinet for Human Resources] for further evaluation and treatment of the tuberculosis infection.

(4) Following the required medical examination [examinations] for initial employment and any subsequent examinations as may be required for positive tuberculin reactors, a school district employee other than a bus driver [each teacher] shall submit to the local school superintendent a statement indicating his [or her] medical status. The medical examination shall be performed and signed for by a physician, physician assistant, or an advanced registered nurse practitioner.

(5) TB skin test documentation shall include:

(a) The date given;

(b) Type of test;

(c) Millimeters of induration;

(d) Date read and by whom; and

(e) Date x-ray taken or that no further follow-up is necessary unless signs or symptoms of tuberculosis develop.

[(2) All local boards of education shall require upon initial employment and each year thereafter a medical examination of each school bus driver and drivers of special vehicles used to transport school children to and from school and events related to such schools. The medical examination shall include test for hearing and vision disorders, emotional instability, and for serious medical conditions including diabetes, epilepsy, heart disease, and other chronic or communicable diseases if indicated in the opinion of the examining physician. The initial examination shall include tests for tuberculosis and other items mandated by 702 KAR 5:080. All positive reactors shall be required to comply with the recommendations of the local board of health and the Cabinet for Human Resources for further evaluation and treatment of the tuberculosis infection. Following the required medical examination for initial employment and any subsequent examinations, as may be required for positive tuberculin reactors, each bus driver shall submit to the local school superintendent a statement indicating his or her medical status. All medical examinations of the school bus drivers shall be reported on a form prescribed by the State Department of Education and entitled, "Physical Examination Form," dated July 1990 (as required by 49 CFR 391.41), which is incorporated herein by reference, and submitted to the local school superintendent.

(3) All local boards of education shall require a medical examination of each custodian, cafeteria worker, and other classified school employees not specifically covered by subsection (2) of this section upon initial employment. The medical examination shall include tests for tuberculosis, hearing and vision disorders, emotional instability, and for serious medical conditions including diabetes, epilepsy, heart disease, and other chronic or communicable diseases if indicated in the opinion of the examining physician. All positive tuberculin reactors shall be required to comply with the recommendations of the local board of health and the Cabinet for Human Resources for further evaluation and treatment of the tuberculosis infection. Following the required evaluation, each employee shall submit to the local school

superintendent a statement indicating his or her medical status. Medical examinations shall be reported on forms prescribed by the State Department of Education and entitled, "Medical Examination of School Employees," dated January 1993, which is incorporated herein by reference.]

(6) A [(4) The] local board of education shall require all school personnel exhibiting symptoms of chronic respiratory disease to be examined for tuberculosis. The evaluation and any required treatment for tuberculosis infection shall be based upon the directives [recommendations] of the local board of health and the Department for Public Health, Cabinet for Health Services, [standards developed by the Cabinet for Human Resources.]

(a) An employee [Any personnel] exposed to infectious tuberculosis shall be tested and, if necessary, treated for tuberculosis infection according to the directives [recommendation] of the local board of health.

(b) In a county [counties] with a high incidence rate [rates] for tuberculosis infection that is [defined as] equal to or greater than one (1) percent, the local board of health may, with the approval of the Department for Public Health, Cabinet for Health Services, [Cabinet for Human Resources, exercise its legal sanction to] require more extensive testing for tuberculosis than outlined above.

Section 2. Preventative Health Care Examinations. (1) A [Effective with the 1993-94 school year, all] local board [boards] of education shall require a preventative health care [medical] examination of each child within one (1) year [six (6) months] prior to the child's initial admission to school. A second examination shall be required within one (1) year prior to entry into the sixth grade, or initial admission to school. A third examination may be required by policy of the local board of education within one (1) year prior to entry into the ninth grade or initial admission to school.

(2) An out-of-state transfer student shall be required to have documentation of a preventative health care examination.

(3) A local school board [boards] may extend the deadline by which to obtain either preventative health care [medical] examination, not to exceed two (2) months.

(4) A preventative health care examination [Both medical examinations] may be performed and signed for by a physician, an advanced registered nurse practitioner [(ARNP)], a physician's assistant [(PA)], or by a health care provider in the early periodic screening diagnosis and treatment [(EPSDT)] programs.

(5) A preventative health care examination [The medical examinations] shall be reported on the form "Preventative Health Care [forms prescribed by the Department of Education and entitled, "School Medical Examination Form," dated December 1999, January, 1993; which is incorporated herein by reference;] and shall include:

(a) A medical history;

(b) [Record of immunizations and tuberculosis testing;] Assessment of growth and development and general appearance;

(c) Physical assessment including hearing and vision screening; and

(d) Recommendations to the school regarding health problems that may require special attention in classroom or physical education activities.

(6) A record of immunization shall be submitted on a valid immunization certificate.

(7) A local school district [districts] shall establish a plan for implementation and compliance required for the sixth grade preventative health care examination [physicals].

(8) A valid immunization certificate shall be on file within two (2) weeks of the child's [presented prior to school] enrollment in school.

(9) TB testing shall be carried out upon notification by a local health department.

(10) A board [(2) All boards] of education shall adopt a program of continuous health supervision for all school enrollees, [;] Supervision shall include scheduled, appropriate screening tests for vision, hearing and scoliosis. [The need for any further tuberculin skin test shall depend on the risk of exposure of the child and prevalence of tuberculosis in the community, and the need is to be determined pursuant to KRS 214.034.]

(11) A local spinal screening program [programs] for scoliosis shall include:

(a) Training sessions for teachers or lay volunteers who will be doing the screening;

(b) Obtaining parental permission for scoliosis screening;

(c) Established screening times, at least in grades six (6) and eight (8) and appropriate procedures and referral criteria[~~with the Department of Education to provide technical advice on these areas~~];

(d) Mandated education of students regarding scoliosis screening; and

(e) Required referral of all children with abnormal screening results for appropriate diagnosis and treatment and follow-up on these referrals. Local referral and follow-up procedures shall include:

1. Notification of parents of students who need further evaluation by a physician;

2. Tracking referrals to determine whether all children with abnormal screening results receive appropriate diagnosis and treatment; and

3. Reporting of data on screening, referral and follow-up tracking to the Department of Education.

(12) [(3)] The Department of Education shall:

(a) [appropriately] Monitor the spinal screening and referral programs provided by local boards of education;

(b) Provide consultation and technical assistance to local boards of education concerning spinal screening, referral and follow-up for appropriate diagnosis and treatment; and

(c) Encourage local school systems to work cooperatively with local health departments and local Commission for Children with Special Health Care Needs offices to plan, promote and implement scoliosis screening programs.

(13) [(4) An effective mechanism for] Referral and appropriate follow-up of any [apparent] abnormality noted by screening assessment or teacher observation shall be recorded on school health records [within nine (9) weeks of screening program or detection of abnormality].

(14) A [(5) Each] school shall have emergency care procedures. The emergency care procedures shall include:

(a) First aid facilities, including provisions for designated areas for the child to recline;

(b) A requirement that whenever children are present during school hours, there shall be at least one (1) adult present in the schools who is certified in a standard first aid course which includes CPR for infants and children;

(c) Parents' telephone number, or a number at which parents can be reached;

(d) Name of family physician; and

(e) Means of transportation.

(15) A [(6)] local board [boards] of education shall require [all vaccinations and] immunizations [and tuberculosis testing] as required by KRS 214.034, [law or administrative regulations:

(a) Except as otherwise provided by law, all children shall be required to present a valid immunization certificate upon enrollment in school, and a valid up-to-date immunization certificate shall be on file for all children at all times. All children shall also present a tuberculin test certificate or the school medical examination form to the public or private school showing tuberculin skin test administration within one (1) year prior to initial enrollment in school. The governing body of private and public schools shall enforce the provisions of this subsection in accordance with the established laws.

(b) Children transferring into any school district shall comply with the above requirements.]

Section 3. Cumulative Health Records. (1) A [Each elementary and secondary] school shall initiate a cumulative health record for each pupil entering its school. The record shall be maintained throughout the pupil's attendance. The record shall be uniform and shall be on the form [forms prescribed by the Department of Education and entitled] "Pupil's Cumulative Health Record" [dated January 1993, which is incorporated herein by reference]. The record shall include screening tests related to growth and development, vision, [and] hearing, and scoliosis, [; teacher observations of general appearance and behavior;] and findings and recommendations of a physician and a dentist [including immunization record]. A follow-up by the proper health or school authorities shall be made on each abnormality [defect] noted and the result shall be recorded.

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(2) A local school authority [authorities] shall report all known or suspected cases of communicable disease immediately to the local health department.

Section 4. Physical Environment. A board [All boards] of education shall, ~~in relation to each school under its jurisdiction,~~ provide and maintain a physical environment that is conducive to the health and safety of school children ~~in each school under its jurisdiction.~~ A [It shall be the responsibility of all] local board [boards] of education shall [to] comply with current laws and administrative regulations applicable to all public buildings pertinent to health, sanitation, and safety. A [In accordance with current administrative regulations and standards by authorities having jurisdiction, it shall be the responsibility of all] local board [boards] of education shall [to] establish:

- (1) An adequate supply of water of safe, potable, sanitary quality;
- (2) A state-approved sanitary disposal of sewage, other water carried waste, and solid waste;
- (3) Adequate toilet and lavatory facilities, including soap or detergent as well as towels or other methods for drying hands, and other sanitary fixtures;
- (4) Adequate heating, lighting, and ventilation in all school buildings;
- (5) Adequate facilities and equipment for cafeterias and lunchrooms;
- (6) Supervision of general sanitation and safety of the school buildings, grounds, and playground equipment;
- (7) Adequate first aid facilities;
- (8) Adequate control of air pollutants; and
- (9) Universal precautions guidelines compatible with Occupational Safety and Health Administration [OSHA] guidelines.

Section 5. A superintendent [Each board of education] shall designate a person to serve as school district health coordinator. The person designated shall meet the minimum qualifications required of this position as determined by the Educational Professional Standards Board in 704 KAR Chapter 20 or by the Kentucky Department of Education in the "Kentucky Local District Classification Plan for Classified Employees", Class Code: 7271, Class Title: School District Health Coordinator, dated December 1999. The school district health coordinator shall work in cooperation with all school personnel, the local board of education, the State Department of Education, the local health department, family resource and youth services centers and parents in planning, promoting, and implementing a school health services program ~~[that meets the administrative regulations adopted by the State Board for Elementary and Secondary Education].~~

Section 6. Incorporation by Reference. (1) The following documents are incorporated by reference:

- (a) "Medical Examination of School Employees", dated December 1999;
- (b) "Preventative Health Care Examination Form", dated December 1999;
- (c) "Pupil's Cumulative Health Record", dated January 1993;
- (d) "Kentucky Local District Classification Plan for Classified Employees", "Class Code: 7271, Class Title: Local District Health Coordinator", dated December 1999.

(2) These documents may be inspected and copied at the Division of Student, Family, and Community Support Services, Department of Education, 17th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. through 4:30 p.m. [Each local board of education shall require an annual medical examination of each child as a prerequisite for eligibility in interscholastic athletics. A local board of education may require the examination to be paid by the parent of the child.]

Section 7. All forms incorporated herein by reference may be inspected, copied, and obtained from the Division of Student/Family Support Services, School/Community Resource Branch, Department of Education, 17th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.]

WILMER S. CODY, Commissioner

HELEN MOUNTJOY, Chairperson

KEVIN M. NOLAND, Attorney

APPROVED BY AGENCY: December 14, 1999

FILED WITH LRC: December 14, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on January 21, 2000, 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 January 13, 2000, 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: School district employees and students should be healthier when medical problems are detected early as a result of a medical examination.
 - (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 Public Health
Division of Adult and Child Health
(Amendment)

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

RELATES TO: KRS 194A.030, 194A.050, 194A.505 [194.050], 211.180, 7 CFR Part 246

STATUTORY AUTHORITY: KRS 194A.030, 194A.050 [Chapter 194B, 194.050(1)], 211.090(3), 211.180, 7 CFR Part 246, 42 USC 1786[-, EO 96-862]

NECESSITY, FUNCTION, AND CONFORMITY: 42 USC [sec.] 1786[-, the "Child Nutrition Act of 1966," as amended] and 7 CFR Part 246, provides for [authorizes] grants for state operation of the Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC). KRS 194A.050(1) authorizes the Cabinet for Health Services [is authorized by KRS 194.050] to promulgate [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 establishes [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, including [and to include] the sanction, and hearing processes. [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) "Certifying professional authority" means a person who is authorized to determine eligibility and certify persons for the WIC Program, including the following:

- (a) A physician;
- (b) A nutritionist with a bachelor's degree;
- (c) A certified nutritionist with a master's degree and certification by the State Board of Certification and Licensure;
- (d) A registered and licensed dietitian;
- (e) A registered nurse;
- (f) A licensed practical nurse;
- (g) An advanced registered nurse practitioner; and
- (h) A physician's assistant that is certified by the state medical certifying authority.

(2) "Compliance buy" means a covert, on-site investigation in which a representative of the WIC Program poses as a participant and engages in a transaction of one (1) or more food instruments and does not reveal his or her identity during the visit.

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

(4) "Food package" means, for the purpose of participant access determination, three (3) food instruments issued to a participant, valid for the same time period.

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

(6) "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.

(7) "Investigation" means a method used by the state agency to determine a WIC Program violation.

(8) "Local agency" means, for purpose of a fair hearing, any applying or participating WIC agency.

(9) "Participant" means a pregnant, breastfeeding or postpartum woman, infant, or child who is receiving supplemental food or food

instruments, and the breastfed infant of a breastfeeding woman who is receiving WIC Program benefits.

(10) "Person" means for an 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) "Proxy" means a person authorized to act for a participant.

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

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

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

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

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

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

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

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

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

(4) "Vendor" means a vendor of food items who applies for participation in the Special Supplemental 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).

(5) "WIC program" means the Special Supplemental Food Program for Women, Infants and Children (WIC) administered pursuant to 42 USC sec. 1786.

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

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

Section 2. Purpose. The [purpose of the] Special Supplemental Nutrition [Food] Program for Women, Infants and Children (WIC) is authorized 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. Eligibility. To be certified as eligible to participate in the WIC Program, a person shall:

(1) Be categorically eligible as follows:

(a) A pregnant woman [Pregnant women];

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

(c) A breastfeeding woman [women], up to the infant's first birthday;

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

(e) A child [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 one (1) of the following [the] nutritional risk criteria [as outlined. The following conditions are considered the basis for certification]:

(a) A detrimental or abnormal nutritional condition [conditions] detectable by biochemical or antropometric measurements, such as;

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1. Anemia;
2. Underweight;
3. Overweight;
4. Abnormal pattern of weight gain in pregnant women;
5. Low weight gain in an infant; or

6. Stunting in an infant or child. [anemia, underweight, 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 condition [conditions], such as:

1. Clinical signs of nutritional deficiency;
2. Metabolic disorder;
3. Pre-eclampsia in pregnant women;
4. Failure to thrive in an infant;
5. Chronic infections;
6. Alcohol or drug abuse or mental retardation in women;
7. Lead poisoning;
8. History in a pregnant woman of high risk pregnancies or as-

sociated factors such as:

- a. Smoking;
- b. Conception before sixteen (16) months postpartum;
- c. History of low birth weight, premature births, or neonatal loss;
- d. Adolescent pregnancy;
- e. Current multiple pregnancy;
- f. Congenital malformation in infant born of a woman with alcohol or drug abuse history or mental retardation; or [clinical signs of nutritional deficiencies, metabolic disorders, pre-eclampsia in a pregnant woman, or failure to thrive in an infant;]

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

(d) A condition [Conditions] that predisposes a person [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;]

(6) [(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]

(7) [(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 [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. Certification Periods. Program benefits shall be based upon certifications established in accordance with the following time frames:

(1) A pregnant woman [Pregnant women] shall be certified for the duration of her [their] pregnancy and for up to six (6) weeks postpartum.

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

(3) A breastfeeding woman [Breastfeeding women] shall be certified at intervals of approximately six (6) months and ending with the breastfed infant's first birthday.

(4) An infant [Infants] shall be certified at intervals of approximately six (6) months, except an infant [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 is [are] not diminished.

(5) A child [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.

Section 5. Priority System. 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 6. 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 7. Time Frames for Processing Applicants. [5:] Pregnant and breastfeeding 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 applicants [other persons applying for the program] shall be screened and notified of program eligibility or ineligibility within twenty (20) days.

Section 8. Nutrition Education. Nutrition education shall be made available to the participant and shall 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 each participant. Breastfeeding information and encouragement to breastfeed shall be provided to each pregnant participant unless contraindicated.

Section 9. Participant Abuse of the Program. (1) A written warning shall be given 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) Purchasing unauthorized foods;
- (b) Redeeming food instruments at an unauthorized store;
- (c) Attempting to sell or exchange supplemental food or a WIC food instrument or food instruments with another individual, group, or a vendor; or

(d) Returning supplemental foods to a vendor for cash.
(2) The following specified action shall be taken for a proven or documented act by a participant or the participant's parents, guardian, or other authorized proxy:

(a) Redeeming a food instrument 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 the discretion of the certifying professional authority.

(b) Redeeming a food instrument which has previously been reported to the WIC agency as being lost or stolen and which has been replaced by another food instrument.

1. First offense: written warning.
2. Second offense: claim for amount of food instruments redeemed.

(c) Purchasing unauthorized food.
1. First offense: written warning.
2. Second offense: one (1) month suspension.

(d) Redeeming a food instrument at an unauthorized store.
1. First offense: written warning.
2. Second offense: one (1) month suspension.

(e) Threatening physical abuse or verbal abuse of clinic or vendor staff.
1. First offense: Written warning - if possible, another staff member 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: three (3) month suspension.

(g) Exchanging or selling supplemental food or a WIC food instrument with another individual, group, or vendor.
1. First offense: three (3) month suspension.
2. Second offense: three (3) month suspension.

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

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Supplemental Food Program (CSFP).

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

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

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

1. First offense: three (3) month disqualification and claim for improperly issued benefits.

2. Second offense: three (3) month disqualification and claim for improperly issued benefits.

(3) The amount of a 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 months.

(4) A participant who repeatedly abuses the WIC Program will be referred to the Office of the Inspector General for prosecution under applicable statute.

(5) Activities prohibited by KRS 194A.505 apply to participants, vendors, and agency personnel. Penalties in KRS 194A.990 apply to participants, vendors, and agency personnel who have violated KRS 194A.505.

Section 10. Fair Hearing Procedures for Participants. [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 notification of:

(a) Being ineligible for the program; [When found ineligible;]

(b) Being disqualified or suspended [Disqualification or suspension] during a certification period; and

(c) Issuance of [An action which resulted in] a claim [against an individual for repayment of improperly issued benefits].

(2) The first level of hearing for a person is with the local WIC agency that has taken the adverse action against the person.

(3) A person [Persons] requesting a fair hearing shall contact the appropriate WIC agency within sixty (60) days from the date of the letter notifying the person of the adverse action [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 person [appellant] with at least [a minimum of] ten (10) days advance written notice of the time and place of the hearing.

(a) The WIC agency shall provide the person [appellant] or the person's [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 an [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.

(4) [(3)] A person may appeal the [a local] hearing officer's [officer] decision to the secretary within fifteen (15) days of the mailing date of the hearing decision notice pursuant to Section 16 [(1)] of this administrative regulation and KRS 13B.050.

Section 11. Vendor Authorization Criteria. [7:] (1) Only a vendor authorized by the cabinet shall redeem a food instrument.

(2) 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].

(3) [(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" outlined in the WIC Information Manual for Prospective Vendors, as incorporated by reference;

1. The stock shall be in the store or in the store's stockroom.

2. Expired foods do not count towards meeting the minimum inventory requirement.

3. A pharmacy shall supply formula within forty-eight (48) hours of the WIC agency request. [Pharmacies need to stock formula 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, outlined in the WIC Information Manual for Prospective Vendors and the WIC Vendor Manual as incorporated by reference;

(e) Be in compliance with other Food and Consumer (FCS) Programs;

1. Not be disqualified or withdrawn by the United States Department of Agriculture (USDA) from participation in another Food and Consumer Service (FCS) Program;

2. Not be denied application to participate in the Food Stamp Program;

3. Not be currently paying a civil money penalty to the Food Stamp Program; or

4. Not having been assessed a civil money penalty by the Food Stamp Program within the last two (2) years.

(f) Requesting authorization for a business whose primary purpose is to be a retail grocery.

1. A direct distribution outlet and a wholesale food establishment are not eligible.

2. A retail firm whose primary business is something other than a retail grocery is not normally eligible for the WIC Program.

3. A retail firm shall:

a. Have a separate and distinct grocery department in a stationary location which stocks staple food items in addition to WIC approved foods.

(i) Staple food items are defined as foods such as meat, poultry, fish, bread and breadstuff, cereals, vegetable, fruit, fruit and vegetable juices, and dairy products.

(ii) Staple food items are not items such as coffee, tea, cocoa, carbonated and uncarbonated drinks, condiments and spices.

b. Have twenty (20) percent of gross sales in nontaxable food sales excluding specialty items such as bakery goods for bakery, produce for fruit and vegetable stands.

4. A dairy or home delivery grocery shall not be approved if it operates solely as a mobile operation.

[(e) Not be disqualified or withdrawn by USDA from participation in another FNS program nor denied application to participate in the food stamp program.

(f) Be requesting 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.

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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 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; and

(i) Not in debt to the WIC Program for an unpaid claim or a civil money penalty for a store owned or previously owned by the applying owner.

(4) Determination of the business integrity and reputation of the applying vendor shall be based upon the following:

(a) Criminal conviction records reflecting on the honesty or integrity of officers or managers of the applicant firm;

(b) Official records of removal from other federal, state or local programs;

(c) Judicial determination in civil litigation reflecting on the integrity of officers or managers of the applicant firm;

(d) Evidence of an attempt 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;

(e) Evidence of prior fraudulent behavior of an officer, manager or employee of the applicant firm; and

(f) Other evidence reflecting on the business integrity and reputation of the applicant.

(5) A contract shall not be entered into with a vendor if the contract would cause a conflict of interest, real or apparent.

Section 12. Vendor Right to a Hearing. [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 adverse actions:

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

(b) Disqualification; or

(c) Other adverse action which affects participation during the agreement performance period.

(2) The following actions are [Expiration of an agreement with a vendor is] not subject to appeal:

(a) Expiration of an agreement with a vendor;

(b) The WIC Program's determination of participant access; or

(c) Disqualification from the WIC Program as a result of disqualification from the Food Stamp Program.

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

Section 13. Vendor Violations and Sanctions. (1) [9:] For the following violations [acts or circumstances] committed by the vendor, his employee or agent, the cabinet shall impose the following state agency sanctions:

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]

(a)1. Vendor violation: failure to record actual purchase price on a WIC food instrument at the time of purchase.

2. Pattern of incidence and length of disqualification:

a. First investigation. Two (2) positive compliance buys out of three (3) shall result in a written warning.

b. Second investigation. Two (2) positive compliance buys out of three (3) shall result in a three (3) month disqualification.

c. Third investigation. Two (2) positive compliance buys out of three (3) shall result in a six (6) month disqualification.

(b)1. Vendor violation: failure to pay a claim made by the state agency. The state agency shall request payment as follows:

a. Mail a letter to the vendor requesting payment by a specified date;

b. If payment is not received, contact vendor by telephone requesting payment; and

c. If payment is not received, mail a second letter by certified mail, return receipt requested.

2. Pattern of incidence and length of disqualification:

a. First instance shall result in a three (3) month disqualification.

b. Second instance shall result in a six (6) month disqualification.

c. Third instance shall result in a one (1) year disqualification.

(c)1. Vendor violation: failure to return the WIC vendor authorization stamp upon request. Before issuance of a sanction, the state agency shall contact the vendor by telephone to request the return of the stamp.

2. Pattern of incidence and length of disqualification: three (3) months shall be added to the previously established disqualification

period.

(d) After three (3) federal fiscal years without reoccurrence of the violations listed in paragraph (a), (b), or (c) of this subsection, 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 imposed 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 for a thirty (30) day period which 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 for a ninety (90) day period 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 customers 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:

(i) 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

(ii) 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.

b. The state agency shall:

(i) Require any vendor who has received two (2) letters for price discrepancies during the federal fiscal year to receive training provided by the state agency.

(ii) Notify any vendor who exhibits a pattern of low variance for two (2) or more quarters during the federal fiscal year.

c. Three (3) positive compliance buys out of three (3) shall result in a three (3) year disqualification for a vendor who does not meet the conditions in clause a of this subparagraph.

(f)1. Vendor violation: receiving, transacting or redeeming a food instrument 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 a food instrument by an unauthorized person, not a participant, proxy, or undercover investigator as determined 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 re-

ceived by the participant which means charging for one (1) food item or more 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 which means an IOU, a rain check, a due bill, or store credit, 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 as the Food Stamp Program disqualification.

(m) A vendor who has been assessed a civil money penalty by the Food Stamp Program as provided under 7 CFR 278.6, shall be disqualified from the WIC Program for the same length of time for which the vendor would have been disqualified from the Food Stamp Program unless the WIC Program determines that disqualification would result in inadequate participant access in which case no penalty shall be assessed.

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

(4) If a vendor who has previously received two (2) or more of any of the mandatory sanctions designated in subsection 2(a) through (k) of this section receives another sanction for a violation designated in subsection 2(a) through (k) of this section, the third and all subsequent sanctions shall be doubled. A civil money penalty shall not be assessed for a third or subsequent sanction.

Section 14. Participant Access Determination and Civil Money Penalty. (1) Prior to disqualifying a vendor for any violation specified in Section 13 of this administrative regulation, the WIC Program shall determine if disqualification of the vendor will result in inadequate participant access.

(2) The determination and documentation of adequate participant access shall be made using the criteria provided in subsection (4) of this section.

(3) Mileage shall be measured by automobile odometer.

(4) There is adequate participant access, if:

(a) There is another vendor less than or equal to seven (7) miles from the vendor; or

(b) There is another vendor between the health department or health department service site and the subject vendor and the health department or health department service site is less than or equal to seven (7) miles from the other vendor; and

(c) There is no geographic barrier, such as an impassable mountain, or river, between the subject vendor and the next accessible vendor.

(5)(a) The subject vendor is redeeming food instruments for formulas classified as special formulas and there is another vendor within seven (7) miles that can obtain the formula.

(b) If five (5) or more total food packages are redeemed by the subject vendor in the calendar month period immediately preceding the issuance of a sanction letter, then the WIC coordinator shall be consulted to determine if special cases exist which will result in inadequate participant access.

(6) If inadequate participant access is determined, a civil money penalty shall be assessed for the violations listed in Section 13 of

this administrative regulation. The civil money penalty shall be calculated in accordance with the procedures outlined in the Vendor Manual, incorporated by reference.

(7) The WIC Program shall negotiate an installment plan for the collection of a civil money penalty.

(8) 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 violation.

[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 15. Local Agency Right to a Hearing. [4-] If a local [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 16 [11] of this administrative regulation.

Section 16. Administrative Appeal. [11-] (1) A person appealing a local agency hearing officer's decision or [Any participant], a vendor or a local agency aggrieved by 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, in compliance with KRS 13B.030(1), shall appoint an impartial hearing officer to conduct the hearing. Within fifteen (15) [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 person [participant] and the state agency.

(3) The hearing officer[es] 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 [provisions] governing the WIC Program.

(4) A recommended decision complying with KRS [Chapter] 13B.110 [(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 appellant [vendor] no later than sixty (60) days from the date of receipt of the written request for hearing unless the appellant waives this date in writing. The decision shall advise the appellant of the right to appeal pursuant to KRS 13B.140.

Section 17. Incorporation by Reference. (1) The following material is incorporated by reference:

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

(b) "WIC Vendor Manual" 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. WALKER, Attorney
JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: December 13, 1999

FILED WITH LRC: December 15, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held January 21, 2000, at 9 a.m., in the Cabinet for Health Services Auditorium, 1st floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by January 13, 2000. If no notice of intent to attend the hearing is received by that date the hearing may be canceled. The hearing is open to the public. Any person who attends will be given the opportunity to comment on the proposed administrative regulation. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notice of intent to attend the public hearing or written comments to: Kevin Devlin, Cabinet Regulation

Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, (502) 564-7905, FAX (502) 564-7573.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Fran Hawkins

(1) Type and number of entities affected: All pregnant, breast-feeding, 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, breastfeeding 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, breastfeeding 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.

mittee 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.

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 Public Law 103-448, as Healthy Meals for Healthy Americans Act of 1994 and Public Law 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 com-

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, DECEMBER 15, 1999

OFFICE OF ATTORNEY GENERAL
Child Sexual Abuse and Exploitation Prevention Board
Victims Advocacy Division
(New Administrative Regulation)

40 KAR 6:020. Funding assistance for child sexual abuse medical examinations.

RELATES TO: KRS 15.905 to 15.940, 18.1867, 41.400

STATUTORY AUTHORITY: KRS 15.180, 15.935 (1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.935(1)(b) authorizes the Child Sexual Abuse and Exploitation Prevention Board to fund, from the Child Victims' Trust Fund created pursuant to KRS 41.400, the cost of medical examinations of victims of suspected child sexual abuse to the extent the fee for an examination is a service not eligible to be paid for by Medicaid or private insurance. The function of this administrative regulation is to establish standards and criteria governing the allocation of funding assistance for the case management aspects of child sexual abuse medical examinations in accordance with KRS 15.935.

Section 1. Definitions. (1) "Applicant" means an eligible provider, as defined in this section, applying for child sexual abuse medical examination funding assistance.

(2) "Board" means the Child Sexual Abuse and Exploitation Prevention Board created pursuant to KRS 15.905.

(3) "Case management" means all administrative aspects of the child sexual abuse medical examination and may include, but is not limited to, the following:

- (a) Transcription of records;
- (b) Scheduling appointments;
- (c) Coordination of services;
- (d) Making referrals for services; and
- (e) Consultation with multidisciplinary teams, court personnel, officers of the court, parents or guardians, social workers, law enforcement and any other party involved in the treatment or protection of the child.

(4) "Child" means a person under the age of eighteen (18).

(5) "Child sexual abuse medical examination" means a complete physical examination of a child with a special focus on the ano/genital area or oral cavity and the case management associated with the physical examination.

(6) "Eligible provider" means a private, non-profit agency whose primary purpose is to provide, either directly or through contract, prevention, intervention, and treatment services to sexually abused children and their families within a child-focused multidisciplinary team approach.

Section 2. Application for Child Sexual Abuse Medical Examination Funding Assistance. (1) An eligible provider as defined in Section 1 of this administrative regulation may annually apply to the board for child sexual abuse medical examination funding assistance to be provided from the Child Victims' Trust Fund created pursuant to KRS 41.400. Funding shall only be used to pay for the case-management aspects of a child sexual abuse medical examination. The term of the financial assistance shall be the state fiscal year.

(2) An applicant for child sexual abuse medical examination funding assistance shall use an application form provided by the board.

(3) The application form "Application for Child Sexual Abuse Medical Examination Funding Assistance" is hereby incorporated by reference. It may be inspected, copied, or obtained from the Director, Victims Advocacy Division, Office of Attorney General, 1024 Capital Center Drive, Frankfort, Kentucky 40601, 8 a.m. through 4:30 p.m., Monday through Friday.

Section 3. Funding Requirements. (1) The total funds annually awarded by the board to each applicant for child sexual abuse medical examination funding assistance shall be limited by the availability of funds and board approval.

(2) In no event shall reimbursement for the case management aspects of a child sexual abuse medical examination exceed \$150 per

case.

(3) Applicants for funding assistance shall provide assurances to the board that:

(a) Funding assistance will be used solely for the purpose of reimbursing the case management aspects of child sexual abuse medical examinations as defined in Section 1 of this administrative regulation;

(b) Funding assistance will supplement and not replace existing funds received by the applicant from other sources for child sexual abuse medical examinations;

(c) Funding assistance will not be used to reimburse services for which there is private health insurance coverage, or where another third party has a legal obligation to pay; and

(d) Persons performing any child sexual abuse medical examination services comply with all applicable state and federal licensing or certification requirements.

Section 4. Funding Criteria. Allocation of funding assistance for child sexual abuse medical examinations shall be based on funds available in the Child Victims' Trust Fund created pursuant to KRS 41.400 and the following criteria:

(1) Whether the applicant is currently providing or plans to provide child sexual abuse medical examinations either directly or by contract with medical providers, for children believed to have been sexually abused;

(2) Whether the applicant demonstrates a need for financial assistance to be used to provide medical examinations in the geographic area served by the applicant; and

(3) Whether the applicant has the demonstrated ability to provide access to child sexual abuse medical examinations in the geographic region served by the applicant.

Section 5. Reporting Requirements. No later than ninety (90) days after the end of the state fiscal year, applicants receiving financial assistance under this administrative regulation shall submit a final report to the board containing the following information:

(1) The applicant's total child sexual abuse medical examination budget for the period funded, which includes the amount and sources of revenue for the child sexual medical examinations and the total amount expended on the examinations;

(2) The number of child sexual abuse medical examinations conducted for the period funded; and

(3) An itemized list of the actual costs for the child sexual abuse medical examinations conducted, including but not limited to, the fees paid to medical personnel, laboratory fees, billing, administrative costs, and the costs for any special procedures conducted.

Section 6. Appeals. Any applicant denied available funding under this administrative regulation shall have a right to appeal pursuant to KRS Chapter 13B.

A. B. CHANDLER III, Attorney General

RICHARD CARROLL, Legal Counsel

APPROVED BY AGENCY: October 27, 1999

FILED WITH LRC: December 14, 1999 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on January 24, 2000, at 9 a.m. in Conference Room A, Attorney General's Office, Second Floor, 1024 Capital Center Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 14, 2000, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If a person does not wish to be heard at the public hearing, that person 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.

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CONTACT PERSON: John W. Patterson, Victim Advocate, Attorney General's Office, 1024 Capital Center Drive, Frankfort, Kentucky, 40601, telephone number (502) 696-5312, facsimile number (502) 573-8315.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan Blake, Director, Victims Advocacy Division

(1) Type and number of entities affected: This administrative regulation will affect directly providers of child sexual abuse medical examinations and indirectly children receiving the examinations. The number of providers is believed to be fewer than 25. The number of children will be approximately 1,000 in each 12 month period.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Not applicable.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Not applicable.

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

1. First year following implementation: Providers of child sexual abuse medical examinations must submit a monthly report on the number and cost of examinations in order to receive reimbursement. Ninety days after the end of the state fiscal year, each provider must submit a report containing the budget for the period funded including revenues used for the examinations and the total amount expended on the examinations, the number of examinations conducted for the period funded, and an itemized list of the actual costs for the examinations.

2. Second and subsequent years: The same requirements in the first year apply to the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs of savings:

1. First year: Administrative costs of reviewing monthly reports, making preparations for reimbursement of providers, and of the final reports will be the only foreseeable cost.

2. Continuing costs or savings: The same costs identified for the first year will be continuing costs.

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: Funds to pay providers for case management aspects of the child sexual abuse medical examinations come from the Child Victims' Trust Fund (KRS 41.400). Administrative tasks will be performed by staff of the Attorney General's Office.

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

(a) Geographical area in which the administrative regulation will be implemented: There is no anticipated economic impact.

(b) Kentucky: The response is the same as (6)(a).

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 15.935 provides for the use of funds from the Child Victims' Trust Fund to support child sexual abuse medical examinations.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Improvement of the system by which examinations are made available results in several advantages for the protection and welfare of children. Providing child sexual abuse medical exams offers an opportunity for treating trauma, sexually transmitted diseases, and other physical conditions associated with the abuse. Further, it provides assistance to social workers who often must make decisions about further protection of the child. It also provides assistance to law enforcement and prosecutors by collecting medical evidence used in the investigation and prosecution of child sexual abuse cases.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Failure to implement this regulation would have a detrimental effect on children who are believed to be victims of sexual abuse, and on the agencies responsible for their protection.

(c) See the explanation in (8)(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: Not applicable.

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not applied. No area of the state or groups will be treated differently. All providers will be subject to the same terms and procedures.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect.

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

KENTUCKY STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS (New Administrative Regulation)

201 KAR 18:192. Continuing professional development.

RELATES TO: KRS 322.290(14)

STATUTORY AUTHORITY: KRS 322.290(14)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322.290(14) requires the board to adopt a program of continuing education for professional land surveyors. This administrative regulation implements the continuing professional development program mandated by KRS 322.290(14) for professional land surveyors.

Section 1. Definitions. (1) "Continuing professional development" (CPD) means participation in activities, beyond the basic educational requirements, that provide specific content planned and evaluated to improve the land surveyor's professional competence and:

(a) Encourage acquisition of new skills and knowledge required to maintain competence; and

(b) Strengthen the professional land surveyor's critical inquiry and balanced judgment; and

(c) Raise the ethical standards within the professional community; and

(d) Which meet the requirements established by the provisions of this administrative regulation.

(2) "Professional development hour" (PDH) means not less than fifty (50) minutes of instruction or presentation that meets the requirements of this administrative regulation.

(3) "Provider" means a person, school, association, company, corporation or group who has developed a CPD activity. The provider or its designated representative must participate directly in the presentation.

(4) "Sponsor" means a group, such as a professional society, offering activities by providers.

(5) "Completion" means the professional land surveyor has satisfactorily met specific requirements of an offering (e.g., passing

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a university course or attending a seminar).

(6) "Reporting period" means the two (2) calendar-year period immediately before the professional land surveyor's licensure renewal.

(7) "CPC" means the Continuing Professional Development Committee.

Section 2. Continuing Professional Development Committee. (1) The chair of the State Board of Licensure for Professional Engineers and Land Surveyors shall appoint a Continuing Professional Development Committee and name its chair at the first regularly scheduled meeting of the board every calendar year.

(2) The CPDC shall consist of at least four (4) members of which at least two (2) members are members of the Kentucky Association of Professional Surveyors. The CPDC shall include at least two (2) members of the board who are professional land surveyors.

(3) Work of the CPDC shall be considered work of the board and compensation shall be given as provided by KRS 322.270.

(4) The CPDC shall hold regular meetings and a record of its action shall be maintained.

(5) The CPDC has the authority to rule on all matters concerning continuing professional development. Decisions of the CPDC must be ratified by the board. Anyone who disagrees with a decision of the CPDC may direct his concerns to the board for consideration at the board's next meeting.

Section 3. Program Structure. (1) Except as provided otherwise in this administrative regulation, a professional land surveyor shall complete and report to the board a minimum of eight (8) professional development hours for each calendar year. The eight (8) professional development hours shall include:

(a) A course in professional ethics which shall be:

1. Approved by the CPDC as meeting the ethics requirement;
2. Taken in accordance with Section 4 of this administrative regulation;

3. Taken once before the end of four (4) calendar years from previous attendance.

(b) A course in standards of practice for professional land surveyors which shall be:

1. Sponsored by the board;
2. Taken in accordance with Section 4 of this administrative regulation;
3. Taken once before the end of four (4) calendar years from previous attendance.

(2) A maximum of four (4) hours in excess of the eight (8) professional development hours required to be earned in a calendar year may be carried forward to the next calendar year.

(3) Failure to earn the eight (8) professional development hours shall constitute unprofessional conduct.

Section 4. Criteria for Professional Development. (1) Professional development hours may be earned by successful completion of the following activities subject to approval by the CPDC and board:

- (a) College or university courses;
 - (b) Seminars;
 - (c) Tutorials;
 - (d) In-house programs sponsored by corporations or other organizations;
 - (e) Correspondence courses;
 - (f) Televised or videotaped courses with approved supervision;
 - (g) Distance learning courses with approved supervision;
 - (h) Teaching or instructing courses, programs, or items specified in this subsection. The credit may be claimed at twice the number of hours permitted participants;
 - (i) Making or attending approved presentations at technical or professional meetings; or
 - (j) Publication of papers, articles, or books related to the practice of land surveying.
- (2) Activities described in subsection (1) of this section shall:
- (a) Be relevant to the practice of land surveying;
 - (b) Contain technical, ethical, or managerial subjects;
 - (c) Be an organized program of learning, presented sequentially;

(d) Be conducted by individuals with education, training, or expertise acceptable to the CPDC;

(e) Be offered for the number of professional development hours approved by the CPDC; and

(f) Not include in-service training, orientation to specific institutional policies and practices, or time used to sell or advertise a product.

(3) CPD activities shall earn credit only when substantially different from a course for which credit was granted in the previous two (2) calendar years.

(4) Professional development hours shall be converted as follows:

(a) One (1) university semester hour shall equal fifteen (15) professional development hours.

(b) One (1) university quarter hour shall equal ten (10) professional development hours.

(c) One (1) continuing education unit shall equal ten (10) professional development hours.

(5) Unless stated otherwise in this administrative regulation, credit for courses shall be earned at the rate of one (1) professional development hour for each hour of instruction completed, if approved by the CPDC.

Section 5. Approval of a Continuing Professional Development Activity. Activity approvals may be granted for sponsors, providers, or individual professional land surveyors as follows:

(1) Approval of activities is valid for a specified approval period or until alteration of the activity is approved by the CPDC.

(2) Failure to notify the CPDC of a change in an activity may render approval of the activity null and void.

(3) Prior to approval, an activity shall not be advertised as approved for Kentucky professional land surveyors without a conspicuous notice that the activity has been "submitted for consideration."

(4) If prior approval is desired, a written request for approval of the activity shall be submitted to the CPDC on "Continuing Professional Development Course Approval Form" at least sixty (60) days prior to presentation of the activity. All other requests for approval of an activity shall be submitted to the CPDC on a "Continuing Professional Development Course Approval Form" at least two (2) weeks before the CPDC meeting which considers the activity for approval.

(5) All requests for approval of an activity shall be accompanied by:

- (a) A detailed outline and objectives;
- (b) A time outline including registration, introductions, welcomes, breaks, and meals;
- (c) Handouts or reference materials needed to evaluate the activity; and
- (d) A resume for each instructor or speaker in the activity.

(6) The CPDC or board reserves the right to send a representative to monitor an activity:

(a) The provider or sponsor shall waive all fees for the CPDC or board representative; and

(b) Approval for the activity may be withdrawn for subsequent iterations of the activity, if significant variation is observed from the approved activity.

(7) An evaluation form shall be made available for participants at each presentation.

(8) An individual under disciplinary action from the board or a business entity with a principal who is under disciplinary action from the board is prohibited from presenting a CPD activity for credit without specific approval from the board.

(9) When a provider fails to obtain prior approval, a professional land surveyor may request credit for an activity by making a written request to the CPDC and including the items listed in subsection (5) of this section.

(10) Upon approval, an activity will receive a CPD number which shall be used to identify the activity.

(11) If an activity is not approved by the CPDC, the requestor shall be sent notice of nonapproval within two (2) weeks of its decision. This decision will be presented to the board at its next meeting for ratification.

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Section 6. Exemptions and Extensions. The following professional land surveyors may be exempted from the requirements of this administrative regulation by submitting a written request to the CPDC with supporting documentation for the exemption:

(1) A professional land surveyor shall be exempted for the calendar year in which he is initially licensed by the board.

(2) A professional land surveyor who cannot satisfy the CPD requirement because of physical disability, illness, or other extenuating circumstance may be exempted for the calendar year in which the disability, illness, or extenuating circumstance occurs. The CPDC may grant an extension of time to fulfill the yearly CPD requirement for an extenuating circumstance.

(3) An exemption or extension request shall be made in writing for each calendar year and the exemption or extension is only valid for that calendar year.

Section 7. Reinstatement. Before a license is reinstated by the board, a former professional land surveyor shall earn the continuing professional development hours required for each year his license was revoked, suspended, or expired, up to a maximum of thirty-two (32) professional development hours.

Section 8. Reporting. By January 15 following each reporting year, every professional land surveyor shall report, in writing to the board, the CPD programs attended and the corresponding professional development hours earned. This report shall be certified and signed by the professional land surveyor. Reports filed after January 15, shall be accompanied by a \$100 late fee and shall be subject to an audit.

Section 9. Audits. (1) Compliance with the annual CPD requirements shall be determined through an audit process. Professional land surveyors shall be audited through a random selection process or as the result of information provided to the board. Individuals selected for audit shall provide the board with documentation of the CPD activities claimed for the renewal period. Appropriate documentation includes:

(a) Verification records in the form of transcripts, completion certificates, or other documents supporting evidence of participation.

(b) Information regarding seminar or course content, instructors, and sponsoring organizations.

(2) Verification records and documentation for audit purposes shall be maintained by individual licensees for a period of three (3) years after completion of the CPD activity.

(3) If the board disallows continuing professional development credit pursuant to an audit, a licensee shall, before June 1 following the reporting period:

(a) Substantiate the disallowed continuing professional development credit; or

(b) Earn sufficient hours to meet the CPD requirement.

(4) Failure to comply with the CPD requirements shall result in non-renewal of the professional land surveyor's license without a hearing.

JOSEPH F. SISLER, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: December 13, 1999

FILED WITH LRC: December 15, 1999 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on January 27, 2000, at 10:30 a.m., at the State Board's office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by January 20, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Perkins, Executive Director, Kentucky State

Board of Licensure for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601, Telephone: (502) 573-2680, Fax: (502) 573-6687.

REGULATORY IMPACT ANALYSIS

Agency Contact: Larry Perkins

(1) Type and number of entities affected: Approximately 2500 land surveyors.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: No direct or indirect costs or savings on the cost of doing business.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect costs or savings for the first year.

2. Continuing costs or savings: No continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No effects on reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The source of revenue to be used for implementation and enforcement of this administrative regulation will be licensing fees.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effects are anticipated on public health and environmental welfare.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effects on environment and public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: No such statute, regulation, or policy exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(10) Any additional information or comments: There is no additional information or comments.

(11) TIERING: Is tiering applied? Tiering was not applied because all land surveyors are treated uniformly under the law.

KENTUCKY BOARD OF CERTIFICATION OF ALCOHOL AND
DRUG COUNSELORS
(New Administrative Regulation)

201 KAR 35:050. Curriculum of study.

RELATES TO: KRS 309.083(5)

STATUTORY AUTHORITY: KRS 309.0813(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.083(5) requires that applicants for certification shall have completed 270 classroom hours of board-approved curriculum. This administrative regulation identifies the areas of study that will satisfy the requirement.

Section 1. The 270 classroom hours of curriculum required by KRS 309.083(5) to receive certification as an alcohol and drug counselor shall be specifically related to the knowledge and skills necessary to perform the following twelve (12) core function which are:

- (1) Screening;
- (2) Intake;
- (3) Client orientation;
- (4) Assessment;
- (5) Treatment planning;
- (6) Counseling;
- (7) Case management;
- (8) Crisis intervention;
- (9) Client education;
- (10) Referral;
- (11) Reports and recordkeeping; and
- (12) Consultation.

Section 2. (1) Attendance at conferences, workshops, seminars, or in-service training related to addictions are acceptable to meet the requirements of Section 1 of this administrative regulation if the board determines that it:

- (a) Is an organized program of learning;
 - (b) Covers an area listed in Section 1 of this administrative regulation;
 - (c) Is conducted by a competent instructor, as documented by appropriate academic training, professional licensure or certification, or professionally-recognized experience.
- (2) One (1) semester hour of study from an accredited college or university credit shall equal fifteen (15) classroom hours.
- (3) Publication on a subject relevant to addictions therapy may be submitted to the board. Credit shall be granted as follows:
- (a) A chapter in a book is equivalent to ten (10) classroom hours.
 - (b) Authoring or editing a book relevant to addictions therapy may be given credit equivalent to thirty (30) classroom hours. An applicant shall submit a copy of the title page, table of contents and bibliography.
 - (c) Publication in a professional refereed journal is equivalent to fifteen (15) classroom hours. An applicant shall submit the journal table of contents and a copy of the article as it appeared in the journal including bibliography.

Section 3. (1) A list of courses the applicant wishes to have considered shall be organized by core area as set forth in Section 1 of this administrative regulation and shall include documentation to verify that the course satisfies the requirements of that section.

- (2) Appropriate documentation of the course shall include:
- (a) Date;
 - (b) Title;
 - (c) Description;
 - (d) Sponsoring organization;
 - (e) Presenter and presenter's credentials;
 - (f) Number of contact hours attended; and
 - (g) Certificates of attendance or transcript.

Section 4. Certification as an alcohol and drug counselor in the International Certification and Reciprocity Consortium shall be accepted as evidence that the applicant has met both the educational

and experiential requirements for certification set forth in KRS 309.083.

MICHAEL D. VANCE, Chairman

JAMES J. GRAWE, Assistant Attorney General

APPROVED BY AGENCY: December 15, 1999

FILED WITH LRC: December 15, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on January 21, 2000 at 1 p.m. at the offices of the Division of Occupations and Professions located at Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by January 13, 2000, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ms. Nancy L. Black, Director, Division of Occupations and Professions, P.O. Box 1360, Frankfort, Kentucky 40602-1360, (502) 564-3296 fax: (502) 564-4818.

REGULATORY IMPACT ANALYSIS

Agency Contact: Nancy Black

(1) Type and number of entities affected: All persons holding certification as an alcohol and drug counselor in Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There are no costs associated with this regulation.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments are received: There are no costs associated with this regulation.

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

1. First year following implementation: All certified alcohol and drug counselors must have the required 270 classroom hours of board approved curriculum.

2. Second and subsequent years: All certified alcohol and drug counselors must have the required 270 classroom hours of board approved curriculum.

(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: Continuing education will be processed with renewals.

(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: Trust and agency funds ordinarily used by the board.

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

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: The public will be protected by having certified alcohol and drug counselors adhere to this 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: The

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credentialing of alcohol and drug counselors provides protection to the public.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: It would be more difficult for the board to provide the necessary protection to the public without this regulation.

(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: This is not applicable to this administrative regulation

(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 those individuals desiring to obtain a credential.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(New Administrative Regulation)

806 KAR 39:061. Repeal of 806 KAR 39:060.

RELATES TO: KRS 304.39-085

STATUTORY AUTHORITY: KRS 304.39-085(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.39-300 permits the commissioner to establish rules to provide effective administration of KRS Chapter 304, Subtitle 39 which are consistent with Subtitle 39. Since the effective date of 806 KAR 39:060 in 1982, the statute on which that administrative regulation was based, KRS 304.39-085, has been amended to eliminate the affixation of stickers or emblems to a motor vehicle to show proof of insurance. For this reason, 806 KAR 39:060 is no longer necessary since that administrative regulation prescribes the form, content, and location in which the sticker or emblem shall be affixed.

Section 1. 806 KAR 39:060, Stickers or emblems, is hereby repealed.

GALE PEARCE, General Counsel
GEORGE NICHOLS III, Commissioner
RONALD B. MCCLOUD, Secretary

APPROVED BY AGENCY: December 13, 1999

FILED WITH LRC: December 14, 1999 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on January 25, 2000, at 10 a.m. (ET) at the offices of the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 18, 2000, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Margaret Shreve, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, PH: (502) 564-6032 Ext. 234, FAX: (502) 564-1456.

REGULATORY IMPACT ANALYSIS

Contact Person: Vicky C. Horn

(1) Type and number of entities affected: None. Currently there is no necessity for proof of insurance stickers or emblems as the enabling statute was repealed some time ago.

(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: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct or 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 needed.

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

(a) Geographical area in which administrative regulation will be implemented: The 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. The statute requiring stickers or emblems to signify proof of insurance has been repealed causing the regulation to serve no purpose. 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: No 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: No conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Racing Commission
(New Administrative Regulation)

810 KAR 1:060. Chemical dependency.

RELATES TO: KRS 230.215, 230.260(1), 230.290(2)(3), 230.310

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3), 230.290(2), 230.310

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is to prohibit licensees of the Kentucky Racing Commission from abusing alcohol or engaging in illegal drug use or activity while performing their duties, to provide for drug and alcohol testing and to establish consequences for violations of this adminis-

trative regulation.

Section 1. Definitions. (1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) "Association" is defined by KRS 230.210(1).

(3) "Commission" is defined by KRS 230.210(2).

(4) "Crimes involving drugs and drug paraphernalia" means all activities made illegal under KRS Chapter 218A, other statutes or administrative regulations of this Commonwealth, and similar laws and regulations of other states and the United States, which include the use, possession, or trafficking in marijuana, cocaine, or any other controlled substances; possession or distribution of drug paraphernalia, or obtaining or using prescription drugs without a valid prescription.

(5) "Documentation" means proof of regular attendance at meetings, counseling sessions, clean drug test results (if suspended for a drug violation), and certification from the treatment program indicating full compliance with treatment and completion of the program. Particular documentation requirements may be imposed in conjunction with suspension, which may be in addition to, or in lieu of, the documentation otherwise set out in this administrative regulation.

(6) "Drug paraphernalia" means all equipment, products and material of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body an illegal drug in violation of any law or administrative regulation of this Commonwealth, any state, or the United States.

(7) "Licensee" means a person that has been duly issued a current and valid license to participate in horse racing in this Commonwealth. This term shall not include a person who holds a currently valid license but is not actively involved with the day to day activities associated with the training and handling of a horse.

(8) "Under the influence of intoxicants" means a person's mental or physical abilities are impaired by the presence of alcohol or other drugs in his body to such a degree that the person is not able to safely and properly perform his job functions.

Section 2. Prohibited Activities. Licensees shall not:

(1) Be under the influence of intoxicants while on association grounds;

(2) Commit any crime involving drugs or drug paraphernalia;

(3) Fail to comply with substance abuse treatment imposed pursuant to an evaluation conducted under this administrative regulation;

(4) Tamper with a drug or alcohol test or;

(5) Refuse to submit to drug or alcohol testing upon request of the commission, a steward or other authorized employee of the commission.

Section 3. Evidence of Violation. The following shall be presumptive evidence of a violation of this administrative regulation:

(1) A breath or blood test result revealing an alcohol concentration of 0.05 or more while on association grounds;

(2) A positive result from a drug test for marijuana, cocaine, or other controlled substance for which the licensee does not have a current and valid prescription;

(3) A conviction in any court of law for a drug related offense.

Section 4. Discipline. (1) First offense. For a first time violation of this administrative regulation, the offender's license shall be suspended. The offender shall be required to undergo an evaluation by a professional in the field of addictive or substance abuse disorders approved by the commission. If the evaluator determines the existence of a substance abuse problem, the offender shall be required to comply with the recommended course of treatment. Upon the expiration of seven (7) calendar days, the offender may be eligible for reinstatement before the commission stewards. For a first time violation of these rules for an alcohol infraction, the stewards shall

have the discretion to impose a lesser penalty and may excuse the offense for counting purposes under this administrative regulation.

(2) Second offense. For a second violation of this administrative regulation within a three (3) year period, the offender's license shall be suspended. The offender shall be required to enroll in and complete a substance abuse program approved by the commission. Upon the expiration of sixty (60) calendar days, the offender may be eligible for reinstatement before the commission stewards.

(3) Third offense. A third violation of this administrative regulation within a three (3) year period shall result in the revocation of the offender's license.

(4) Zero tolerance offense. Conviction in any court of law of a drug trafficking offense shall result in revocation of the offender's license even if it is a first offense under this administrative regulation.

(5) Preexisting offenses. Instances of alcohol intoxication on association grounds or illegal drug use or activity by a licensee which the commission has reason to believe occurred before the adoption of these administrative regulations, may be counted when determining whether a new violation is a second or final violation.

(6) Fines. Any offender under this administrative regulation may also be fined not less than fifty (50) dollars nor more than \$1,000, at the discretion of the commission or stewards, in addition to any suspension imposed.

(7) In determining the three (3) year period under this administrative regulation, the period shall be measured from the date on which the violation occurred. If the violation is failure to complete recommended treatment, the violation date shall be calculated from the date of the first missed meeting, or session.

Section 5. Reinstatement after Suspension. (1) After first offense. To be reinstated the offender shall submit:

(a) Documentation of the completed evaluation;

(b) the recommendation of the evaluator in writing; and

(c) If treatment is recommended, compliance with the imposed course of treatment.

(2) After second offense. To be reinstated the offender shall submit documentation of compliance with the imposed course of treatment.

(3) Continuing compliance with treatment. When an offender is reinstated before the completion of the imposed course of treatment, continuing compliance with treatment shall be required. Documentation of continued compliance and final completion of treatment shall be provided upon request to the stewards or other employee authorized by the commission. Failure to comply with and complete the imposed course of treatment after reinstatement may be deemed an additional violation.

(4) Additional requirements. The commission may impose any additional requirements for reinstatement it deems appropriate.

Section 6. Drug and Alcohol Testing. The commission shall direct the regular testing of its licensees for drugs or alcohol. The testing shall be implemented under the direction of the stewards or other authorized employee of the commission. Testing methods and procedures shall conform with recognized and accepted practices in the medical and legal community.

Section 7. Payment for Expenses Related to this Administrative Regulation. Licensees shall be responsible for all or part of the expenses associated with violating this administrative regulation, including the cost of treatment and reinstatement of the license. The responsibility for payment of expenses shall be as follows:

(1) For a first offense, the offender's responsibility for costs shall be at the discretion of the stewards or other authorized commission employee and shall be based on the offender's ability to pay.

(2) For a second offense as defined by this administrative regulation, the offender shall bear all costs.

(3) For a drug or alcohol test initiated by the commission to determine if a violation has occurred, the commission shall bear the cost unless the test reveals a violation. If the test reveals a violation, subsections (1) and (2) of this section apply.

(4) Failure to pay any costs imposed may be grounds for denial of reinstatement.

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Section 8. Administration of Administrative Regulation. The commission shall employ a competent individual to oversee and assist in the administration of this administrative regulation. The stewards of the commission shall enforce this administrative regulation under the direction of the commission and its authorized employee.

RICHARD "SMITTY" TAYLOR, Chairman

DICK CARROLL, Office of the Attorney General

APPROVED BY AGENCY: December 14, 1999

FILED WITH LRC: December 15, 1999 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on January 25, 2000, at 10 a.m. at the offices of the Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by January 18, 2000, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Rena Elswick Strevels, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, (606) 246-2040 Phone, (606) 246-2039 Fax.

REGULATORY IMPACT ANALYSIS

Contact Person: Rena Elswick Strevels

(1) Type and number of entities affected: All individuals licensed by the Kentucky Racing Commission will be affected. Approximately 18,000 are licensed for the thoroughbred tracks each year.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. Licensees shall be responsible for all or part of the expenses associated with violating this administrative regulation. This includes any drug or alcohol testing deemed necessary by the stewards.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. None

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: None.

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

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

(10) Any additional information or comments: None

(11) Tiering: Is tiering applied? Tiering was not used. The licensees affected will pay for the drug and alcohol testing, not the commission.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of December 14, 1999

The December meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, December 14, 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 November 9, 1999 meeting were approved.

Present were:

Members: John Arnold, Chairman; Senators Marshall Long, Richard Roeding, and Joey Pendleton; Representatives James Bruce and Jimmie Lee.

LRC Staff: Dave Nicholas, Donna Little, Stephen Lynn, Susan Wunderlich, Angela Phillips, Donna Valencia, Edna Lowery, Ellen Benzing, Biff Baker, Don Hines.

Guests: Bob Bowman, Personnel Board; Michael A. Mone, Kentucky Board of Pharmacy; Scott Porter, Office of Attorney General; Pete Pfeiffer, Jennifer Fields, Department of Fish and Wildlife Resources; Tamela Biggs, Brenda Priestley, Department of Corrections; Stephanie C. Bingham, Herb Bowling, Ken Schwendeman, Department of Criminal Justice Training; Sue Perkins, Charles Harman, Transportation Cabinet; Mary Ellen Wiederwohl, Janet Banta, Education Professional Standards Board; Kevin Noland, Board of Education; Judith G. Walden, Department of Housing, Buildings and Construction; Sandra E. Kelly, KCHIP; Trish Howard, Karen Doyle, Debbie Green, Darlene Burgess, Ruth Walker, James Carreer, David Klee, Sally Bowzer, Stuart Owen, LeChrista M. Finn, Sharon Rodriguez; Cabinet for Health Services; Joyce Lea, Thelma Cornett, Cabinet for Families and Children; Joe Gray, AOC Court Justice; Barbara R. Smith, Governor's Legislative Services; Stephen D. Wolnitrek, Kentucky State Lodge FOP; Larry A. Tousignant, Springfield Police Department/Kentucky Law Enforcement Council; Rod Maggard, Kentucky Association Chiefs of Police; Earl R. Marshall, Kentucky Sheriff's Association; Bill Way, Gene Hicks, Oldham County Police; Ronny Pryor, Capitol Solutions; Mike Ridenour, Kentucky Chamber of Commerce; Ted Bradshaw, IIAK; Dan Walton, KADA; Carl Breeding, AIK.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Personnel Board

101 KAR 1:325. Probationary periods. Bob Bowman, General Counsel, represented the Board.

In response to questions by Representative Lee, Mr. Bowman stated that: (1) this administrative regulation: (a) increased the probationary period from six to twelve months for three positions, including: 1. arson investigator II; 2. vocational rehabilitation assistant I, and 3. right-of-way agent I; and (b) changed the title of other job classifications; and (2) the twelve month probationary period was necessary to permit completion of the training programs, which lasted longer than six (6) months.

In response to questions by Senator Long, Mr. Bowman stated that: (1) the position title for mounted security officer was changed to mounted patrol officer; and (2) the length of probation was not changed.

This administrative regulation was amended as follows: Section 2(3) was amended to require that the promotional probationary period be computed from the effective date of promotion to the corresponding date in the appropriate month, rather than the sixth month, following promotion, as required by KRS 18A.005(25).

Board of Pharmacy

201 KAR 2:040. Registration of pharmacist interns. Michael Moné, Executive Director, represented the Board.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) Sections 1, 2, 4, 5, 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); and (3) Section 1 was

amended to define "Academic experience program."

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Fish

301 KAR 1:085. Mussel shell harvesting. Pete Pfeiffer, Director, Division of Fisheries, and Scott Porter, Assistant Attorney General, represented the Department.

In response to a question by Representative Bruce, Mr. Pfeiffer stated that this administrative regulation was amended to: (1) give the species a greater reproductive potential because the mussels would be in the population longer; and (2) provide parity among the states because similar requirements regarding mussel sizes in each state would remove advantages for illegal harvesters.

This administrative regulation was amended as follows: (1) Section 7 was amended to comply with the formatting requirements of KRS 13A.220(4); and (2) Section 9 was amended to comply with the drafting requirements of KRS 13A.222(4).

Justice Cabinet: Department of Corrections: Office of the Secretary

501 KAR 6:130. Western Kentucky Correctional Complex. Tamela Biggs, Staff Attorney, represented the Department.

This administrative regulation was amended as follows: various policies and procedures were amended to comply with the drafting requirements of KRS 13A.222(4).

Department of Criminal Justice Training: General Training Provision

503 KAR 3:010. Basic law enforcement training course recruit conduct requirements; procedures and penalties. Stephanie Bingham, General Counsel, and Herb Bowling, Director of Training Operations, represented the Department. Steve Wolnitsek, General Counsel, Kentucky State Lodge Fraternal Order of Police, appeared before the Subcommittee in opposition to this administrative regulation.

Mr. Wolnitsek stated that: (1) his concerns were philosophical because the recruits were not members of the fraternal order of police during basic training; (2) his organization was concerned that the Department had: (a) assumed full decision making authority for who could be a Kentucky police officer because this administrative regulation: 1. did not establish provisions for input from the employing authority regarding allegations of misconduct; and 2. gave great discretion to the Department regarding the penalties imposed on a recruit for misconduct; and (b) established a double standard for how people were treated; (3) 503 KAR 2:020, which related to in-service training for police officers, provided that a trainee shall not possess, consume, nor be under the influence of alcoholic beverages while attending a training course; (4) at a "Command Decisions" training course he attended last week for police chiefs, an announcement was made from the podium regarding the location of the hospitality room; (5) his organization was concerned that the Department: (a) had violated the prohibition against alcohol established in 503 KAR 2:020; (b) would treat police officers differently than chiefs; (c) was given too much discretion in determining penalties; and (d) wanted to extend to recruits policies that the Department itself had violated; (6) following his comments at the public hearing, the Department made several amendments to this administrative regulation, including standards governing the use of drug tests; and (7) he believed this administrative regulation should be thoroughly reviewed and resubmitted to the Subcommittee and others for input because: (a) while the Department had complied with KRS Chapter 13A, the Department did not specifically notify all police chiefs; and (b) a number of police chiefs had raised concern about the promulgation of this administrative regulation.

In response to questions by Representative Bruce, Ms. Bingham stated that: (1) several individuals who supported this administrative regulation were in attendance at today's meeting, including: (a) Herb Bowling, Director of Training for the Department; (b) Chief Larry Tousignant, who was a member of the Kentucky Law Enforcement Council; (c) Rodney Maggard, President, Kentucky Chiefs Associa-

tion; and (d) Earl Marshall, Chair, Kentucky Sheriff's Association; (2) this administrative regulation: (a) did not need a complete revision; (b) established fair requirements for recruits who were entitled to due process and a fair disciplinary procedure; (c) did not authorize involvement of the employing authority in disciplinary matters because: 1. that involvement would negatively impact the recruit's due process guarantee; and 2. the Department: a. wanted to make the decision fairly and neutrally; and b. did not want to base a decision on the differing wishes of employing authorities; and (d) established a range of penalties to enable the Department to: 1. examine each situation fairly and individually; and 2. consider the circumstances surrounding the misconduct; (3) the Statement of Consideration included responses from the Department to issues raised by Mr. Wolnitzek regarding the discretion available for imposition of penalties; (4) the Department believed that recruits would be more severely punished if specific penalties, rather than a range of available penalties, were established for each offense because the ability to consider the circumstances would be removed; (5) she did not know what double standard Mr. Wolnitzek referenced; (6) this administrative regulation: (a) concerned basic training for recruits; and (b) did not concern in-service training for police officers; (7) the Department: (a) received comments from Mr. Wolnitzek at its public hearing regarding the alcohol policy; and (b) had experienced alcohol-related problems with some previous recruits, who were: 1. not experienced law enforcement officers; and 2. training to become law enforcement officers; (8) recruits varied in their levels of maturity and responsibility; and (9) she did not believe Mr. Wolnitzek could provide an example in which the Department had: (a) violated an administrative regulation; or (b) performed in an unfair or arbitrary manner.

Representative Lee stated that: (1) he thought it would be a terrible policy for a continuing education course for law enforcement officers to: (a) include a hospitality room; and (b) serve alcohol to officers who would later drive public vehicles; (2) the availability or location of a hospitality room should not be announced or advertised during, or as part of, a continuing education course for law enforcement officers; and (3) law enforcement officers should set an example for the community.

In response to questions by Representative Lee, Mr. Bowling stated that he: (1) did not attend the program; (2) knew that the Department did not sponsor a hospitality room; (3) was not sure if another association sponsored a hospitality room in a local motel; and (4) agreed with Representative Lee's comments.

In response to questions by Representative Lee, Ms. Bingham stated that: (1) this administrative regulation: (a) established a specific range of penalties for each offense; and (b) was amended to reduce the available penalties for cheating on a test to expulsion or suspension because cheating was considered a more serious offense; and (2) the Department had: (a) not established policies that were not included in existing statutes or administrative regulations; (b) established all possible penalties in this administrative regulation.

Mr. Wolnitzek stated that: (1) while this administrative regulation established all possible penalties, the range of penalties: (a) varied from a written reprimand to expulsion for almost every instance of misconduct; and (b) required the commissioner to exercise too much discretion; and (2) he: (a) did not think a police chief was reprimanded for attending the hospitality room; (b) would bring information to the next Subcommittee meeting regarding recruits who had been threatened with expulsion because the recruit drank one beer with a pizza; and (c) believed that constituted a double-standard.

Ms. Bingham stated that a Department recruit was not threatened with expulsion for eating a pizza and drinking one beer.

Senator Long stated that: (1) he agreed that drinking should not be advertised: (a) from the podium; or (b) as part of a continuing education program; (2) an individual in basic training, for the military or police work, was required to give up certain privileges during basic training; (3) a trained police chief: (a) was different than a recruit; and (b) should have different responsibilities and requirements; and (4) recruits attending basic training should be held to a higher standard than experienced officers because basic training: (a) weeded out individuals who were not qualified to serve in the military or on the police force; and (b) determined who would be able to handle prospective situations.

Representative Lee stated that he: (1) was not allowed to drink soft drinks or eat a candy bar during his military basic training because the restrictions: (a) taught needed discipline; and (b) prepared recruits to react immediately to situations; and (2) believed that: (a) a police officer who had served his probationary period should have the same restrictions regarding alcohol as police chiefs; and (b) different standards for recruits during basic training were an appropriate aspect of basic training, which weeded out individuals not qualified for the service.

Ms. Bingham stated that the Department would ensure that his concerns were addressed.

Mr. Bowling stated that: (1) the Department did not have a double standard for police chiefs and in-service training; (2) when a person came to Richmond for in-service training, the person stayed either: (a) at the residence hall provided by the Department; or (b) local motels that were not state property; (3) the police chiefs referred to by Mr. Wolnitzek stayed in local motels; (4) the Department's administrative regulations: (a) required recruits to stay in the residence halls; and (b) prohibited the use of alcohol: 1. during training programs, which lasted from 8:00 a.m. to 5:00 p.m.; and 2. while in the residence halls; (5) different standards were established for the basic training program as part of the basic training; and (6) the Department was not authorized to control or limit what officers did in their motel rooms from 5:00 p.m. until 8:00 a.m. provided the officers did not come to training under the influence of alcohol.

Representative Lee stated that police officers should change into their civilian clothes, rather than stay in their police uniforms, when they visit hospitality rooms.

This administrative regulation was amended as follows: (1) Section 1 was amended to designate that uniform policies can be found in Section 6(8); (2) Section 6(6)(a) was amended to prohibit reckless destruction of department property by a recruit; (3) Section 6(7)(c) was amended to require a copy of the ECU policies be given to recruits at the beginning of the training course; and (4) Sections 6 and 13 were amended to comply with the drafting requirements of KRS 13A.222(4).

Transportation Cabinet: Department of Highways: Traffic

603 KAR 5:120. Access control of highways. Charlie Harman, Staff Assistant, and Edward Sue Perkins, Permits Branch, represented the Department.

In response to questions by Representative Bruce, Ms. Perkins stated that: legislation enacted during the 1998 Regular Session of the General Assembly required access points be spaced: (1) at 1200 feet for 55 miles an hour; (2) at 600 feet for 45 miles per hour; and (3) with a fifteen percent variance if specified standards are met.

Mr. Harman stated that: (1) House Bill 629, enacted during the 1998 Regular Session of the General Assembly: (a) was sponsored by Representative Collins; (b) codified in KRS Chapter 177, language that was previously established in this administrative regulation; and (c) established a fifteen percent variance; and (2) this administrative regulation was amended to remove the language that was now established by statute.

In response to questions by Representative Bruce, Ms. Perkins stated that: (1) access points were required at 600 feet for 45 miles per hour roads classified as partial access; (2) roads were classified into three categories of access: (a) full control, which included interstates and parkways; (b) partial control, which included roads covered by this administrative regulation; and (c) access by permit, which included roads designated by the Department; (3) the highway department determined the road classification during the design phase; and (4) the East-West Connector in Frankfort was a partial control access road.

In response to questions by Chairman Arnold, Mr. Harman stated that: (1) House Bill 629: (a) codified in statute language from this administrative regulation; and (b) established a fifteen percent variance; and (2) because KRS 13A.120(2)(e) and (f) prohibited repeating or summarizing statutory provisions, this administrative regulation was amended to delete those provisions now included in statute.

In response to questions by Senator Roeding, Ms. Perkins stated that: (1) the material incorporated by reference in this administrative regulation and in 603 KAR 5:150 was available in each

highway district office and the central office in Frankfort; (2) if a person needed a copy of a form, the form could be obtained through a phone call; and (3) if a person needed a manual, the person could: (a) request the Department to copy the relevant pages; or (b) purchase the entire manual.

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, 3, 4, and 5 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); and (4) a new Section 9 was created to incorporate by reference required material.

603 KAR 5:150. Encroachment permits. In response to questions by Chairman Arnold, Mr. Harman stated that: (1) the Department completely revised its permits guidance manual, including provisions that related to metrics and other things; and (2) the manual: (a) addressed both existing and new roads; (b) included eighteen chapters; and (c) contained three chapters that related to access permits.

Ms. Perkins stated that: (1) the manual's first chapter: (a) was introductory; (b) summarized the manual; (c) described the required forms; and (d) explained the Department's record-keeping procedures; and (2) each subsequent chapter of the manual covered a different type of permit, including: (a) utilities; (b) regular access points; (c) control of access; (d) air space lease agreements; (e) grading; and (f) other topics.

In response to questions by Senator Roeding, Mr. Harman stated that: (1) the revisions to the manual did not involve major policy changes; (2) the public hearing was cancelled because no requests to attend were received; (3) the Department: (a) mailed copies of the revised manual to 400 to 500 people; and (d) did not receive negative comments concerning the manual; and (4) each engineering firm and contractor had a copy of this manual, which was used daily.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Section 1 was amended to comply with the: format requirements of KRS 13A.2251(2)(a), (c).

Education, Arts and Humanities Cabinet: Board of Education: Department of Education: Kindergartens and Nursery Schools

704 KAR 5:051. Repeal of 704 KAR 5:050. Kevin Noland, General Counsel, represented the Department.

Chairman Arnold and Representative Bruce stated that Mr. Noland should be congratulated upon his appointment as interim commissioner of education effective January 1, 2000.

Mr. Noland stated that this administrative regulation repealed 704 KAR 5:050, which was superseded by other statutes and administrative regulations.

This administrative regulation was amended as follows: the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to correct two citations to other administrative regulations.

Education Professional Standards Board

704 KAR 20:300. Part-time adjunct instructor certificate. Mary Ellen Wiederwohl, Legislative Liaison, and Janet Banta, Director, Teacher Certification, represented the Board.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) 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 1(2) was amended to specify the name of the required ap-

plication form; (5) Section 3 was amended to delete provisions that repeated or summarized statutory provisions, as required by KRS 13A.120(2)(e) and (f); and (6) a new Section 3 was created to incorporate by reference the required application form.

704 KAR 20:475. Probationary certificate for teachers of technology education. In response to questions by Chairman Arnold, Ms. Wiederwohl stated that: (1) the Board offered probationary certificates in three areas that had been identified as shortage areas, including: (a) technology education; (b) special education; and (c) early childhood; and (2) the probationary certificate allowed school districts to utilize a person who had completed a portion of the training for that certificate area in the classroom while the person completed the program.

In response to questions by Senator Roeding, Ms. Wiederwohl stated that: (1) probationary certificates were not currently available to teach math and science; (2) the math and science shortage was based both on content and geography; (3) the Board: (a) understood that legislation would be proposed during the 2000 Regular Session of the General Assembly regarding a signing bonus and salary supplement for people who teach in shortage areas; and (b) was waiting to receive directions from the General Assembly before expanding the program; (4) another legislative proposal recommended the establishment of a special option for alternative certification for retired and honorably discharged military personnel, which the Board believed would help address the shortages in math, science, and technology; (5) alternative certificates had been issued to: (a) a pharmacist; (b) retired businessmen; (c) upper level managers; (d) certified public accountants; and (e) others; and (6) business and marketing education was the highest area of alternative certification.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 2 and 3 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

704 KAR 20:590. Alternative training program eligibility requirements for middle school and secondary school teachers. This administrative regulation was amended as follows: (1) the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs were amended to correct statutory citations; (2) Section 1(2) was amended to specify the signatures required to submit a district plan; and (3) Sections 1, 2, 3, and 4 were amended to: (a) delete provisions that repeated or summarized statute, as required by KRS 13A.120(2)(e) and (f); and (b) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4).

704 KAR 20:610. Kentucky Primary Alternative Certification Program. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph 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, 2, 3, 4, and 6 were amended to delete provisions that repeated or summarized KRS 161.048 and 161.049, as required by KRS 13A.120(2)(e) and (f); (4) Section 1 was amended to specify the signatures required to submit a district plan; (5) Section 4 was amended to specify the name of the required application form; (6) Sections 1 through 8 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); and (7) a new Section 9 was created to incorporate by reference the required application form.

Cabinet For Health Services: Department for Medicaid Services

907 KAR 1:060. Medical transportation. Karen Doyle, Commissioner's Office, and Debbie Green, Division of Physical Health, represented the Cabinet.

In response to a question by Senator Roeding, Subcommittee staff stated that: (1) while the term "hardship" was no longer used in this administrative regulation, this administrative regulation established the same requirements that had previously existed; (2) previ-

ously, Section 4(1)(d) of this administrative regulation provided that a hardship was considered to exist if there was: (a) no free transportation appropriate to the recipient's need; or (b) no operational household vehicle available; and (3) those two requirements were still included in this administrative regulation.

In response to questions by Senator Roeding, Ms. Green stated that: (1) the Department would utilize bus service or any other type of service that would: (a) meet the person's need; and (b) be less expensive; (2) free transportation included situations in which a person's neighbor provided transportation services free of charge; and (3) if the neighbor wants to become a private automobile transporter, the neighbor would be reimbursed.

Ms. Doyle stated that: (1) the Department considered cost and safety concerns; (2) if a blind person in Louisville was required to walk three blocks to catch a bus, the Department would arrange more appropriate transportation; and (3) transportation decisions were arranged at the local social insurance offices.

Representative Lee stated that: (1) a determination regarding transportation needs, including level of service and level of care, was made at the same time a person was determined eligible for Medicaid; (2) some possible transportation options included: (a) reimbursement for a relative provider; (b) public transportation; and (c) door service with an attendant; and (3) before a person requested a transportation voucher, the person knew what level of care and service was required.

This administrative regulation was amended as follows: (1) Section 4(2) was amended to clarify the provision of post-authorized transportation; and (2) various Sections were amended to comply with the drafting requirements of KRS 13A.222(4).

907 KAR 1:061. Payments for medical transportation. In response to a question by Chairman Arnold, Ms. Doyle stated that: (1) Empower Kentucky included provisions to include the state in managed care, including for human service transportation; and (2) while some parts of Kentucky were covered by a waiver, this administrative regulation established the fee for service areas not included in the waiver.

Representative Lee stated that Empower Kentucky established a broker system of transportation, which was a form of managed care, for residents in certain areas of the state.

Ms. Doyle stated that: (1) the administrative regulation that established the broker system of transportation, 907 KAR 3:065, was found deficient by the Interim Joint Committee on Health and Welfare; and (2) this administrative regulation: (a) did not relate to the broker system of transportation; and (b) governed those areas not covered by the broker system.

In response to questions by Senator Roeding, Ms. Doyle stated that: (1) the Department: (a) worked with carriers to develop this administrative regulation; and (b) did not hold the public hearing; and (2) this administrative regulation would not make compliance harder for recipients.

This administrative regulation was amended as follows: (1) Section 1(11) was amended to delete substantive material from the definitions section; (2) a new Section 11(1) was created to provide that reimbursement be made based upon loaded miles; and (3) various Sections were amended to comply with the drafting requirements of KRS 13A.222(4).

Kentucky Children's Health Insurance Program

907 KAR 4:020 & E. Kentucky Children's Health Insurance Program. Karen Doyle, Commissioner's Office; Ruth Walker and Sally Bowzer represented the Department.

In response to questions by Senator Roeding, Ms. Doyle stated that: (1) this administrative regulation coincided with legislation enacted during the 1998 Regular Session of the General Assembly; (2) she believed that the issue of crowd out had been considered in the establishment of a six month waiting period; (3) people had not been advised to drop other coverage to qualify for KCHIP; (4) Section 1(3) of this administrative regulation provided that creditable coverage: (a) was defined in KRS 304.17A-005(6)(a); and (b) included acceptable and appropriate health insurance; (5) if a business offered only emergency care or hospitalization, that insurance would not be considered appropriate; (6) a person without creditable coverage would be accepted into KCHIP; (7) the six month waiting period was negotiated between the Cabinet Secretary, Senator Gerald Neal, and the

leadership that sponsored the bill; and (7) the Department would: (a) examine the crowd out issue; and (b) determine if a problem exists.

Senator Roeding stated that: (1) he objected to this administrative regulation; and (2) the statute required a person to have group health insurance, but did not define group health insurance.

In response to a question by Representative Bruce, Ms. Walker stated that: (1) the six month waiting period was required for people who already had insurance; (2) a person's insurance should cover emergencies; (3) a person without comprehensive insurance would be eligible for KCHIP before the six month period expired; and (4) insurance limited to dental, vision, or cancer would not be considered comprehensive insurance.

Representative Bruce stated that the Department should have some discrepancy to determine if a group health insurance plan provided comprehensive coverage.

In response to a question by Senator Roeding, Ms. Doyle stated that the group health insurance policies were approved by the Department of Insurance.

This administrative regulation was amended as follows: Sections 1 and 3 were amended to comply with the: (1) format requirements of KRS 13A.220(4); and (2) drafting requirements of KRS 13A.222(4).

The Subcommittee determined that the following administrative regulations complied with statutory authority:

Department of Housing, Buildings and Construction: Plumbing

815 KAR 20:020. Parts or materials list. Judith Walden, General Counsel, represented the Department.

In response to a question by Chairman Arnold, Ms. Walden stated that this administrative regulation added Plastic Productions PVC "Quick Stub" to the approved parts or materials list for use as a solvent weld transition between tubular PVC and schedule 40 PVC for plumbing systems.

Electrical Inspectors

815 KAR 35:015 & E. Certification of electrical inspectors. Representative Lee stated that: (1) he wanted to thank Ms. Walden for working with the Subcommittee to solve the problems caused by the electrical contractors' inability to be paid for completed work because the final inspection could not be obtained until after the permit was on file; and (2) electricians throughout Kentucky appreciated the actions of the Subcommittee and the Department to promulgate this administrative regulation to solve those problems.

The Subcommittee and promulgating administrative bodies agreed to defer consideration of the following administrative regulations to the November 9, 1999 meeting of the Subcommittee:

Representative Bruce stated that: (1) he was concerned about the number of agencies that had requested a deferral and the effect of deferrals on the Subcommittee's ability to review administrative regulations; and (2) Subcommittee staff should inform members: (a) of the reasons for a deferral request; and (b) whether a deferral request was appropriate.

Subcommittee staff stated that: (1) agencies typically requested deferral for three reasons, including: (a) to provide additional time to resolve issues raised by Subcommittee staff regarding statutory authority or compliance with applicable statutes and case law; (b) to request that emergency administrative regulations be considered at the same time as ordinary administrative regulations; and (c) the agency representative's inability to attend the Subcommittee meeting because of a family illness or other time conflict; (2) KRS 13A.333(1) provided that if an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly; (3) KRS 13A.333(4) provided that if deferral of an administrative regulation at the request of an administrative body would result in its adoption after adjournment of a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly; and (4) an administrative regulation found deficient at the Subcommittee's January 12 meeting

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would expire at the end of the session in April 2000, rather than April 2002.

Board of Medical Licensure

201 KAR 9:175. Physician assistants; certification and supervision.

201 KAR 9:310. Continuing medical education.

Kentucky Board of Speech-Language Pathology and Audiology

201 KAR 17:011. Requirements for interim licensure.

201 KAR 17:012. Requirements for 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 17:030. License fees.

201 KAR 17:041. Professional code of ethics.

201 KAR 17:070. Complaint procedure.

201 KAR 17:090. Continuing education requirements.

Tourism Development Cabinet: Department of Fish and Wildlife Resources: Game

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

Justice Cabinet: Department of Corrections: 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.

Ninety-six (96) Hour Local Confinement Facilities

501 KAR 4:001. Repeal of 501 KAR 4:010, 4:020, 4:030, 4:040, 4:050, 4:060, 4:070, 4:080, 4:090, 4:100, 4:110, 4:120, 4:130 and 4:140.

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.

Juvenile Holding Facilities

501 KAR 9:001. Repeal of 9:010, 9:025, 9:030, 9:040, 9:050, 9:060, 9:070, 9:080, 9:090, 9:100, 9:110, 9:120, 9:130, 9:140 and 9:150.

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: Kentucky Law Enforcement Council

503 KAR 1:110E. Department of Criminal Justice Training basic training: graduation requirements; records.

Department of Criminal Justice Training: Law Enforcement Foundation Program Fund

503 KAR 5:090E. Participation: requirements; application; withdrawal.

Education Professional Standards Board

704 KAR 20:690. Kentucky Teacher Internship Program. In response to a question by Chairman Arnold, Ms. Wiederwohl stated

that: (1) this administrative regulation amended requirements for the Kentucky Teacher Internship Program, which was a requirement for teacher certification in Kentucky; and (2) the Board had requested deferral of this administrative regulation because the newly published handbook for the program, which is incorporated by reference, will not be ready until the first week of January.

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 17:205E. High-cost condition codes and severity questionnaire.

Cabinet For Health Services: Department for Public Health: Division of Adult and Child Health: Maternal and Child Health

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

Health Services and Facilities

902 KAR 20:275. Mobile health services.

Division of Adult and Child Health: Controlled Substances

902 KAR 55:020E. Schedule II substances.

902 KAR 55:025E. Schedule III substances.

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.

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.

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

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

Cabinet For Families And Children: Department for Community Based Services: Division of Policy Development: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

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

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

921 KAR 2:017E. Kentucky Works supportive services.

921 KAR 2:370E. Technical requirements for Kentucky Works.

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.

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902 KAR 10:085. Kentucky on-site sewage disposal systems.

James Carreer, Commissioner's Office, Department of Public Health, stated that: (1) the Department: (a) had discussed the on-site sewage disposal system with Representative Allen; and (b) would file the Notices of Intent for these two administrative regulations between December 15 and 31; (2) the Public Health Services Advisory Council will consider these administrative regulations at its meeting during the second week of January; and (3) the minutes of that meeting will be forwarded to Representative Allen.

In response to questions by Representative Bruce, Mr. Carreer stated that: (1) the Department had: (a) reached an agreement with Representative Allen; (b) explained to him the actions the Department will take to respond to his main issues of concern, including: 1. soil compaction; and 2. training of inspectors; (c) gathered data that will be: 1. presented at the council meeting; and 2. sent to Representative Allen with the minutes of the meeting; and (2) he believed that Representative Allen agreed with the Department's response and plan of action.

2. Department of Insurance

806 KAR 17:066. Medicare supplement insurance policies.

Subcommittee staff stated that: (1) at its November 9, 1999, meeting, the Subcommittee approved 806 KAR 17:066 & E, Medicare supplement insurance policies; (2) in response to a question by Representative Bruce, the Department agreed to submit information to the Subcommittee regarding the number of states that had implemented requirements similar to those established in 806 KAR 17:066; and (3) the Department sent a written response to the Subcommittee that: (a) stated that the Department had been advised by the National Association of Insurance Commissioners that 35 states had now promulgated a regulation or adopted legislation similar to 806 KAR 17:066; and (b) encouraged contact with Department counsel if there were additional questions.

The Subcommittee adjourned at 11:55 a.m. until January 12, 2000, at 12 noon 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 November 16, 1999

The following administrative regulations were available for consideration by the Interim Joint Committee on State Government during its meeting of November 16, 1999, having been referred to the Committee on September 17, 1999, pursuant to KRS 13A.290(6): 200 KAR 5:340

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: 200 KAR 5:340

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 November 16, 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 G - 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 G - 13

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 G - 21

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
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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	201 KAR 9:320	687	
Expired		11-18-99	As Amended	2834	
109 KAR 2:020E	2814	4-19-99	201 KAR 18:010		
Replaced		11-15-99	Amended	2928	
109 KAR 15:020E	2816	4-19-99	Withdrawn		9-13-99
Replaced		10-7-99	201 KAR 18:050		
200 KAR 30:010E	2311	2-26-99	Amended	2929	(See Volume 26)
Replaced		9-16-99	201 KAR 18:071	2983	10-15-99
200 KAR 30:020E	2312	2-26-99	201 KAR 18:080		
Replaced		9-16-99	Amended	2930	(See Volume 26)
200 KAR 30:030E	2313	2-26-99	201 KAR 18:091	2983	10-15-99
Replaced		9-16-99	201 KAR 18:100		
200 KAR 30:040E	2314	2-26-99	Amended	2931	(See Volume 26)
Replaced		9-16-99	201 KAR 18:110		
200 KAR 30:050E	2315	2-26-99	Amended	2931	(See Volume 26)
Replaced		9-16-99	201 KAR 18:120		
200 KAR 30:060E	2316	2-26-99	Amended	2932	(See Volume 26)
Replaced		9-16-99	202 KAR 3:020		
200 KAR 30:070E	2316	2-26-99	Amended	2933	(See Volume 26)
Replaced		9-16-99	401 KAR 47:110		
201 KAR 2:020E	2818	4-22-99	Amended	2433	(See Volume 26)
Replaced		12-15-99	401 KAR 48:320	2476	(See Volume 26)
201 KAR 38:010E	2317	3-4-99	401 KAR 68:010	1747	
Replaced		9-15-99	Amended	2400	
201 KAR 38:020E	2318	3-4-99	As Amended	2857	10-13-99
Replaced		9-15-99	401 KAR 68:020	1748	
201 KAR 38:030E	2319	3-4-99	Amended	2401	
Replaced		9-15-99	As Amended	2858	(See Volume 26)
201 KAR 38:040E	2320	3-4-99	401 KAR 68:048	1750	
Replaced		9-15-99	Amended	2402	
201 KAR 38:060E	2322	3-4-99	As Amended	2858	10-13-99
Replaced		9-15-99	401 KAR 68:065	1751	
415 KAR 1:080E	2529	4-12-99	Amended	2404	
Replaced		10-13-99	As Amended	2859	10-13-99
500 KAR 13:020E	2534	4-5-99	401 KAR 68:090	1753	
Replaced		9-16-99	Amended	2405	
501 KAR 6:020E	2819	5-14-99	As Amended	2859	10-13-99
Replaced		9-16-99	401 KAR 68:100	1754	
501 KAR 6:999E	2821	5-14-99	Amended	2407	
Replaced		9-16-99	As Amended	2859	(See Volume 26)
806 KAR 17:066E	2323	3-12-99	401 KAR 68:150	1756	
Expired		9-18-99	Amended	2408	
900 KAR 6:050E	2536	3-26-99	As Amended	2860	10-13-99
Expired		10-18-99	401 KAR 68:200	1757	
908 KAR 3:160E	2353	3-9-99	Amended	2409	
Replaced		9-15-99	As Amended	2860	(See Volume 26)

ORDINARY ADMINISTRATIVE REGULATIONS:

11 KAR 15:040			415 KAR 1:120		
Amended	2923	9-1-99	Amended	1122	(See Volume 26)
200 KAR 5:340	2709	(See Volume 26)	418 KAR 1:020		
201 KAR 2:010			Amended	2938	(See Volume 26)
Amended	2925	(See Volume 26)	418 KAR 1:030		
201 KAR 2:095			Amended	2940	(See Volume 26)
Amended	2926	(See Volume 26)	418 KAR 1:040		
201 KAR 9:175			Amended	2942	(See Volume 26)
Amended	2423		418 KAR 1:050		
201 KAR 9:310			Amended	2944	(See Volume 26)
Amended	2427		418 KAR 1:060		
			Amended	2946	(See Volume 26)
			418 KAR 1:070		
			Amended	2948	(See Volume 26)

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505 KAR 1:080	2985	(See Volume 26)	907 KAR 1:019		
601 KAR 14:010			Amended	1248	
Amended	2952	(See Volume 26)	Amended	1937	(See Volume 26)
703 KAR 5:070	2731	(See Volume 26)	907 KAR 1:021		
802 KAR 1:010			Amended	1252	
Amended	434		Amended	1940	(See Volume 26)
Amended	880	(See Volume 26)	907 KAR 3:035	2732	(See Volume 26)
902 KAR 20:160			908 KAR 1:310		
Amended	2967	(See Volume 26)	Amended	2017	
902 KAR 20:240			Amended	2632	
Amended	2971	(See Volume 26)	908 KAR 1:311	2484	(Volume 24)
907 KAR 1:002			908 KAR 1:370	2485	(Volume 24)
Amended	1731		Amended	355	
Withdrawn		9-10-99	922 KAR 7:251	2996	9-15-99

*Statement Of Consideration Not Filed By Deadline

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EMERGENCY ADMINISTRATIVE REGULATIONS: (Note: Emergency regulations expire 170 days from publication; or 170 days from publication plus number of days of requested extension; or upon replacement or repeal, whichever occurs first)			803 KAR 2:309E	33	6-15-99
			Replaced	1007	11-15-99
			803 KAR 2:313E	35	6-15-99
			Replaced	1008	11-15-99
			803 KAR 2:414E	37	6-15-99
			Replaced	654	11-15-99
40 KAR 6:020E	1088	10-27-99	803 KAR 2:500E	38	6-15-99
101 KAR 2:102E	1089	11-4-99	Replaced	655	11-15-99
101 KAR 3:015E	1094	11-4-99	806 KAR 17:205E	353	6-24-99
200 KAR 2:006E	341	7-1-99	815 KAR 35:015E	541	7-30-99
Replaced	1114	12-16-99	902 KAR 4:040E	958	9-30-99
202 KAR 6:010E	1383	11-23-99	902 KAR 55:020E	705	8-20-99
202 KAR 6:020E	1384	11-23-99	902 KAR 55:025E	706	8-20-99
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301 KAR 2:221E	1392	11-24-99	907 KAR 1:155E	359	7-2-99
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301 KAR 2:225E	703	8-31-99	907 KAR 3:110E	1100	10-20-99
301 KAR 2:226E	1397	11-24-99	907 KAR 4:020E	364	6-23-99
502 KAR 31:020E	24	5-26-99	907 KAR 4:030E	1110	10-29-99
Replaced	1155	12-16-99	921 KAR 2:006E	964	10-1-99
503 KAR 1:110E	536	8-10-99	921 KAR 2:016E	971	10-1-99
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704 KAR 20:210E	345	7-6-99	921 KAR 4:120E	708	8-10-99
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725 KAR 1:071E	346	6-28-99	922 KAR 2:090E	710	9-8-99
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739 KAR 1:010E	348	6-22-99	ORDINARY ADMINISTRATIVE REGULATIONS:		
739 KAR 1:020E	349	6-22-99	11 KAR 3:100		
739 KAR 1:030E	350	6-22-99	Amended	847	12-16-99
739 KAR 1:040E	351	6-22-99	11 KAR 5:001		
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803 KAR 2:301E	27	6-15-99	11 KAR 6:010		
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Amended	86		Amended	105	
Amended	626		As Amended	576	8-25-99
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11 KAR 12:060			Amended	412	
Amended	88	9-1-99	As Amended	715	9-22-99
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Amended	89		Repealed	577	8-25-99
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11 KAR 14:030			As Amended	577	8-25-99
Amended	1433		101 KAR 3:015	266	
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20 KAR 1:040			Amended	106	
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20 KAR 1:070			As Amended	716	9-22-99
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20 KAR 1:080			103 KAR 30:091		
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101 KAR 2:066			200 KAR 14:091		
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As Amended	44	7-14-99	Repealed by 401 KAR 57:019		7-14-99
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301 KAR 3:015	1265		401 KAR 57:130		
301 KAR 5:050	1266		Repealed by 401 KAR 57:019		7-14-99
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As Amended	48	7-14-99	Repealed by 401 KAR 57:019		7-14-99
306 KAR 1:010			401 KAR 57:300		
Amended	1192		Repealed by 401 KAR 57:019		7-14-99
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306 KAR 1:030			401 KAR 59:455		
Amended	1195		Repealed by 401 KAR 57:019		7-14-99
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Amended	792		Repealed by 401 KAR 57:019		7-14-99
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Amended	804		Repealed by 401 KAR 57:019		7-14-99
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Amended	815		Repealed by 401 KAR 57:019		7-14-99
As Amended	1141	12-8-99	401 KAR 59:540		
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Amended	819		Repealed by 401 KAR 57:019		7-14-99
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Amended	824		Repealed by 401 KAR 57:019		7-14-99
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401 KAR 57:021			Repealed by 401 KAR 57:019		7-14-99
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