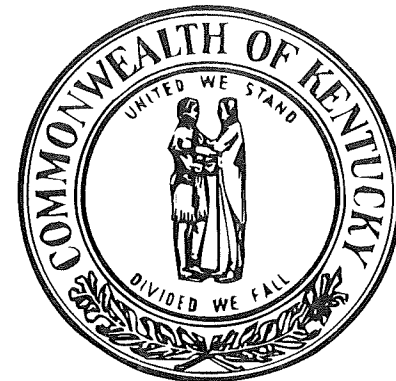


ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 26, NUMBER 8
TUESDAY, FEBRUARY 1, 2000

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MEETING NOTICE

The Administrative Regulation Review Subcommittee is **tentatively** scheduled to meet on February 8, 2000, on adjournment of both Houses of the General Assembly in Room 149 of the Capitol Annex. See **tentative agenda** on pages 1475-1477 of this Administrative Register.

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

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**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA – Tuesday, February 8, 2000 on adjournment of both Houses
Room 149, Capitol Annex**

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11 KAR 6:010. KHEAA Work-study Program

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11 KAR 8:030. Teacher scholarships.

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11 KAR 14:030. Osteopathic Medicine Scholarship Program disbursement process.

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Victims Advocacy Division**

Kentucky Victim and Witness Protection Program

40 KAR 6:020 & E. Funding assistance for child sexual abuse medical examinations.

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501 KAR 3:120. Admission; release.

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

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- 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. (Public Hearing)
- 907 KAR 1:025E. Payments for nursing facility and intermediate care facility for the mentally retarded services. (Deferred from October)
- 907 KAR 1:044E. Mental health center services. (Deferred from January)
- 907 KAR 1:155E. Payments for supports for community living services for individuals with mental retardation or developmental disabilities. (Deferred from September)

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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

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

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

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

Notice of Intent

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

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

Filing and Publication

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

Public Hearing

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

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

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

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

Review Procedure

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

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NOTICES OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATIONS
RECEIVED AS OF NOON, JANUARY 14, 2000

KENTUCKY BOARD OF EMBALMERS AND FUNERAL DIRECTORS

January 14, 2000

(1) **201 KAR 15:030. Fees.**

(2) The Kentucky Board of Embalmers and Funeral Directors 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 February 21, 2000, 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 February 21, 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: Emma Lou Hartledge, Executive Director, 7025 W. Highway 22, Suite 7, Crestwood, Kentucky 40014, Phone: (502) 241-3918, FAX: (502) 241-4297.

(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 Emma Lou Hartledge at the above address, or by calling (502) 241-3918 between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to fees is KRS 316.125(2)(a), 316.130(2), (4), (5), 316.140(2).

(b) The administrative regulation that the Kentucky Board of Embalmers and Funeral Directors intends to amend is the existing administrative regulation 201 KAR 15:030. The amendment will set out the fees for individual and establishment fees and renewals.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 316.125(2)(a), 316.130(2), (4), and (5), and 316.140(2) require the board to set out in administrative regulations certain fees. This administrative regulation amendment will set out establishes these fees.

(d) The benefit expected from this administrative regulation is that the fees will cover expenses associated with administering KRS Chapter 316.

(e) This administrative regulation will be implemented as follows: Applicants for individual and establishment fees and renewals will be required to remit the fee with their application.

BOARD OF NURSING

December 10, 1999

(1) **201 KAR 20:370. Applications for licensure and registration.**

(2) The Board of Nursing intends to promulgate 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 February 22, 2000, at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(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 is not received at least 10 days prior to February 22, 2000, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 329-7009, fax (502) 329-8206.

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

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

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject 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 General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the regulation of nursing is KRS 314.131.

(b) The administrative regulation that the Board of Nursing intends to promulgate amends an existing regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: To clarify those criminal convictions that may result in disciplinary action and the process that will be followed when convictions are reported.

(d) The benefits expected from the administrative regulation are: Clearer standards and procedures.

(e) The administrative regulation will be implemented as follows: Through the agency's normal administrative process.

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BOARD OF PHYSICAL THERAPY

January 14, 2000

- (1) **201 KAR 22:135.** Fees.
- (2) The Board of Physical Therapy 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 February 25, 2000 at 9 a.m. (EST), at the office of the Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222.
- (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 is not received at least 10 days prior to February 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: Nancy Brinly, Executive Director; Board of Physical Therapy; 9110 Leesgate Road, Suite 6; Louisville, Kentucky 40222; Phone: (502) 327-8497, Fax: (502) 423-0934.
- (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 Executive Director; Board of Physical Therapy; 9110 Leesgate Road, Suite 6; Louisville, Kentucky 40222.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of an administrative regulation is KRS 327.040(10).
 - (b) The administrative regulation that the Board of Physical Therapy intends to promulgate will amend 201 KAR 22:135, an existing administrative regulation.
 - (c) The necessity and function of the proposed administrative regulation is KRS 327.050(2), and requires the examination applicant to pay "an examination fee in an amount sufficient to cover the actual cost of the examination".
 - (d) The benefits expected from this administrative regulation are that each applicant will pay the fee sufficient to pay for the required examination.
 - (e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

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

January 14, 2000

- (1) **301 KAR 2:049,** Seasons for furbearers and small game on specified areas.
- (2) The Department of Fish and Wildlife Resources intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 21, 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 February 21, 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.
- (7) Information relating to the proposed administrative regulation.
 - (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1).
 - (b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:049 as follows: Adjust statewide small game seasons.
 - (c) The necessity and function of the proposed administrative regulation is to specify exceptions on wildlife management areas to statewide small game and furbearer hunting regulations.
 - (d) The benefits expected from the administrative regulation are optimal public recreation within the bounds of sound wildlife management practices.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the department's Division of Law Enforcement.

January 14, 2000

- (1) **301 KAR 2:142,** Spring wild turkey hunting.
- (2) The Department of Fish and Wildlife Resources intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 21, 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 February 21, 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 De-

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partment of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601. Phone (502) 564-3400 or FAX (502) 564-6508.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1), 150.390(1) and 150.620.

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:142 as follows: It will set uniform youth hunting standards for all game hunting.

(c) The necessity and function of the proposed administrative regulation is the protection and conservation of wild turkey populations.

(d) The benefits expected from the administrative regulation are protection and conservation of Kentucky's wild turkey resource and increased opportunities for the public.

(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.

January 14, 2000

(1) **301 KAR 2:195**, Raptor propagation and falconry.

(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 February 21, 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 February 21, 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.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1).

(b) The administrative regulation that the department intends to promulgate will amend 301 KAR 2:195 as follows: Adjust regulations to comply with new federal standards for taking raptors from wild.

(c) The necessity and function of the proposed administrative regulation is to bring current regulations into federal compliance.

(d) The benefits expected from the administrative regulation are optimal raptor management.

(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.

January 14, 2000

(1) **301 KAR 3:026**, Access to wildlife management areas for mobility-impaired individuals.

(2) The Department of Fish and Wildlife Resources 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 February 21, 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 February 21, 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.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1) and KRS 150.620.

(b) The administrative regulation that the department intends to promulgate will create additional access to designated department owned wildlife management areas for individual with mobility related impairments.

(c) The necessity and function of the proposed administrative regulation is enhance opportunities for the public

(d) The benefits expected from the administrative regulation are enhanced public 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.

January 14, 2000

(1) **301 KAR 6:070**, Marine sanitation devices.

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

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- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 21, 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 February 21, 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.
- (7) Information relating to the proposed administrative regulation.
- (a) The statutory authority for the promulgation of this administrative regulation is KRS 150.025(1) and 150.620.
 - (b) The administrative regulation that the department intends to promulgate will regulate the use of marine sanitation devices.
 - (c) The necessity and function of the proposed administrative regulation is to protect the waters of the Commonwealth from pollution.
 - (d) The benefits expected from the administrative regulation improved water quality and public and fishery health.
 - (e) The administrative regulation will be implemented as follows: Its provisions will be publicized through departmental publications and mass media outlets; it will be enforced by the department's Division of Law Enforcement.

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

January 13, 2000

- (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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787; Phone (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 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).

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January 13, 2000

(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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787. Phone (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.

January 13, 2000

(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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787. Phone (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 divi-

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sion'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.

January 13, 2000

(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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787. Phone (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.

January 13, 2000

(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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787. Phone (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.

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(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.

January 13, 2000

(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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787. Phone (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.

January 13, 2000

(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.

(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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787. Phone (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.

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(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.

January 13, 2000

(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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787. Phone (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 permitting 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.

January 13, 2000

(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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787. Phone (502) 573-3382, extension 338.

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

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

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation 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.

January 13, 2000

(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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787. Phone (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 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.

January 13, 2000

(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 February 29, 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 February 29, 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

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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 February 29, 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. FAX (502) 573-3787. Phone (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.

January 13, 2000

(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 February 29, 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 February 29, 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 February 29, 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. FAX (502) 573-3787. Phone (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.

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TRANSPORTATION CABINET

January 4, 2000

(1) **601 KAR 1:017.** Repeal of 601 KAR 1:015 and 601 KAR 1:016.

(2) The Kentucky Transportation Cabinet intends to promulgate an administrative regulation repealing 601 KAR 1:015 and 601 KAR 1:016.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 22, 2000 at 9 a.m. local prevailing time, at 501 High Street, 10th Floor, General Counsel Conference Room of the State Office Building, Frankfort, Kentucky 40622.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to February 22, 2000, the public hearing will be canceled.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the overweight and overdimensional permitting process is KRS 174.080, 189.222, 189.270, 189.273 and 189.274.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will repeal 601 KAR 1:015 and 601 KAR 1:016.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 174.080, 189.222, 270, 273 and 274 permit the Transportation Cabinet to promulgate regulations that govern the overweight and overdimensional permitting process. This regulation repeals 3 existing regulations, and replaces them with 1.

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

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

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

January 4, 2000

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

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 22, 2000, at 10 a.m. local prevailing time, at 501 High Street, 10th Floor General Counsel Conference Room of the State Office Building, Frankfort, Kentucky 40622.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to February 22, 2000, the public hearing will be canceled.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

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

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

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 189.222, 270, and 2717 permit the Transportation Cabinet to promulgate regulations that govern the overweight and overdimensional permitting process. This regulation repeals 8 existing regulations, and replaces them with one.

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

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

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

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CABINET FOR HEALTH SERVICES
Department for Public Health

January 15, 2000

(1) **901 KAR 5:090**, Burial and disinterment of dead bodies.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 29, 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 February 29, 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 Public Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 901 KAR 5:090 are KRS 194.050, 211.090, 218.076.

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 901 KAR 5:090 to remove hermetically sealed burial devices as a requirement for burial.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth KRS Chapter 213.

(d) The benefits expected from administrative regulation are: Allow burials in ground generally unsuitable for greater depth.

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

January 15, 2000

(1) **902 KAR 10:081**, Construction standards for components of on-site sewage disposal systems.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 29, 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 February 29, 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 Public Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to construction standards for components of on-site sewage disposal systems are KRS 211.350 to 211.380, 211.990(2).

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 10:081 to add alternative system components to reduce fill soil, add new system technologies, make minor policy clarifications, and make formatting and drafting changes to comply with KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 211.350 to 211.380 directs the cabinet to regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems with a surface discharge.

(d) The benefits expected from administrative regulation are to incorporate new technology and establish minimum component standards for on-site sewage disposal systems in Kentucky in order to protect the public's health.

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

January 15, 2000

(1) **902 KAR 10:085**, Kentucky on-site sewage disposal systems.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 29, 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 February 29, 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 Public Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to construction standards for components of on-site sewage disposal systems are KRS 211.350 to 211.380, 211.990(2).

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 10:085 to address installation of on-site sewage systems in compacted soil, add alternative system components to reduce fill soil, add new system technologies, revise site evaluation procedures to incorporate new knowledge of soil science, make minor policy clarifications, and make formatting and drafting changes to comply with KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation sets forth the cabinet to regulate the construction, installation, or alteration of any on-site sewage disposal system, except for systems with a surface discharge. This administrative regulation establishes uniform standards for on-site sewage disposal systems.

(d) The benefits expected from administrative regulation are to assure the construction, installation, or alteration of on-site sewage disposal systems in such a manner as to protect public health and the environment.

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

January 15, 2000

(1) **902 KAR 10:110**, Issuance of on-site sewage disposal system permits.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 29, 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 February 29, 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 Public Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to construction standards for components of on-site sewage disposal systems are KRS 211.350 to 211.380, 211.990(2).

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 10:110 to amend the requirements for issuance of on-site sewage disposal system permits as to who can be issued a permit, make minor policy clarifications, and make formatting and drafting changes to comply with KRS Chapter 13A.

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(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 211.350 provides that no person, firm, or corporation shall construct, install, alter or cause to be constructed, installed, or altered any on-site sewage disposal system subject to administrative regulation by the cabinet without having first obtained an on-site sewage disposal permit from the cabinet.

(d) The benefits expected from administrative regulation are to establish uniform requirements for issuance of on-site sewage disposal system permits in order to protect public health and the environment.

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

January 15, 2000

(1) **902 KAR 10:140**, On-site sewage disposal system installer certification program standards.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 29, 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 February 29, 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 Public Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to construction standards for components of onsite sewage disposal systems are KRS 211.350 to 211.380, 211.990(2).

(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 10:140 to clarify the liability insurance requirements, establish a certification expiration date, require training prior to certification, change the continuing education requirements, make minor policy clarifications, and make formatting and drafting changes to comply with KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 211.350 to 211.380 directs the cabinet to regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems with a surface discharge: KRS 211.357 directs the cabinet to establish a program of certification for installers of on-site sewage disposal systems.

(d) The benefits expected from administrative regulation are to incorporate new technology and to establish an acceptable standard of competency for installers of on-site sewage disposal systems in order to protect public health and the environment.

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

January 15, 2000

(1) **902 KAR 10:180**, On-site sewage disposal system inspector certification program standards.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for February 29, 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 February 29, 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 Public Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to construction standards for components of onsite

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sewage disposal systems are KRS 211.350 to 211.380, 211.990(2).

(b) The administrative regulation that the Department for Public Health intends to promulgate is 902 KAR 10:180 to establish a certification program and enforcement procedures relative to maintenance of an acceptable standard of competency for inspectors.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 211.350 to 211.380 directs the cabinet to regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems with a surface discharge: KRS 211.360 directs the cabinet to establish a program of certification for inspectors of on-site sewage disposal systems.

(d) The benefits expected from administrative regulation are to incorporate new technology and to establish an acceptable standard of competency for inspectors of on-site sewage disposal systems in order to protect public health and the environment.

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

Department for Medicaid Services

December 27, 1999

(1) **907 KAR 1:070**, Homecare waiver 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 February 29, 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 February 29, 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 the homecare waiver services is KRS 194A.030, 194A.050 and 205.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate as 907 KAR 1:070 provides regulatory authority for the operation of homecare waiver services pursuant to a homecare services waiver recently approved by HCFA.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the regulatory authority for the implementation and operation of the new homecare waiver services.

(d) The benefits expected from administrative regulation are: This program will enable state revenues to be better utilized and thus provide resources for more individuals to be served. It will do so by diverting services from being provided through the Office of Aging Services (which are 100% state funded) to being provided by this community-based homecare waiver services program which is funded with federal matching dollars. The end result is more individuals will receive services in their homes where many prefer rather than in more costly nursing facilities.

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

December 27, 1999

(1) **907 KAR 1:072**, Payments for homecare waiver 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 February 29, 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 February 29, 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.

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the Homecare Waiver Services is KRS 194A.030, 194A.050 and 205.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate as 907 KAR 1:072 provides regulatory authority for the reimbursement methodology for the homecare waiver services, pursuant to the waiver recently approved by HCFA.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the reimbursement methodology for the homecare waiver services.

(d) The benefits expected from administrative regulation are: This program will enable state revenues to be better utilized and thus provide resources for more individuals to be served. It will do so by diverting services from being provided through the Office of Aging Services (which are 100% state funded) to being provided by this community-based homecare waiver program which is funded with federal matching dollars. The end result is more individuals will receive services in their homes where many prefer to receive services rather than in more costly nursing facilities.

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

December 27, 1999

(1) **907 KAR 1:090**, Personal care assistance waiver 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 February 29, 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 February 29, 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 the personal care assistance waiver services are KRS 194A.030, 194A.050 and 205.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate as 907 KAR 1:090 provides regulatory authority for the operation of the personal care assistance waiver services pursuant to the Personal Care Assistance Program waiver recently approved by HCFA.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the regulatory authority for the implementation and operation of the new personal care assistance waiver services.

(d) The benefits expected from administrative regulation are: This program will enable state revenues to be better utilized and thus provide resources for more individuals to be served. It will do so by diverting services from being provided through the Office of Aging Services (which are 100% state funded) to being provided by this community-based homecare waiver program which is funded with federal matching dollars. The end result is more individuals will receive services in their homes where many prefer to receive services rather than in more costly nursing facilities.

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

December 27, 1999

(1) **907 KAR 1:092**, Payments for personal care assistance waiver 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 February 29, 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 February 29, 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 the personal care assistance waiver services is KRS 194A.030, 194A.050 and 205.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate as 907 KAR 1:092 provides regulatory authority for the reimbursement methodology for the personal care assistance waiver services, pursuant to the waiver recently approved by HCFA.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the reimbursement methodology for the personal care assistance waiver services.

(d) The benefits expected from administrative regulation are: This program will enable state revenues to be better utilized and thus provide resources for more individuals to be served. It will do so by diverting services from being provided through the Office of Aging Services (which are 100% state funded) to being provided by this community-based personal care assistance waiver program which is funded with federal matching dollars. The end result is more individuals will receive services in their homes where many prefer to receive services rather than in more costly nursing facilities.

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

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

January 15, 2000

(1) **921 KAR 2:015**, Supplemental programs for persons who are aged, blind, or have a disability.

(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 February 29, 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 February 29, 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 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 state supplementation, 921 KAR 2:015, is KRS 205.245, 194B.050(1), 42 USC 1382e-g, and EO 98-731. Since 1977, the Commonwealth of Kentucky has had an agreement with the Department of Health and Human Services to pass along the cost of living supplemental security income benefit increases to state supplementation recipients.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a proposed amendment to administrative regulation, 921 KAR 2:015. The proposed administrative regulation is necessary to:

1. Revise the standard of need for all levels of care for the State Supplementation Program due to the pass along of the 2000 supplemental security income cost of living adjustment.

2. Make necessary amendments to conform with KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation is necessary to implement the mandated increases in the standard of need for the State Supplementation Program due to the pass along of the supplemental security income 2000 cost of living adjustment. KRS 205.245 provides for the mandatory supplementation program and also for supplementation to other needy persons who are aged, blind, or have a disability.

(d) The benefits expected from administrative regulation are: This administrative regulation will increase the standard of need for all levels of care for the recipients of the State Supplementation Program due to the pass along of the supplemental security income cost of living increase.

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(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.

January 14, 2000

(1) **921 KAR 2:050.** Time and manner of payments.

(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 February 29, 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 February 29, 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 the State Supplementation Program is KRS 194B.050(1), and to K-TAP is KRS 194B.050(1) and 42 USC 601 et seq., EO 98-731.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate will amend 921 KAR 2:050, Time and manner of payments, to:

1. Include as a payment option direct deposit of a Kentucky Transitional Assistance Program (K-TAP) payment into a recipient's checking account;

2. Allow the Department for Community Based Services an opportunity to request an accounting from a third-party payee in which the use of Kentucky Transitional Assistance Program funds shall be described;

3. Deny approval of an MIMR supplement to a personal care home that has received a Type A citation from the Office of Inspector General;

4. Clarify recipient status for wage supplementation participants; and

5. (Add Section 5 to include materials incorporated by reference. Such forms will permit the Department for Community Based Services authority to directly deposit K-TAP payments into a recipient's checking account upon request by the recipient and grant the Department for Community Based Services authority to request an accounting from a third party payee in which the use of K-TAP funds shall be described.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The Cabinet for Families and Children shall, under the provisions of KRS Chapter 205, administer the assistance programs of Kentucky Transitional Assistance Program and Kentucky Works and a state funded program of money payments to those persons who are aged, blind and have a disability who are disadvantaged by the implementation of the Supplemental Security Income (SSI) Program. In addition, KRS 205.245 provides for money payment to certain other persons who are aged, blind or have a disability. The cabinet shall make payments, described in 921 KAR 2:015, for the persons with mental illness or mental retardation (MIMR) supplement program. This administrative regulation sets forth the time and the manner in which payments are made.

(d) The benefits expected from this administrative regulation are: The amendments to this administrative regulation will increase the efficiency in which the Department for Community Based Services delivers Kentucky Transitional Assistance Program payments; allow the Department for Community Based Services an opportunity to ensure that Kentucky Transitional Assistance Program funds are utilized correctly; and provide the Department for Community Based Services with the ability to deny MIMR supplements to deficient Personal Care Homes.

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

January 15, 2000

(1) **921 KAR 3:020.** Financial requirements (Food Stamp 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 February 29, 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 February 29, 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 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 financial requirements for the Food Stamp Program, 921 KAR 3:020, is KRS 194B.050(1), 7 CFR 271.4, EO 98-731.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a proposed amendment to administrative regulation, 921 KAR 3:020. The proposed administrative regulation is necessary due to:

1. Amend Section 4, Income Eligibility Standards, and Section 7, Resources, to expand categorical eligibility to include post-K-TAP recipients;
2. Amend Section 6, Monthly Shelter Cost Deduction, to reflect adjusted excess shelter maximum deduction and standard utility allowance deduction as provided by the federal Food and Nutrition Service; and
3. Make necessary corrections to comply with KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: 7 CFR 273.2(j)(2) requires that any household in which all members receive or are authorized to receive K-TAP or SSI benefits shall be considered eligible for food stamps. Based on the option offered to states by President Clinton on July 14, 1999, Kentucky has elected to expand categorical eligibility to include benefits beyond the TANF grant and to determine whether K-TAP, Kinship Care and in-kind supportive services benefit the individual or all household members.

(d) The benefits expected from administrative regulation are: More low income families will continue to be eligible for food stamps after leaving K-TAP.

(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.

January 15, 2000

(1) **921 KAR 3:030.** Application process (Food Stamp 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 February 29, 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 February 29, 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 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 the application process for the Food Stamp Program, 921 KAR 3:030, is KRS 13A.120, 116.048, 194B.050(1), 7 USC 2020(e)(2)(B)(ii), (iii), (iv), EO 98-731.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a proposed amendment to administrative regulation, 921 KAR 3:030. The proposed administrative regulation is necessary due to:

1. Amend Section 2, Who May Sign an Application, to reflect that the Food Stamp application must be signed by an adult or emancipated child;
2. Amend Section 5, Expedited Services, to delete homeless individuals as a criteria for receiving expedited services in compliance with Section 838 of PRWORA which amended 7 USC 2020(e)(9);
3. Amend Section 6, Public Assistance Application Process, to expand categorical eligibility to include post K-TAP recipients; and
4. Make necessary corrections to comply with KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: 7 CFR 273.2(j)(2) requires that any household in which all members receive or are authorized to receive K-TAP or SSI benefits shall be considered eligible for food stamps. Based on the option offered to states by President Clinton on July 14, 1999, Kentucky has elected to expand categorical eligibility to include benefits beyond the TANF grant and to determine whether K-TAP, Kinship Care and in-kind supportive services benefit the individual or all household members.

(d) The benefits expected from administrative regulation are: More low income families will continue to be eligible for food stamps after leaving K-TAP.

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(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.

January 14, 2000

(1) **922 KAR 1:400**. Supportive 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 February 29, 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 February 29, 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 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 child care supportive services is KRS 194B.050(1), 199.420 and 615.050.

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a new administrative regulation, 922 KAR 1:400, Supportive services. The new administrative regulation is necessary to:

1. Put into topical form the following program areas: case management, child support, intensive family-based services, safety net, psychiatric placements, medicaid eligible services and preventative assistance; and

2. Comply with Kentucky Revised Statutes.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: This administrative regulation is required by KRS 194B.050(1), 199.420, and 615.050.

(d) The benefits expected from administrative regulation are: To enhance the quality of service delivery and the protection of the individuals serviced 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.

EMERGENCY ADMINISTRATIVE REGULATIONS FILED AS OF NOON, FEBRUARY 1, 2000

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

STATEMENT OF EMERGENCY
907 KAR 1:070E

This emergency administrative regulation is being promulgated to establish homecare waiver services to provide services to aged and disabled individuals that are sixty (60) years of age or greater. This action must be taken on an emergency basis to ensure the public health, safety, or welfare of Medicaid recipients wishing to continue to reside in the community as an alternative to nursing facility care. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because medically necessary services provided by this administrative regulation would otherwise be unavailable to individuals residing in a community setting. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Long Term Care

907 KAR 1: 070E. Homecare waiver services.

RELATES TO: 42 CFR 441 Subparts G, B, 42 USC 1396a, b, d,

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520
EFFECTIVE: December 30, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, is required to administer the Medicaid Program. KRS 205.520 authorizes the cabinet to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the provisions for homecare waiver services.

Section 1. Definitions. (1) "Applicant" means an individual who is applying for homecare waiver services.

(2) "Case management" means:

(a) Services that oversee the application, assessment, and re-assessment of individuals for waiver services; and

(b) A system under which responsibility for locating, coordinating and monitoring a group of services rests with a designated person.

(3) "Department" means the Department for Medicaid Services or its designee.

(4) "Eligible Individual" means a person who has applied for medical assistance and has been determined to have met all applicable conditions for eligibility, pertaining to:

(a) Kentucky's Medicaid Program; and

(b) Homecare waiver services.

(5) "Environmental accessibility adaptation" means a physical adaptation to the home that is required by the individual's plan of care that is necessary to ensure the health, welfare and safety of the individual.

(6) "Homemaker services" means an array of services consisting of general household activities provided by a trained homemaker.

(7) "Personal care services" means assistance with activities of daily living or related housekeeping chores.

(8) "Participating" means a provider of medical services taking part in the Medicaid Program by agreeing to comply with program administrative regulations and providing services to eligible recipients.

(9) "Provider" means an entity pursuant to KRS 205.8451(7).

(10) "Staff person" means an employee or volunteer of a provider or agency who provides the direct delivery of services to an eligible individual.

Section 2. Individual Eligibility Determination and Redetermination. (1) An individual aged sixty (60) or over shall be eligible to participate in homecare waiver services if he meets the:

(a) Nursing facility (NF) level of care requirements pursuant to 907 KAR 1:022; and

(b) Technical and financial eligibility criteria of Kentucky's Medical Assistance Program.

(2) An individual shall not be eligible to participate in homecare waiver services if he is:

(a) An inpatient of:

1. A hospital;

2. A nursing facility; or

3. An intermediate care facility for individuals with mental retardation; or

(b) A recipient of services in another Medicaid waiver program.

(3) Redetermination of eligibility factors pursuant to subsection (1) of this section shall occur at:

(a) Twelve (12) month intervals; or

(b) More frequently if the individual's condition or needs change.

Section 3. Services Provided to an Eligible Individual. (1) Pursuant to subsection (3) of this section, homecare waiver services shall include:

(a) Case management;

(b) Homemaker;

(c) Personal care; and

(d) Pursuant to subsection (2) of this section, environmental accessibility adaptations.

(2) Environmental accessibility adaptations shall:

(a) Meet all applicable state or local building codes;

(b) Be limited to a maximum of \$1,000 per eligible individual per calendar year; and

(c) Exclude adaptations or improvements to the home that:

1. Have no direct medical or remedial benefit to the individual; and

2. Add to the total square footage of the home.

(3) A service pursuant to subsection (1) of this section shall be covered if:

(a) Pursuant to Section 5(2)(a)4 of this administrative regulation, it is entered on form DSS 891-1,2 "Plan of Care", and approved by the department;

(b) The service is prior authorized by the department using form MAP 9 (Rev. 01/2000) "Commonwealth of Kentucky Cabinet for Health Services Kentucky Medicaid Program Prior Authorization for Health Services"; and

(c) It is managed and coordinated by a provider or agency.

Section 4. Exclusions for Provider Participation. A provider of case management shall not be an eligible provider of a service pursuant to Section 3(1)(b) through (d) of this administrative regulation.

Section 5. Provider Responsibilities. (1) A provider of personal care and homemaker services shall:

(a) Provide services throughout the geographic area covered under its plan;

(b) Treat the client in a respectful and dignified manner;

(c) Involve the client and caregiver in the delivery of services;

(d) Provide services in a safe manner;

(e) Permit staff of the department to monitor and evaluate services provided;

(f) Maintain written:

1. Job descriptions for each position;

2. Qualifications of staff;

3. Training standards;
4. Personnel policies; and
5. Wage scales for each job category;
- (g) Provide professional on-site supervision of staff:
 1. One (1) time per month; or
 2. More frequently, as determined by the supervisor;
- (h) Assure that all staff shall:
 1. Be age eighteen (18) or older; and
 2. Demonstrate an ability to:
 - a. Read;
 - b. Write;
 - c. Understand instructions;
 - d. Carry out instructions;
 - e. Record messages;
 - f. Keep simple records; and
 - g. Maintain client confidentiality;
 3. Not have been convicted of a felony as evidenced by a valid criminal records investigation report obtained from the Kentucky Department of Justice and maintained in the staff's personnel file;
 4. Provide a current tuberculosis skin test with a copy of the test results filed in the staff's personnel file;
 5. Not serve clients if the staff person has contracted an infectious disease of any nature until his condition is determined not to be contagious as supported by a physician's statement submitted to the provider by the staff person.
- (2) A provider of case-management services shall comply with subsection (1)(a) through (h) of this section; and
 - (a) Assure that:
 1. Each office is:
 - a. Staffed to operate thirty-seven and one-half (37.5) hours per week during normal working hours; and
 - b. Accessible to persons who are disabled;
 2. Each case manager and case-management supervisor shall meet:
 - a. Qualification;
 - b. Certification; and
 - c. Training requirements;
 3. Uniform procedures for verification of client eligibility and case management are used;
 4. An eligible individual served by the provider shall receive services pursuant to a care plan developed cooperatively with a case-management team, pursuant to paragraph (f)4 of this subsection and recorded on form DSS 891-1,2 "Plan of Care", and the plan shall:
 - a. Relate to the assessed problem;
 - b. Identify the:
 - (i) Goals to be achieved;
 - (ii) Scope, duration and units of service; and
 - (iii) Source of services;
 - c. Incorporate a reassessment plan;
 - d. Be signed by the client and case-management team;
 - (b) Describe:
 1. Its methods for referring an eligible individual to other appropriate programs and services;
 2. Program monitoring procedures; and
 3. The plan for case management, including:
 - a. Implementation;
 - b. Short-term goals; and
 - c. Long-term goals;
 4. The manner in which services shall be delivered to an eligible individual, including the units of service;
 - (c) Provide the following information regarding its organizational structure:
 1. A description of its legal identity, documented by the following items:
 - a. Articles of incorporation;
 - b. Mission statement;
 - c. Bylaws; and
 - d. Intergovernmental agreements (if applicable);
 2. Its governing board membership;
 3. An organizational chart;
 4. A description of its case-management services staffing plan accompanied by:
 - a. Current staff's resumes; and

- b. The number of full-time equivalents (FTE's) for each position type;
5. A description of its telephone system including an explanation of how it shall provide message and referral services during:
 - a. Off-hours; and
 - b. Weekends;
6. Its procedures which govern financial responsibility;
7. Financial statements and an independent audit for the previous year;
8. The provider's experience in working with the population aged sixty (60) and older that have functional impairment and disabilities;
9. The provider's plan to provide monitoring of:
 - a. Services; and
 - b. Quality of care provided to an eligible individual;
10. Documentation that interagency agreements with provider organizations within the geographic service area are signed and in place;
 - (d) Collect and report to the department, quarterly:
 1. Summary data; and
 2. Client-specific data;
 - (e) Comply with the appeal process pursuant to:
 1. 907 KAR 1:560;
 2. 907 KAR 1:563; and
 3. 907 KAR 1:671;
 - (f) Perform an assessment of an eligible individual:
 1. At the initial contact with a case manager;
 2. Every twelve (12) months thereafter; or
 3. More frequently if an individual's condition or needs change;
 4. Using the following forms:
 - a. DSS 891-1,2;
 - b. MAP 350 "Long Term Care Facilities and Home and Community Based Program Certification";
 - c. "State of Kentucky Aging Services Client Enrollment";
 - d. MAP 10H "Kentucky Medicaid Program Home and Community Based Services Waiver"; and
 5. By a team consisting of a:
 - a. Social worker who possesses a:
 - (i) Bachelor or master's degree in social work, gerontology, psychology, sociology or a related field; or
 - (ii) Bachelor's degree in a field other than social work, gerontology, psychology, sociology or a related field and has two (2) years of work experience with the elderly or with physically disabled individuals; and
 - b. Registered nurse who possesses a current Kentucky nursing license;
 - (g) Provide bimonthly on-site monitoring by a case-management team member to assure that an eligible individual's needs, as identified in the care plan, are met;
 - (h) Document in an eligible individual's case record:
 1. The services provided pursuant to this administrative regulation; and
 2. Each contact with, or on behalf of, an eligible individual.
- (3) A provider of environmental accessibility adaptations shall be:
 - (a) An individual contractor or agency; and
 - (b) Licensed in accordance with state and county building codes in the counties in which they work.

Section 6. Applicant Level of Care Determination Process. (1) Pursuant to Section 2(1)(a) of this administrative regulation, a case-management team member shall telephone the PRO and provide required applicant information pursuant to Section 5(2)(f) of this administrative regulation.

(2) The PRO then shall determine whether or not an applicant meets nursing facility level of care requirements and shall:

- (a) Verbally notify a case manager of its determination; and
- (b) Send written confirmation of its determination to a case manager.

(3) Upon receipt of the PRO's determination a case manager shall send the following documentation to the PRO:

- (a) A DSS 891-1,2;
- (b) A MAP 350;
- (c) A MAP 10H;
- (d) A "State of Kentucky Aging Services Client Enrollment form;

and

(e) A confirmation notice stating that the applicant meets nursing facility level of care requirements.

(4) Upon receipt of the items listed in subsection (3)(a) through (e) of this section the PRO shall generate a document approving or denying an applicant for each homemaker waiver service requested.

(5) The department ensures that this document is forwarded to:

(a) Each homemaker waiver service provider; and

(b) The applicant.

(6) If the PRO determines that an applicant does not meet nursing facility level of care requirements the PRO shall:

(a) Verbally notify a case manager of its determination; and

(b) Send written notification of its decision to:

1. A case manager;

2. The Department for Community Based Services; and

3. The applicant; and the applicant notification shall contain appeal right information.

Section 7. Training Requirements. (1) Personal care and homemaker services training shall:

(a) Be conducted by:

1. A recognized institution of learning; or

2. If by the employing agency, a professional specialist, who shall be:

a. A nurse;

b. A social worker;

c. A home economist; and

d. A nutritionist or dietitian; or

3. A personal care or homemaker employer;

(b) Include sixty (60) hours of comprehensive training as follows:

1. Sixteen (16) hours of training shall be completed by staff prior to any work assignments and:

a. Include:

(i) An overview of the Office of Aging Services;

(ii) The role of the personal care and homemaker staff;

(iii) Recordkeeping and confidentiality; and

(iv) A supervised home visit with an experienced personal care or homemaker staff for a period of four (4) hours;

b. Instruction shall:

(i) Be provided to new staff within the first week of employment; and

and

(ii) Include communication techniques appropriate to working with older people;

c. Instruction shall be provided within the first month of employment and shall include how to:

(i) Maintain a clean and safe environment; and

(ii) Respond to hazards; and

2. Forty-four (44) hours to be completed within the initial six (6) months of employment which shall include:

a. Food and nutrition;

b. Personal care;

c. Basic first aid; and

d. Medications;

(c) Include a minimum of six (6) hours of continuing education training for staff who perform personal care and homemaker job functions pursuant to Section 1(5) and (6) of this administrative regulation. This training shall be provided:

1. By an employing provider each fiscal year; and

2. On topics appropriate to the job functions of a personal care or homemaker staff.

(d) Be documented in a staff member's personnel file by an employing agency, including:

1. A staff member's attendance;

2. A staff member's number of hours credit;

3. The subject matter of the training;

4. A course outline;

5. An instructor's name and title; and

6. A staff member's test results.

(2) Case managers shall be required to attend:

(a) Fourteen (14) hours of case-management orientation training; and

(b) Four (4) hours of continuing education training, pertinent to the job function, on a quarterly basis.

Section 8. Recipient Choice. (1) An eligible individual or his legal representative shall be given a choice to receive:

(a) Home and community-based services; or

(b) Nursing facility services subject to the limitations established in Section 2 of this administrative regulation; and

(2) An eligible individual or his legal representative shall select participating homemaker waiver services providers from whom he wishes to receive services.

Section 9. Appeal Rights. (1) An appeal of a negative action regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

(2) An appeal of a negative action regarding NF level of care or a service to a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

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

(a) MAP 10-H, Kentucky Medicaid Program Homemaker Waiver Services, January 2000 Revision;

(b) MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form, January 2000 Revision;

(c) MAP-4100H, Homemaker Waiver Services, Provider Information and Services, January 2000 Revision;

(d) MAP-9, Commonwealth of Kentucky, Cabinet for Human Resources, Kentucky Medicaid Program, Prior Authorization for Health Services, December 1995 Revision;

(e) DSS 891-1,2, The Plan of Care, July 1996 Revision; and

(f) The State of Kentucky, Aging Services Client Enrollment, January 2000 Revision.

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

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: December 22, 1999

FILED WITH LRC: December 30, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle (564-4321) or Sharon Rodriguez (564-6204)

(1) Type and number of entities affected: Providers of case management, homemaker services, personal care services and environmental accessibility adaptation services may be affected. However, since this is a new waiver the number of entities that will provide services is unknown at this time. It is expected that 900 unduplicated recipients will be served in the first year of this waiver.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

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

1. First year following implementation: As these services are currently being funded through other sources the impact on providers should be insignificant or none.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: The implementation of this emergency will have no impact on the Department for Medicaid Services. The cost analysis listed below will be funded by the Office of Aging Services.

(a) Direct and indirect costs or savings:

1. First year: \$ 2,834,050
2. Continuing costs for second year: \$3,206,935; for third year: \$3,631,931.

3. Additional factors increasing costs: The number of recipients served are expected to increase approximately 10% the second year and an additional 10% from the second to the third year.

(b) Reporting and paperwork requirements: The program will be administrated by the Office of Aging Services through an inter-agency agreement with the Department for Medicaid Services. No cost will be incurred by Medicaid as a result of the interagency agreement. Existing Medicaid staff will absorb responsibility of oversight of the agreement.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. *Federal matching funds of 70.55% equaling \$1,999,422 and state matching funds of 29.45% equaling \$834,628 will be expended. State revenues will come from the Office of Aging Services, Cabinet for Health Services, general fund.

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

(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide.

(b) Kentucky: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Will ensure the availability of homecare services for individuals who are aged and disabled, 60 years of age or older and continue to reside in the community.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety or welfare of Medicaid recipients if homecare waiver services are unavailable.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY 907 KAR 1:072E

This emergency administrative regulation is being promulgated to establish the reimbursement methodology for the Homecare Services Program. This action must be taken on an emergency basis to ensure the public health, safety, or welfare of Medicaid recipients wishing to continue to reside in the community as an alternative to nursing facility care. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because reimbursement for medically necessary services provided by this administrative regulation would otherwise be unavailable to individuals residing in a community setting. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor

JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES Department for Medicaid Services Division of Long Term Care

907 KAR 1:072E. Payments for homecare waiver services.

RELATES TO: 42 CFR 441 Subpart G, 42 USC 1396a, b, d, n
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520
EFFECTIVE: December 30, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, is required to administer the Medicaid Program. KRS 205.520 authorizes the cabinet to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the payment provisions relating to homecare waiver services.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designee.

(2) "Family member" means:

- (a) Husband or wife;
 - (b) Natural or adoptive parent, child or sibling;
 - (c) Stepparent, stepchild, stepbrother, stepsister;
 - (d) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;
 - (e) Grandparent or grandchild;
 - (f) Spouse of grandparent or grandchild;
 - (g) Aunt or uncle; or
 - (h) Spouse of aunt or uncle.
- (3) "Unit of service" means a fixed amount by which a whole service shall be measured and recorded for payment.

Section 2. Reimbursement. (1) The department shall reimburse a participating provider for a service pursuant to 907 KAR 1:070E the lessor of the:

- (a) Provider's usual and customary charge; or
 - (b) Medicaid fixed upper payment rate per unit of service in accordance with Section 3 of this administrative regulation.
- (2) The department shall not reimburse a provider for the cost of a service:
- (a) That is not listed in an eligible individual's approved plan of care;
 - (b) Provided prior to approval of an eligible individual's plan of care; or
 - (c) Provided by a family member.

Section 3. Medicaid Fixed Upper Payment Rate. (1) The following rates shall be the fixed upper payment rates for each unit of service pursuant to 907 KAR 1:070E, Section 3.

Homecare Waiver Services	Medicaid Fixed Upper Payment Rate	Unit of Service	Maximum Units of Service Per Calendar Year
Case Management	\$9.00	15 minutes	None
Homemaker	\$9.50	30 minutes	None
Personal Care	\$9.75	30 minutes	None
Environmental Accessibility Adaptations	\$1,000.00	None	None, not to exceed \$1,000

(2) The Medicaid fixed upper payment rates shall be increased for inflation by the department on October 1 of each year using the most recent quarterly Standard and Poor's DRI Medical Index available as of the September 1 immediately prior to the rate effective date.

Section 4. Auditing and Reporting. (1) A participating provider shall maintain fiscal and service records of services provided for a period of at least five (5) years from the date that a covered service is provided;

(2) A participating provider shall upon request provide or make available information, regarding service and financial records, to:

- (a) The department;
- (b) The United States Department for Health and Human Services, or its designee;
- (c) The United States General Accounting Office, or its designee;
- (d) The Commonwealth of Kentucky, Office of the Auditor of Public Accounts, or its designee;
- (e) The Commonwealth of Kentucky, Office of the Attorney General, or its designee.

Section 5. Appeal Rights. A homecare waiver services provider may appeal a negative action by the department pursuant to 907 KAR 1:671.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: December 22, 1999

FILED WITH LRC: December 30, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle (564-4321) or Sharon Rodriguez (564-6204)

(1) Type and number of entities affected: Providers of case management, homemaker services, personal care services and environmental accessibility adaptation services may be affected. However, since this is a new program the number of entities that will provide services is unknown at this time. It is expected that 900 unduplicated recipients will be served in the first year of this program.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

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

1. First year following implementation: As these services are currently being funded through other sources, the impact on providers should be insignificant or none.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: The implementation of this emergency administrative regulation will have no impact on the Department for Medicaid Services. The cost analysis listed below will be funded by the Office of Aging Services.

(a) Direct and indirect costs or savings:

1. First year: \$2,834,050

2. Continuing costs for second year: \$3,206,935; for third year: \$3,631,931.

3. Additional factors increasing costs: The number of recipients served are expected to increase approximately 10% the second year and an additional 10% from the second to the third year.

(b) Reporting and paperwork requirements: The program will be administrated by the Office of Aging Services through an inter-agency agreement with the Department for Medicaid Services. No cost will be incurred by Medicaid as a result of the interagency agreement. Existing Medicaid staff will absorb responsibility of oversight of the agreement.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. *Federal matching funds of 70.55% equaling \$1,999,422 and state matching funds of 29.45% equaling \$834,628 will be expended. State revenues will come from the Office of Aging Services,

Cabinet for Health Services, general fund.

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

(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide.

(b) Kentucky: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Will ensure the availability of homecare services for individuals who are aged and disabled, 60 years or older and continue to reside in the community.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety or welfare of Medicaid recipients if homecare services are unavailable.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY 907 KAR 1:090E

This emergency regulation is being promulgated to establish personal care assistance waiver services. This action must be taken on an emergency basis to ensure the public health, safety, or welfare of Medicaid recipients wishing to continue to reside in the community as an alternative to nursing facility care. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because reimbursement for medically necessary services provided by this administrative regulation would otherwise be unavailable to individuals residing in a community setting. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES Department for Medicaid Services Division of Long Term Care

907 KAR 1:090E. Personal care assistance waiver services.

RELATES TO: 42 CFR 441 Subparts G, B, 42 USC 1396a, b, d,
n

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520
EFFECTIVE: December 30, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, is required to administer the Medicaid Program. KRS 205.520 authorizes the cabinet to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the provisions of Personal Care Assistance Waiver Services.

VOLUME 26, NUMBER 8 – FEBRUARY 1, 2000

Section 1. Definitions. (1) "Applicant" means an individual who is applying for homecare waiver services.

(2) "Business agent" means an entity nominated by an eligible individual to receive Medicaid payment to disburse to a personal care assistant; and perform payroll functions.

(3) "Case management" means:

(a) Services that oversee the application, assessment, and re-assessment of individuals for waiver services; and

(b) A system under which responsibility for locating, coordinating and monitoring a group of services rests with a designated person.

(4) "Department" means the Department for Medicaid Services or its designee.

(5) "Eligible individual" means a person who has applied for medical assistance and has been determined to have met all applicable conditions for eligibility, pertaining to:

(a) Kentucky's Medicaid Program; and

(b) Personal care assistance waiver services.

(6) "Personal care assistance services" means the assistance by one (1) or more persons to an individual with a physical disability with tasks that the disabled individual would typically do for himself in the absence of a disability.

(7) "Personal care program coordination services" means an array of services that assist an eligible individual to become an effective employer of the personal care attendant.

(8) "Participating" means a provider of medical services taking part in the Medicaid Program by agreeing to comply with program administrative regulations and providing services to eligible recipients.

(9) "Provider" means an entity pursuant to KRS 205.8451(7).

(10) "Staff person" means an employee or volunteer of a provider or agency who provides the direct delivery of services to an eligible individual.

Section 2. Individual Eligibility Determination and Redetermination. (1) An individual aged eighteen (18) or over with permanent or temporary recurring functional loss of two (2) or more limbs, shall be eligible to participate in personal care assistance waiver services if he meets the:

(a) Nursing facility (NF) level of care requirements pursuant to 907 KAR 1:022; and

(b) Technical and financial eligibility criteria of Kentucky's Medicaid Program.

(2) An individual shall not be eligible to participate in personal care assistance waiver services if he is:

(a) An inpatient of:

1. A hospital;

2. A nursing facility; or

3. An intermediate care facility for an individual with mental retardation; or

(b) A recipient of services in another Medicaid waiver program.

(3) Redetermination of eligibility factors pursuant to subsection (1) of this section shall occur at:

(a) Twelve (12) month intervals; or

(b) More frequently if an individual's condition or needs change.

Section 3. Services Provided to Eligible Individuals. (1) Pursuant to subsection (2) of this section, personal care assistance waiver services shall include:

(a) Case management;

(b) Personal care assistance; and

(c) Personal care program coordination.

(2) A service pursuant to subsection (1) of this section shall be covered if:

(a) Pursuant to Section 5(2)(h)4 of this administrative regulation, it is entered on form DSS 891-1,2 "Plan of Care", and approved by the department;

(b) The service is prior authorized by the department using form MAP 9 (Rev. 01/2000) "Commonwealth of Kentucky Cabinet for Health Services Kentucky Medicaid Program Prior Authorization for Health Services"; and

(c) It is managed and coordinated by a provider.

Section 4. Exclusions for Provider Participation. A provider of case management shall not be an eligible provider of a:

(1) Personal care assistance service; or

(2) Personal care program coordination service.

Section 5. Provider Responsibilities. (1) A provider of personal care assistance services shall:

(a) Assure that each staff person shall:

1. Be age eighteen (18) or older; and

2. Demonstrate an ability to:

a. Read;

b. Write;

c. Understand instructions;

d. Carry out instructions;

e. Record messages;

f. Keep simple records; and

g. Maintain client confidentiality;

3. Not have been convicted of a felony as evidenced by a valid criminal records investigation report obtained from the Kentucky Department of Justice and maintained in the staff person's personnel file;

4. Provide a current tuberculosis skin test with a copy of the test results filed in the staff person's personnel file;

5. Not serve clients if the staff person has contracted an infectious disease of any nature until his condition is determined not to be contagious as supported by a physician's statement submitted to the provider by the staff person.

(b) Be:

1. Employed and supervised by the eligible individual; and

2. Monitored by a personal care program coordinator service provider pursuant to subsection (3) of this section;

(c) Provide services pursuant to subsection (2)(h)4 of this section and to the instructions of each eligible individual;

(d) Report to work timely;

(e) Notify an eligible individual at least (6) six hours in advance if unable to report for work;

(f) Obtain and, as necessary, use emergency phone numbers and notify a program coordinator or case manager of conditions pursuant to the serious threat to the health, welfare, and safety of an eligible individual.

(g) Record daily:

1. The number of hours worked;

2. The services rendered to an eligible individual;

(h) Attend:

1. Training related to specific care needs of an eligible individual;

2. Staff meetings with:

a. An eligible individual;

b. A program coordinator; and

c. A case manager; to:

(i) Monitor; and

(ii) Coordinate services to an eligible individual.

(2) A provider of case-management services shall comply with subsection (1)(a)3 through 5 of this section and shall:

(a) Provide services throughout the geographic area covered under its plan;

(b) Treat an eligible individual in a respectful and dignified manner;

(c) Involve an eligible individual and caregiver in the delivery of services;

(d) Provide services in a safe manner;

(e) Maintain client confidentiality;

(f) Permit staff persons of the department to monitor and evaluate services provided;

(g) Maintain written:

1. Job descriptions for each position;

2. Qualifications of staff;

3. Training standards;

4. Personnel policies; and

5. Wage scales for each job category;

(h) Assure that:

1. Each office is:

a. Staffed to operate at least thirty-seven and one-half (37.5) hours per week during normal working hours; and

b. Accessible to persons who are disabled;

2. Each case manager and case-management supervisor shall

meet:

- a. Qualification;
- b. Certification; and
- c. Training requirements;
3. Uniform procedures for verification of applicant eligibility and case management are used; and
4. An eligible individual served by the provider shall receive services pursuant to a care plan developed cooperatively with a case-management team, pursuant to paragraph (m) of this subsection and recorded on form DSS 891-1,2 "Plan of Care", and the plan shall:
 - a. Relate to the assessed condition;
 - b. Identify the:
 - (i) Goals to be achieved;
 - (ii) Scope, duration and units of service; and
 - (iii) Source of services;
 - c. Incorporate a reassessment plan.
 - d. Be signed by the eligible individual and case-management team;
 - (i) Describe:
 1. Its methods for referring an eligible individual to other appropriate programs and services;
 2. Its program monitoring procedures; and
 3. Its case-management plan, including:
 - a. Implementation;
 - b. Short-term goals; and
 - c. Long-term goals;
 4. The manner in which services shall be delivered to an eligible individual including the units of service;
 - (j) Provide the following information regarding its organizational structure:
 1. A description of its legal identity, documented by the following items:
 - a. Articles of incorporation;
 - b. Mission statement;
 - c. Bylaws; and
 - d. Intergovernmental agreements (if applicable);
 2. Its governing board membership;
 3. An organizational chart;
 4. A description of its case-management staffing plan accompanied by:
 - a. Current staff member's resumes; and
 - b. The number of full-time equivalent's (FTE's) for each position type;
 5. A description of its telephone system including an explanation of how it will provide message and referral services during:
 - a. Off hours; and
 - b. Weekends;
 6. Its procedures which govern financial responsibility;
 7. Financial statements and an independent audit for the previous year;
 8. The provider's experience in working with adults that have functional impairments and disabilities;
 9. The provider's plan to provide monitoring of:
 - a. Services; and
 - b. Quality of care provided to eligible individuals;
 10. Documentation that interagency agreements with provider organizations within the geographic service area are signed and in place;
 - (k) Collect and report to the department, quarterly:
 1. Summary data; and
 2. Client-specific data;
 - (l) Comply with the appeal process pursuant to:
 1. 907 KAR 1:560;
 2. 907 KAR 1:563; and
 3. 907 KAR 1:671;
 - (m) Perform an assessment of an individual:
 1. At the initial contact with a case manager; and
 2. Every twelve (12) months thereafter; or
 3. More frequently if an individual's condition or needs change;
 4. Using the following forms:
 - a. DSS 891-1,2;
 - b. MAP 350 "Long Term Care Facilities and Home and Community Based Program Certification";

- c. "State of Kentucky Aging Services Client Enrollment"; and
- d. MAP 10P "Kentucky Medicaid Program Home and Community Based Services Waiver";
5. By a team consisting of a:
 - a. Social worker who possesses a:
 - (i) Bachelor or master's degree in social work, gerontology, psychology, sociology or a related field; or
 - (ii) Bachelor's degree, in a field other than social work, gerontology, psychology, sociology or related field, and has two (2) years of work experience with elderly or physically disabled individuals; and
 - b. Registered nurse who possesses a current Kentucky nursing license;
 - (n) Document in an eligible individual's case record:
 1. The services provided pursuant to this administrative regulation; and
 2. Each contact with the eligible individual or on his behalf; and
 - (o) Provide bimonthly on-site monitoring by a case-management team member to assure that an eligible individual's needs, as identified in the care plan are met;
 - (p) Assure that each case manager shall attend training as follows:
 1. Fourteen (14) hours of case-management orientation training;
 2. Four (4) hours of in-service training, pertinent to the job function, quarterly.
 - (3) Pursuant to KRS 205.900(4), a provider of personal care program coordination services shall:
 - (a) Comply with subsection (1)(a) of this section;
 - (b) Employ or contract for a program coordinator who shall have:
 1. Two (2) years equal to fifty-four (54) semester hours of college; or
 2. Work experience in any of the following areas that shall substitute on a year-for-year basis:
 - a. Interviewing;
 - b. Community service;
 - c. Administrative;
 - d. Reviewing;
 - e. Monitoring;
 - f. Training; or
 - g. Eligibility determinations for human services programs;
 - (c) Provide the following services to an eligible individual:
 1. Training in recordkeeping;
 2. Tax responsibility instruction;
 3. Supervision of a personal care assistant; and
 4. Lists of personal care assistants from which the eligible individual may choose, if requested; and
 - (d) Provide monthly programmatic reports on personal care assistants upon the department's request.

Section 6. Applicant Level of Care Determination Process. (1) Pursuant to Section 2(1)(a) of this administrative regulation, a case-management team member shall telephone the PRO and provide required applicant information pursuant to subsection (2)(f) of this section;

- (2) If the PRO determines that an applicant meets nursing facility level of care requirements then the PRO shall:
 - (a) Verbally notify a case manager of its determination; and
 - (b) Send written confirmation of its determination a case manager;
 - (3) Upon receipt of the PRO's confirmation notice a case manager shall:
 - (a) Send the following documentation to the PRO:
 1. A DSS 891-1,2;
 2. A MAP 350;
 3. A MAP 10H;
 4. A "State of Kentucky Aging Services Client Enrollment" form; and
 5. A confirmation notice stating that the applicant meets nursing facility level of care requirements;
 - (4) Upon receipt of the items listed in subsection (3)(a)1 through 5, the PRO shall generate a document approving or denying an applicant for each homecare waiver service requested.
 - (5) The department shall ensure that this document is forwarded to:
 - (a) Each homecare waiver service provider; and

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- (b) The applicant;
- (6) If the PRO determines that an applicant does not meet nursing facility level of care requirements the PRO shall:
 - (a) Verbally notify a case manager of its determination; and
 - (b) Send written confirmation of its decision to:
 - 1. A case manager;
 - 2. The Department for Community Based Services; and
 - 3. The applicant; and the applicant notification shall contain appeal right information.

Section 7. Recipient Choice. (1) An eligible individual or his legal representative shall:

- (a) Be given a choice to receive:
 - 1. Home and community-based services; or
 - 2. Nursing facility services subject to the limitations established in Section 2 of this administrative regulation; and
- (b) Pursuant to paragraph (a)1 and 2 of this subsection, complete, sign, and date form MAP 350; and
- (2) An eligible individual or his legal representative shall select participating personal care assistance waiver services providers from whom he wishes to receive services.

Section 8. Appeal Rights. (1) An appeal of a negative action regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560;

(2) An appeal of a negative action regarding NF level of care or a service to a Medicaid beneficiary shall be in accordance with 907 KAR 1:563; and

(3) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) MAP 10-P, Kentucky Medicaid Program Personal Care Assistance Waiver Services, January 2000 Revision;
- (b) MAP-350, Long Term Care Facilities and Home and Community Based Program Certification Form, January 2000 Revision;
- (c) MAP-4100P, Personal Care Assistance Waiver Services, Provider Information and Services, January 2000 Revision;
- (d) MAP-9, Commonwealth of Kentucky, Cabinet for Human Resources, Kentucky Medicaid Program, Prior Authorization for Health Services, December 1995 Revision;
- (e) DSS 891-1,2, The Plan of Care, July 1996 Revision; and
- (f) The State of Kentucky, Aging Services Client Enrollment, January 2000 Revision.

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

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: December 22, 1999

FILED WITH LRC: December 30, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle (564-4321) or Sharon Rodriguez (564-6204)

(1) Type and number of entities affected: Providers of case management, personal care program coordination and personal care assistance services may be affected. However, since this is a new waiver the number of entities to provide services are unknown at this time. It is expected that 75 unduplicated recipients will be served in the first year of this waiver.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

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

public hearing which will be held pursuant to KRS Chapter 13A.

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

1. First year following implementation: As these services are currently being funded through other sources the impact on providers should be insignificant or none.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: The implementation of this emergency administrative regulation will have no impact on the Department for Medicaid Services. The cost analysis listed below will be funded by the Office of Aging Services.

(a) Direct and indirect costs or savings:

1. First year: \$985,950

2. Continuing costs or savings for second year: \$1,109,491; for third year: \$1,268,321.

3. Additional factors increasing costs: The number of recipients served are expected to increase approximately 10% the second year and an additional 10% from the second to the third year.

(b) Reporting and paperwork requirements: The program will be administered by the Office of Aging Services through an inter-agency agreement with Medicaid services. No cost will be incurred by Medicaid as a result of the interagency agreement. Existing Medicaid staff will absorb responsibility of oversight of the agreement.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. *Federal matching funds of 70.55% equaling \$695,588 and state matching funds of 29.45% equaling \$290,362 will be expended. State revenues will come from the Office of Aging Services, Cabinet for Health Services, general fund.

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

(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide.

(b) Kentucky: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Will ensure the availability of personal care assistance waiver services for individuals who are severely physically disabled adults, 18 years of age or over, with permanent or temporary recurring functional loss of 2 or more limbs and continue to reside in the community.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety or welfare of Medicaid recipients if personal care assistance waiver services are not available.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY
907 KAR 1:092E

This emergency administrative regulation is being promulgated to establish the reimbursement methodology for the personal care assistance waiver services. This action must be taken on an emergency basis to ensure the public health, safety, or welfare of Medicaid recipients wishing to continue to reside in the community as an alternative to nursing facility care. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because reimbursement for medically necessary services provided by this administrative regulation would otherwise be unavailable to individuals residing in a community setting. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
JIMMY D. HELTON, Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Long Term Care

907 KAR 1:092E. Payments for personal care assistance waiver services.

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

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, is required to administer the Medicaid Program. KRS 205.520 authorizes the cabinet to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the payment provisions relating to personal care assistance waiver services.

Section 1. Definitions. (1) "Department" means the Department for Medicaid Services or its designee.

(2) "Family member" means:

- (a) Husband or wife;
 - (b) Natural or adoptive parent, child or sibling;
 - (c) Stepparent, stepchild, stepbrother, stepsister;
 - (d) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;
 - (e) Grandparent or grandchild;
 - (f) Spouse of grandparent or grandchild;
 - (g) Aunt or uncle; or
 - (h) Spouse of aunt or uncle.
- (3) "Unit of service" means a fixed amount by which a whole service is measured and recorded for payment.

Section 2. Reimbursement. (1) The department shall reimburse a participating provider for a service pursuant to 907 KAR 1:090E the lesser of the:

- (a) Provider's usual and customary charge; or
 - (b) Medicaid fixed upper payment rate per unit of service pursuant to Section 3 of this administrative regulation.
- (2) The department shall not reimburse a provider for the cost of a service:
- (a) That is not listed in the approved plan of care;
 - (b) Provided prior to approval of the plan of care; or
 - (c) Provided by a family member.

Section 3. Fixed Upper Payment Limits. (1) The following rates shall be the fixed upper payment rates for each unit of service pursuant to 907 KAR 1:090E, Section 3:

Personal Care Assistance Waiver Service	Medicaid Fixed Upper Payment Rate	Unit Of Service	Maximum Units of Service Per Week (Sunday-Saturday)	Minimum Units of Service Per Week

Personal Care Assistance	\$3.08	30 minutes	80	28
Case Management	\$9.00	15 minutes	None	None
Program Coordination	\$12.00	30 minutes	None	None

(2) The Medicaid fixed upper payment rates shall be increased for inflation by the department on October 1 of each year using the most recent quarterly Standard and Poor's DRI Medical Index available as of the September 1 immediately proceeding the rate effective dates.

Section 4. Auditing and Reporting. (1) A participating provider shall maintain fiscal and service records of services provided for a period of at least five (5) years from the date that a covered service is provided; and

(2) A participating provider shall upon request provide or make available information regarding service and financial records, to:

- (a) The department;
- (b) The United States Department for Health and Human Services, or its designee;
- (c) The United States General Accounting Office, or its designee;
- (d) The Commonwealth of Kentucky, Office of the Auditor of Public Accounts, or its designee;
- (e) The Commonwealth of Kentucky, Office of the Attorney General, or its designee.

Section 5. Appeal Rights. A personal care assistance waiver service provider may appeal a negative action by the department pursuant to 907 KAR 1:671.

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: December 22, 1999
FILED WITH LRC: December 30, 1999 at 9 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle (564-4321) or Sharon Rodriguez (564-6204)

(1) Type and number of entities affected: Providers of case management, personal care program coordination and personal care assistance services may be affected. However, since this is a new waiver the number of entities to provide services are unknown at this time. It is expected that 75 unduplicated recipients will be served in the first year of this waiver.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

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

1. First year following implementation: As these services are currently being funded through other sources the impact on providers should be insignificant or none.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: The implementation of this emergency administrative regulation will have no impact on the Department for Medicaid Services. The cost analysis listed below will be funded by the Office of Aging Services.

(a) Direct and indirect costs or savings:

1. First year: \$985,950

2. Continuing costs or savings for second year: \$1,109,491; for third year: \$1,268,321

3. Additional factors increasing costs: The number of recipients served are expected to increase approximately 10% the second year and an additional 10% from the second to the third year.

(b) Reporting and paperwork requirements: The program will be administrated by the Office of Aging Services through an inter-agency agreement with Medicaid services. No cost will be incurred by Medicaid as a result of the interagency agreement. Existing Medicaid staff will absorb responsibility of oversight of the agreement.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. *Federal matching funds of 70.55% equaling \$695,588 and state matching funds of 29.45% equaling \$290,362 will be expended. State revenues will come from the Office of Aging Services, Cabinet for Health Services, general fund.

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

(a) Geographical area in which administrative regulation will be implemented: To be implemented statewide.

(b) Kentucky: To be determined after the NOI public hearing which will be held pursuant to KRS Chapter 13A.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Will ensure a reimbursement methodology is available to providers of personal care assistance waiver services.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety or welfare of Medicaid recipients if a viable reimbursement methodology is not available to providers of Personal Care Assistance Waiver Services.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY

921 KAR 2:015E

This emergency administrative regulation changes the standards for all levels of care for the State Supplementation Program due to the pass along of the 2000 Supplemental security income cost of living increase. This administrative regulation is needed to comply with the agreement the Commonwealth of Kentucky has with the Department of Health and Human Services to pass along any cost of living increases in supplemental security income benefits to state supplementation recipients. The Social Security Administration notified this agency of the amount of the supplemental security income cost of living adjustment in October 1999. An ordinary administrative regulation would not allow the agency sufficient time to have a regulation in place in order to implement the change in the standards for all levels of care for the state supplementation applicant or recipient for January 2000. In order to implement the mandated 2000 cost of living increases for eligibility determinations made on or after January 1, 2000, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

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

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

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

RELATES TO: KRS 205.245, 216.557(1), 20 CFR 416.2095, 416.2096, 8 USC 1621, 1641

STATUTORY AUTHORITY: KRS 194B.050(1), 205.245, 42 USC 1382e-g, EO 98-731

EFFECTIVE: December 30, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children is authorized to administer a state funded program of supplementation to all December, 1973, former recipients of aid to the aged, blind and disabled, disadvantaged by the implementation of the Supplemental Security Income Program. KRS 205.245 provides for the mandatory supplementation program and also for supplementation to other needy persons who are aged, blind, or have a disability. The cabinet shall operate a supplement program for certified personal care homes which accept state supplementation recipients and have thirty-five (35) percent of the residents in the personal care home's occupied licensed personal care beds who have a diagnosis of mental illness or mental retardation. This administrative regulation sets forth the provisions of the supplementation program.

Section 1. Definitions. (1) "Aid to the Aged, Blind and Disabled Program" means the former state funded program for an individual who was aged, blind or had a disability.

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

(3) "Qualified alien" means an alien who, at the time the person applies for, receives, or attempts to receive state supplementation, is an alien as pursuant to [defined-in] Section 1(13) [(+10)] of 921 [904] KAR 2:006.

(4) [(3)] "Specialized personal care home" means a licensed personal care home that [which] receives funding from the Department for Mental Health and Mental Retardation Services to employ a mental health professional who has specialized training in the care of a resident with mental illness or mental retardation.

Section 2. Mandatory State Supplementation. (1) A mandatory state supplementation payment shall be equal to the difference between:

(a) The Aid to the Aged, Blind and Disabled Program payment for the month of December, 1973, plus any other income available to the recipient as of that month; and

(b) The total of the Supplemental Security Income Program payment and other income for the current month.

(2) A recipient shall include a former Aid to the Aged, Blind and Disabled Program recipient who became ineligible for the Supplemental Security Income Program due to income but whose special needs entitled him to an Aid to the Aged, Blind and Disabled Program payment as of December, 1973.

(3) A mandatory payment shall continue until:

(a) The needs of the recipient as recognized in December, 1973, have decreased; or

(b) Income has increased to the December, 1973 level.

(4) The mandatory payment shall not be increased unless:

(a) Income as recognized in December, 1973, decreases;

(b) The Supplemental Security Income Program payment is reduced but the recipient's circumstances are unchanged; or

(c) The standard of need utilized by the department in determining optional supplementation payments for a class of recipients is increased.

(5) In a case of a husband and wife living together, an income change after September, 1974, shall not result in an increased mandatory payment unless total income of the couple is less than December, 1973, total income.

Section 3. Optional State Supplementation. (1) Optional state supplementation shall be available to a person who:

(a) Except pursuant to [as specified in] Sections 5, 6, and 7 of this administrative regulation, meets technical requirements and resource limitations of the medically needy program for a person who is aged, blind, or have a disability as pursuant to [contained in] 907 KAR 1:011, Sections 1(4), 5(5), (6), (7), (12), (13), 9, 10, and 11, 907 KAR 1:640, Sections 1(1), (5), (6), (9), 3(3), 5(3), 907 KAR 1:645, 907 KAR 1:650, Sections 1(6), 3, and 907 KAR 1:660, Sections 1(1), (3), (5), (6), 2(1), (2)(b), (c), (e), (3), (4), (5), (7); and

- (b) Requires a special living arrangement; and
- (c) Has insufficient income to meet the need for care.

(2) A special living arrangement shall include:

(a) Residence in a personal care home that [which]:

1. Meets the requirements and provides services pursuant to [as specified in] 902 KAR 20:036; and

2. Is licensed under KRS 216B.010 to 216B.131; or

(b) Residence in a family care home that [which]:

1. Meets the requirements and provides services pursuant to [as specified in] 902 KAR 20:041; and

2. Is licensed under KRS 216B.010 to 216B.131; or

(c) A situation in which a caretaker must be hired to provide care other than room and board.

(3) A person applying for or receiving state supplementation shall be required to:

(a) Furnish a Social Security number; or

(b) If a Social Security number has not been issued, apply for a Social Security number.

(4) If potential eligibility exists for Supplemental Security Income Program, application for Supplemental Security Income Program shall be mandatory.

Section 4. Eligibility for Caretaker Services. (1) A service by a caretaker shall be made to enable the individual with an illness or infirmity to:

(a) Remain safely and adequately:

- 1. At home;
 - 2. In another family setting; or
 - 3. In a room and board situation; and
- (b) Prevent institutionalization.

(2) A service by a caretaker shall be made at regular intervals by:

- (a) A live-in attendant; or
- (b) One (1) or more persons hired to come to the home.

(3) A supplemental payment shall not be made to or on behalf of an otherwise eligible individual if:

(a) The client is taken daily or periodically to the home of the caretaker; or

(b) The caretaker service is provided by the following persons living with the applicant:

- 1. The spouse;
- 2. Parent of an adult child who has a disability or a minor child; or
- 3. Adult child of a parent who is aged, blind or has a disability.

(4) Eligibility for caretaker supplementation shall be verified by agency contact with the caretaker to establish:

- (a) How often the service is provided;
- (b) The service prevents institutionalization; and
- (c) Payment is made for the service.

Section 5. Resource Consideration. (1) Except as stated in subsection (2) of this section, countable resources shall be determined according to policy [policies] for the medically needy pursuant to [as contained in] 907 KAR 1:640, Sections 1(1), (5), (6), (9), 3(3), 5(3), 907 KAR 1:645, 907 KAR 1:650, Sections 1(6), 3, and 907 KAR 1:660, Sections 1(1), (3), (5), (6), 2(1), (2)(b), (c), (e), (3), (4), (5), (7).

(2) The individual or couple shall not be eligible if countable resources exceed the limit of:

- (a) \$2000 for individual; or
- (b) \$3000 for couple.

Section 6. Income Considerations. (1) Except as noted in subsections (2) through (9) of this section, income and earned income deductions shall be considered according to the policy for the medically needy pursuant to [in] 907 KAR 1:640, Sections 1(1), (5), (6), (9), 3(3), 5(3), 907 KAR 1:645, 907 KAR 1:650, Sections 1(6), 3, and 907 KAR 1:660, Sections 1(1), (3), (5), (6), 2(1), (2)(b), (c), (e), (3), (4), (5), (7).

(2) The optional supplementation payment shall be determined by adding:

(a) Total net income of the applicant or recipient, or applicant or recipient and spouse; and

(b) Except for a payment for medical insurance or medical care and services, a payment made to a third party in behalf of an applicant or recipient; and

(c) Subtracting the total of paragraphs (a) and (b) of this subsection from the standard of need in Section 7 of this administrative regulation.

(3) Income of the ineligible spouse shall be:

(a) Adjusted by deducting sixty-five (65) dollars and one-half (1/2) of the remainder from the monthly earnings; and

(b) Conserved in the amount of one-half (1/2) of the Supplemental Security Income Program standard for an individual for:

- 1. Himself; and
- 2. Each minor dependent child.

(4) Income of the eligible individual shall not be conserved for the needs of the ineligible spouse or minor dependent children.

(5) Income of the child shall be considered when conserving for the needs of the minor dependent child so the amount conserved does not exceed the allowable amount.

(6) The earnings of the eligible individual and spouse shall be combined prior to the application of the earnings disregard of sixty-five (65) dollars and one-half (1/2) of the remainder.

(7) If one (1) member of a couple is institutionalized and the spouse maintains a home, income in the amount of the Supplemental Security Income Program standard for one (1) shall be conserved for the spouse, if this spouse is a recipient of the Supplemental Security Income Program.

(8) A husband and wife residing in the same personal care or family care home may be considered to be living with each other if treating the husband and wife as living apart would prevent either of them from receiving state supplementation.

(9) The Supplemental Security Income Program twenty (20) dollars general exclusion shall not be an allowable deduction from income.

Section 7. Standard of Need. (1) The standard shall be based on living arrangement as follows:

(a)[4.] For an eligibility determination for a resident of a personal care home made on or after January 1, 2000, \$906 [1999, \$894].

[2-a. After June 30, 1999, if funds remain available, the standard shall remain at \$894.

b. After June 30, 1999, if funds are not available, the standard shall be \$834.]

(b) For an eligibility determination for a resident of a family care home made on or after January 1, 2000, \$651 [1999, \$639];

(c) Caretaker.

1. For an eligibility determination for a single individual, or an eligible individual with an ineligible spouse who is not aged, blind, or has a disability made on or after January 1, 2000, \$545 [1999, \$533];

2. For an eligibility determination for an eligible couple, both aged, blind, or have a disability and one (1) requiring care made on or after January 1, 2000, \$797 [1999, \$779];

3. For an eligibility determination for an eligible couple, both aged, blind or have a disability and both requiring care made on or after January 1, 2000, \$841 [1999, \$823].

(2) In a couple case, if both are eligible, the couple's income shall be combined prior to comparison with the standard of need. One-half (1/2) of the deficit shall be payable to each.

(3) The personal care or family care home shall accept as full payment for cost of care the amount of the standard, based on the living arrangement, minus a forty (40) dollars personal needs allowance that [which] shall be retained by the client.

Section 8. Temporary Stay in a Medical Institution. (1) A recipient of optional or mandatory state supplementation shall have continuation of state supplementation benefits without interruption for any of the first three (3) full months of medical confinement if:

(a) Admitted to a:

- 1. [A] Hospital;
- 2. [A] Psychiatric hospital; or
- 3. [A] Nursing facility;

(b) The recipient's physician shall certify that he expects the recipient to be medically confined for ninety (90) full consecutive days or

less; and

(c) The state supplementation recipient receives benefits from the Supplemental Security Income Program.

(2) If discharged in the month following the last month of continued benefits, the temporary absence shall continue through the date of discharge.

Section 9. Citizenship requirements. An applicant or recipient shall be a:

(1) [A] Citizen of the United States; or

(2) [A] Qualified alien pursuant to Section 1(3) [(2)] of this administrative regulation.

Section 10. Residence Requirements. (1) The applicant or recipient shall be a resident of Kentucky.

(2) A supplemental payment may be made to a Kentucky resident residing outside the state if:

(a) The individual has been placed in the other state by this state.

(b) Except with regard to the requirement shown in Section 8 of this administrative regulation, the other requirements for eligibility contained in this administrative regulation shall be applicable.

(c) For an out-of-state placement, the licensure shall be in accordance with a similar licensure act of the other state.

(d) [H] There is no similar licensure act in the other state, the payment shall not be made unless this state determines that, except for being in another state, the facility meets standards for licensure under the provisions of KRS 216B.010 to 216B.131.

(e) To be eligible for a supplemental payment while placed out-of-state:

1. The individual shall require the level of care provided in the out-of-state placement;

2. There shall not be a suitable placement available in Kentucky; and

3. The placement shall be preauthorized by staff of the Department for Community Based Services.

(3) Except as specified in subsection (9) of this section, an applicant placed in Kentucky by another state shall not be considered a resident of Kentucky.

(4) The state of residence shall be Kentucky for an applicant or recipient of state supplementation if the individual:

(a) Is age twenty-one (21) and over;

(b) Is residing in the state; and

1. Intends to remain permanently or for an indefinite period; or

2. Entered the state with a job commitment or to seek employment.

(5) The applicant or recipient residing in a personal care home shall be considered incapable of indicating intent to become a Kentucky resident if the individual:

(a) Has an I.Q. of forty-nine (49) or less or has a mental age of seven (7) or less, based on the following tests:

1. Bayley Scales of Infant Development;

2. McCarthy Scales of Children's Abilities;

3. Stanford-Binet;

4. Wechsler Adult Intelligence Scale - Revised (WAIS-R);

5. Wechsler Intelligence Scale for Children-III (WISC-III);

6. Wechsler Intelligence Scale for Children - Revised (WISC-R); or

7. Wechsler Preschool and Primary Scale of Intelligence (WPPSI);

or

(b) Is judged legally incompetent; or

(c) Is found incapable of indicating intent based on medical or other documentation acceptable to the state.

(6) For an applicant or recipient residing in a family care home or requiring caretaker services, the state of residence shall be Kentucky if the individual is:

(a) 1. Under age twenty-one (21);

2. Eligible for a supplemental payment based on blindness or disability; and

3. Residing in the state; or

(b) 1. Age twenty-one (21) or over;

2. Incapable of indicating intent; and

3. Residing in the state.

(7) For an applicant or recipient residing in a personal care home who is under age twenty-one (21) or who is age twenty-one (21) or older and became incapable of indicating intent before age twenty-one

(21), the state of residence shall be Kentucky if Kentucky is the state of residence of the individual's:

(a) Parents; or

(b) If one has been appointed, his legal guardian; or

(c) Parent applying for the supplemental payment on behalf of the individual if:

1. The other parent lives in another state; and

2. There is no appointed legal guardian.

(8) For an applicant or recipient residing in a personal care home who became incapable of indicating intent at or after age twenty-one (21), the state of residence shall be Kentucky if:

(a) He was living in Kentucky when he became incapable of indicating intent; or

(b) If this cannot be determined, he was not living in another state when he was first determined to be incapable of indicating intent.

(9) For an individual subject to a determination of residency pursuant [according] to subsections (7) or (8) of this section, the state of residence shall be Kentucky if Kentucky and the state that would otherwise be the individual's state of residence have entered into an interstate residency agreement providing for reciprocal residency status.

(10) An individual receiving a mandatory state supplemental payment from Kentucky shall be considered a resident of Kentucky if he continues to reside in Kentucky.

(11) An individual receiving a mandatory or optional supplemental payment from another state shall not be considered a resident of Kentucky.

(12) A former Kentucky resident who becomes incapable of indicating intent while residing out of this state, may reestablish Kentucky residency if he:

(a) [He] Returns to Kentucky; and

(b) [He] Has a guardian, parent or spouse residing in Kentucky.

Section 11. Persons with Mental Illness or Mental Retardation Supplement. A certified personal care home may qualify for quarterly supplement payments of fifty (50) cents per diem for each state supplementation recipient in their care as of the first calendar day of each qualifying month. The personal care home shall meet the following criteria to qualify for a supplementation payment:

(1) The personal care home shall be licensed pursuant to [in accordance with] KRS 216B.010 to 216B.131; and

(2) The personal care home shall care for a resident who has:

(a) A primary or secondary diagnosis of mental retardation including mild or moderate, or other ranges of retardation whose needs can be met in a personal care home; or

(b) A primary or secondary diagnosis of mental illness excluding organic brain syndrome, senility, chronic brain syndrome, Alzheimer's, and similar diagnoses; or

(c) A medical history that includes a previous hospitalization in a psychiatric facility, regardless of present diagnosis.

(3) The personal care home shall care for a thirty-five (35) percent mental illness or mental retardation population in all of its occupied licensed personal care home beds.

(4) The personal care home shall not be eligible for a payment during the days it received a Type A citation pursuant to KRS 216.557(1) by the Office of Inspector General.

(5) The personal care home shall have a licensed nurse or an individual who has received and successfully completed certified medication technician training on duty for at least four (4) hours during the first or second shift each day. The personal care home shall not decrease staffing hours of the licensed nurse or individual who has successfully completed certified medication technician training in effect prior to July 1990, as a result of this minimum requirement.

(6) The personal care home shall file an Application for MI or MR Supplement Program Benefits with the Department for Community Based Services by the tenth working day of the first month of the calendar quarter to be eligible for payment in that quarter.

(a) Quarters shall begin in January, April, July and October.

(b) Once certified, unless eligibility is discontinued, a new application shall not be required.

(c) The personal care home shall provide the Department for Community Based Services with its tax identification number and address as part of the application process.

(d) "Notice of Decision to Personal Care Home" shall be provided to the personal care home following approval or denial of the applica-

tion.

(7) The personal care home shall provide the Department for Community Based Services with a monthly report.

(a) The report shall list:

1. Every resident of the personal care home who was a resident on the first day of the month; and

2. The resident's Social Security number.

(b) In order to maintain confidentiality, the personal care home shall annotate the monthly report as follows:

1. A star shall indicate a resident has a mental illness or mental retardation diagnosis.

2. A check mark shall indicate a resident receives state supplementation.

3. A star and a check mark shall indicate the resident has a mental illness or mental retardation diagnosis and is a recipient of state supplementation.

(c) The monthly report shall be used for:

1. Certification;

2. Payment; and

3. Audit purposes.

(d) The monthly report shall be postmarked to the Department for Community Based Services by the fifth working day of the month.

(8) The personal care home shall notify the Department for Community Based Services if its mental illness or mental retardation percentage goes below thirty-five (35) percent for all personal care residents. A facility may be randomly audited to verify percentages and payment accuracy.

Section 12. Training. (1) The personal care home licensed nurse or individual who has successfully completed certified medication technician training shall attend the mental illness or mental retardation basic training workshop provided through the Department for Mental Health and Mental Retardation Services. Other staff may attend the basic training workshop in order to assure the facility always has at least one (1) certified staff employed for certification purposes.

(2) The mental illness or mental retardation basic training shall be provided through a one (1) day workshop. The following topics shall be covered:

(a) Importance of proper medication administration.

(b) Side effects and adverse medication reactions with special attention to psychotropics.

(c) Signs and symptoms of an acute onset of a psychiatric episode.

(d) Characteristics of each major diagnosis, for example, paranoia, schizophrenia, bipolar disorder, or mental retardation.

(e) Guidance in the area of supervision versus patient rights for the population with a diagnosis of mental illness or mental retardation.

(f) Instruction in providing a necessary activity to meet the needs of a resident who has a diagnosis of mental illness or mental retardation.

(3) Initial basic training shall include the licensed nurse or the individual who has successfully completed certified medication technician training and may include the owner or operator. The individual shall be trained in the quarter during which the application is filed.

(4) To assure that a staff member who has received basic training is always employed at the facility, a maximum of five (5) may be trained during a year.

(a) If staff turnover results in the loss of the licensed nurse or individual who has successfully completed certified medication technician training and five (5) staff have been trained, the personal care home shall request in writing to the Department for Community Based Services an exemption of the five (5) staff rule.

(b) The personal care home shall have on staff a licensed nurse or individual who has successfully completed certified medication technician training who:

1. Has received the mental illness or mental retardation basic training; or

2. Is enrolled in the next scheduled mental illness or mental retardation basic training workshop at the closest location.

(5) The Department for Mental Health and Mental Retardation Services may provide advanced level training for personal care homes.

(a) Advanced level training shall be provided through one (1) day workshops.

(b) Each advanced level workshop shall consist of two (2) three (3) hour sessions per day.

(c) Each three (3) hour session shall cover a topic appropriate for staff who work with a resident who has a diagnosis of mental illness or mental retardation.

(d) Attendance of advanced level training workshops shall be optional for a Persons with Mental Illness or Mental Retardation Supplement Program participant.

(6) The Department for Mental Health and Mental Retardation Services shall provide within five (5) working days:

(a) A certificate to direct care staff who complete the workshop; and

(b) A listing to the Department for Community Based Services of staff who completed the training workshop.

(7) The Department for Community Based Services shall pay twenty-five (25) dollars for each staff member receiving basic or advanced level training up to the maximum of five (5) staff per year to a personal care home who has applied for the Persons with Mental Illness or Mental Retardation Supplement Program.

(8) Attendance of the basic training workshop shall be optional for a specialized personal care home.

Section 13. Persons with Mental Illness or Mental Retardation Supplement Program Certification. (1) The Office of the Inspector General, Division of Licensing and Regulation, shall visit the personal care home to certify eligibility to participate in the Persons with Mental Illness or Mental Retardation Supplement Program:

(a) The personal care home's initial Persons with Mental Illness or Mental Retardation Supplement Program Certification Survey may be separate from the annual survey;

(b) The initial Persons with Mental Illness or Mental Retardation Supplement Program Certification Survey shall be in effect until the next licensure survey that may be greater than or less than twelve (12) months;

(c) A personal care home's annual Persons with Mental Illness or Mental Retardation Supplement Program Certification Survey may be completed during the annual licensure survey;

(d) The Department for Community Based Services shall notify the Division of Licensing and Regulation that the facility is ready to be certified.

(2) The Division of Licensing and Regulation shall review records, observe and interview residents and staff during the certification process. The Division of Licensing and Regulation shall review records to assure the following criteria is met:

(a) Certification is on file at the personal care home to verify staff attended basic training provided by the Department for Mental Health and Mental Retardation Services. This provision shall be waived for a specialized personal care home.

(b) The personal care home's certified staff have trained all other direct care staff through in-service training or orientation regarding the information obtained at the mental illness or mental retardation basic training workshop. The personal care home shall maintain documentation of attendance at the in-service training for all direct care staff.

(c) An activity is being regularly provided and meets the needs of the resident. When a resident does not attend a group activity, an activity shall also be designed to meet the needs of an individual resident, for example, reading or other activity that may be provided on an individual basis. An individualized care plan is not required to meet this criteria.

(d) Medication administration meets licensure requirements and licensed nurse or individual who has successfully completed certified medication technician training demonstrates a knowledge of psychotropic drug side effects.

(3) The Division of Licensing and Regulation shall review the personal care home copy of the training certification prior to performing their record review during the Persons with Mental Illness or Mental Retardation Supplement Program Certification Survey process.

(4) If thirty-five (35) percent mental illness or mental retardation population is met on the day of the visit, the personal care home shall be deemed to have an ongoing qualifying percentage effective with month of request for certification. The personal care home shall notify the Department for Community Based Services, within ten (10) working days, if the mental illness or mental retardation population goes below thirty-five (35) percent of all occupied personal care beds in the

facility.

(5) The Office of the Inspector General, Division of Licensing and Regulation, shall provide a monthly statement to the Department for Community Based Services identifying certified personal care homes eligible for the Persons with Mental Illness or Mental Retardation Supplement Program. This information shall be provided by the fifth working day of each month for the prior month.

(6) The Office of Inspector General, Division of Licensing and Regulation, shall inform the Department for Community Based Services monthly of a personal care home which receives a Type A citation. This information shall be provided by the fifth working day of each month for the prior month.

(7) The personal care home shall receive a reduced payment for the number of days the Type A citation occurred on the first administratively feasible quarter following notification by the Office of Inspector General, Division of Licensing and Regulation, pursuant to 921 KAR 2:050.

(8) "Notice of Decision to Personal Care Home" shall be provided to a personal care home following the certification survey by the Division of Licensing and Regulation if a criteria for certification is not met.

Section 14. Hearings and Appeals. An applicant or recipient of benefits under a program described in this administrative regulation who is dissatisfied with any action or inaction on the part of the cabinet shall have the right to a hearing under 921 KAR 2:055.

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Notice of Decision to Personal Care Home", edition 3/99;
- (b) "Monthly Report Form", edition 3/99;
- (c) "Application for MI or MR Supplement Program Benefits", edition 3/99; and
- (d) "Persons with Mental Illness or Mental Retardation Supplement Program Certification Survey", edition 3/99.

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

DIETRA PARIS, Commissioner
CHARLES P. LAWRENCE, Attorney at Law
VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: December 27, 1999
FILED WITH LRC: December 30, 1999 at noon

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley, Director

(1) Type and number of entities affected: As of September, 1999, there are approximately 5,060 recipients of state supplementation benefits who will be affected by the increase in the state supplementation standards due to the mandated cost of living adjustment.

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

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

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

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the: For increases in the state supplementation standards:

1. First year following implementation: The standards for state supplementation recipients increased by \$12 for recipients in personal care homes and family care homes, \$12 for recipients of caretaker services for single individual or individual with ineligible spouse, and \$18 for caretaker services for couple (one or both requiring care). Therefore, the standard of need is as follows:

Personal care - \$906

Family care - \$651

Caretaker:

Single - \$545

Individual with ineligible spouse - \$545

Eligible couple, one requiring care - \$797

Eligible couple, both requiring care - \$841

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

(3) Effects on the promulgating administrative body: For increases in the state supplementation standards:

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

1. First year (costs to agency in benefits): \$393,000

2. Continuing costs: \$785,000. The cost of living increase is funded in the SFY 2000 and SFY 2001 State Supplementation Program budgets. The first year fiscal impact is based on January 1, 2000 through June 30, 2000. The continuing fiscal impact is based on SFY 2001.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No effect.

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

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

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

(b) Kentucky: To be determined after the publication of the Notice of Intent.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since state supplementation pass along provisions are set forth through an agreement with the Department of Health and Human Services.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This amendment implements the mandated pass along of the 2000 supplemental security income cost of living increases for eligibility determinations made on or after January 1, 2000, for state supplementation applicants and recipients. The state supplementation recipients residing in personal care or family care homes or receiving caretaker services will be assured of the ability to continue to purchase these services.

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

(c) If detrimental effect would result, explain detrimental effect: Since 1977, the Commonwealth of Kentucky has had an agreement with the Department of Health and Human Services to pass along any supplemental security income benefit increases to state supplementation recipients. This amended administrative regulation includes the 2000 cost of living increases to place Kentucky in compliance with federal supplemental security income guideline. In order to be in compliance, we must assure that the state supplementation benefits are not reduced due to the cost of living increase granted by the Social Security Administration to its beneficiaries. This assures their continued ability to purchase the personal care they need in order to avoid costly institutional care under Title XIX (Medicaid).

(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: 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: Since 1977 the Commonwealth of Kentucky has had an agreement with the Department of Health and Human Services to pass along any cost of living supplemental security income benefit increases to state supplementation recipients.

(11) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all state supplementation recipients as set forth through an agreement with the Department of Health and Human Services.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 20 CFR 416.2095 and 416.2096

2. State compliance standards. This amended administrative regulation includes the 2000 cost of living increases to place Kentucky in compliance with federal supplemental security income guideline.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation is needed to comply with the agreement the Commonwealth of Kentucky has with the Department of Health and Human Services to pass along any cost of living increases in supplemental security income benefits to state supplementation recipients.

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

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

STATEMENT OF EMERGENCY
921 KAR 3:020E

This emergency administrative regulation expands categorical eligibility to include TANF benefits beyond direct cash payments. This expansion will achieve greater flexibility in the Food Stamp Program policy, particularly those that pose barriers for working families. Currently, an average of 327 working low income households are being denied access to the Food Stamp Program due to excess resources. The Food Stamp Program provides a safety net to these low income households and ensures that children have a nutritious diet. Without this assistance, these families will be unable to maintain self-sufficiency. Due to the time frame for an ordinary administrative regulation to be effective, approximately 4,000 low income working families will be denied access to the Food Stamp Program as opposed to 327. Therefore, in order to prevent an imminent threat to public health, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

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

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

921 KAR 3:020E. Financial requirements.

RELATES TO: [KRS 194.050;] 7 CFR 273.1, 273.2, 273.8, 273.9, 273.10, 273.11, 273.12, 7 USC 2014, 2017(d)[-PL-104-193; sec. 914] STATUTORY AUTHORITY: KRS 194B.050(1) [194.050], 7 CFR 271.4, EO 98-731 [96-862]

EFFECTIVE: December 30, 1999

NECESSITY, FUNCTION, AND CONFORMITY: [Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Families and Children.] The Cabinet for Families and Children shall [has responsibility to] administer a Food Stamp Program. KRS 194B.050(1) [194.050] provides that the secretary shall, by administrative regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This administrative regulation sets forth the financial eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Financial Eligibility Requirements. (1) Pursuant to federal regulations promulgated by the Food and Nutrition [Consumer] Service, of the United States Department of Agriculture, national uniform standards of financial eligibility for the Food Stamp Program shall be composed of the following criteria:

(a) Income limitations; and

(b) Resource limitations.

(2) Participation in the program shall be limited to a household that is prevented from obtaining a more nutritious diet because of its income.

(3) The income eligibility standards shall be:

(a) Derived from the federal income poverty guidelines pursuant to 42 USC 9902(2) for the forty-eight (48) contiguous states; and

(b) Adjusted annually each October 1, as published in the Federal Register[- Volume 62, Number 73, on April 16, 1997].

Section 2. Countable Income. All nonexcluded income shall be considered in determining eligibility, including the following:

(1) Wages earned by a household member, including [all] wages received by a striker pursuant to [in accordance with the provision at] 921 KAR 3:035, Section 5(9).

(2) The gross income of a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business;

(3) Training allowance from vocational and rehabilitative programs recognized by federal, state or local governments, to the extent that they are not reimbursements;

(4) Payments under 42 USC 4951 et seq. [1451] shall be considered earned income unless specifically excluded in Section 3 of this administrative regulation;

(5) The earned or unearned income of an ineligible household member or nonhousehold member pursuant to 921 KAR 3:035, Section 5(3) and 4;

(6) Assistance payments from federal or federally aided public assistance including:

(a) Supplemental security income;

(b) Kentucky Transitional Assistance Program;

(c) General assistance programs; or

(d) Other assistance programs based on need;

(7) Annuities;

(8) Pensions;

(9) Retirement, veteran's or disability benefits;

(10) Worker's or unemployment compensation;

(11) Strike pay;

(12) Old-age survivors or Social Security benefits;

(13) Foster care payments for a child or adult [children or adults], except as excluded in Section 3(16) of this administrative regulation;

(14) Gross income derived from rental property:

(a) Minus the cost of doing business; and

(b) Shall be considered as earned income if the household member is actively engaged in the management of the property an average of twenty (20) hours or more per week;

(15) Wages earned by a household member which are garnished or diverted by an employer and paid to a third party for a household expense;

(16) Support or alimony payments made directly to the household from a nonhousehold member. This shall include any portion of a payment returned to the household by the cabinet;

(17) A [Any] portion of the following, that is [are] not excludable pursuant to Section 3(6) of this administrative regulation:

(a) Scholarship;

(b) Education grant;

(c) Fellowship;

(d) Deferred payment education loan; or

(e) Veterans educational benefit;

(18) A payment from:

(a) A government sponsored program;

(b) A dividend;

(c) Interest;

(d) A royalty;

(e) Similar direct money payments, from a [any] source, that [which] could be construed as a gain or benefit;

(19) Money [Monies] withdrawn or a dividend that is [dividends which are] or could be received from a trust fund;

(20) That amount of monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that has been deemed to be that of the alien as set forth in 921 KAR 3:035, Section 5(11);

(21) The portion of means tested assistance monies:

(a) From a:

1. Federal welfare program;

2. State welfare program; or
3. Local welfare program; and

(b) Withheld for the purpose [purposes] of recouping an overpayment resulting from the household's intentional failure to comply with that program's requirements;

(22) Earnings of an individual who is participating in an on-the-job training program [programs] under 29 USC 1501 unless the individual is under:

- (a) Nineteen (19) years of age; and
- (b) The parental control of another adult member; and

(23) Portions of Indian Per Capita payments made pursuant to 25 USC 459, 25 USC 1261, and 25 USC 1401 in excess of \$2,000 per payment per individual, effective September 1, 1989.

Section 3. Income Exclusions. The following payments shall not be considered as income:

(1) Money:

- (a) Withheld from an assistance payment;
- (b) From earned income;
- (c) From another income source; or

(d) Received from another income source that [which] is voluntarily or involuntarily returned to repay a prior overpayment received from that income source, except as pursuant to [specified in] Section 2(21) of this administrative regulation;

(2) Child support income shall be considered as follows:

(a) A child support payment shall be excluded if:

1. Received by a recipient of the Kentucky Transitional Assistance Program; and

2. It must be transferred to the Division of Child Support Enforcement to maintain eligibility in K-TAP;

(b) A [Any] portion of child support money [monies] returned to the household receiving Kentucky Transitional Assistance Program benefits by the cabinet shall not be excluded;

(3) A [Any] gain or benefit that [which] is not in the form of money payable directly to the household;

(4) A money payment that is not legally obligated and otherwise payable directly to a household, but is paid to a third party for a household expense;

(5) Income:

(a) Received:

1. In the certification period; and
2. Too infrequently or irregularly to be reasonably anticipated; and
- (c) Not in excess of thirty (30) dollars per quarter;
- (6) Educational income:

(a) Including a:

1. Deferred payment educational loan on which repayment does not begin within sixty (60) days after receipt;

2. Grant;

3. Scholarship;

4. Fellowship;

5. Veterans educational benefit; and

6. Similar form of income;

(b) Awarded to a household member enrolled in one (1) of the following recognized institutions as defined by 921 KAR 3:010, Section 1(23) [(22)]:

1. Institution of postsecondary education;

2. School for a disabled person;

3. Vocation education program; or

4. Program providing for completion of a secondary school diploma or its equivalent;

(c) To the extent that it does not exceed the amount used for or made available as an allowance as determined by the:

1. School;

2. Institution;

3. Program; or

4. Grantor;

(d) For payment of:

1. Tuition;

2. Transportation;

3. Miscellaneous personal expense [expenses], other than room and board;

4. An origination fee for an educational loan;

5. An insurance premium for an educational loan;

6. Dependent care, except the [that] costs that exceed the amount

excludable from income shall be deducted pursuant to Section 5 of this administrative regulation;

(e) For payment of mandatory fees relating to the course of study, including the rental or purchase of:

1. Equipment;

2. Material;

3. Books;

4. Supplies;

(7) A loan, other than an educational loan on which payment is deferred, from a:

(a) Private individual; or

(b) Commercial institution;

(8) A reimbursement for a past or future expense, other than normal living expenses, to the extent they do not:

(a) Exceed actual expenses; and

(b) Represent a gain or benefit to the household;

(9) Money received and used for the care and maintenance of a third party beneficiary who is not a household member;

(10) The earned income of a child who is:

(a) A member of the household;

(b) An elementary or secondary school student; and

(c) Age seventeen (17) years or younger;

(11) Money received in the form of a nonrecurring lump-sum payment;

(12) The cost of producing self-employment income. If the cost of producing farm self-employment income exceeds the income derived from self-employment farming, the loss shall be offset against any other countable income in the household;

(13) Income specifically excluded by a federal statute from consideration as income for the purpose of determining Food Stamp Program eligibility;

(14) An energy assistance payment or allowance that are made pursuant to:

(a) Any federal law, except 42 USC 601 et seq., including utility reimbursement [reimbursements] made by:

1. The Department of Housing and Urban Development; and

2. Rural and Economic Community and Development; or

(b) A one (1) time payment or allowance made pursuant to a federal or state law for the costs of:

1. Weatherization; or

2. Emergency repair; or

3. Replacement of an:

a. Unsafe; or

b. Inoperative furnace; or

c. Other heating or cooling device.

(15) A cash donation based on need received from a nonprofit charitable organization [organizations], not to exceed \$300 in a federal fiscal year quarter;

(16) A foster care payment for a foster child if the household requests that the child be excluded from the household in determining eligibility;

(17) Up to \$12,000 to Aleuts and \$20,000 to individuals of Japanese ancestry for payments made by the U.S. to compensate for a hardship [hardships] experienced during World War II;

(18) Money [Monies] received under Section 3507 of the Internal Revenue Code (advanced payment of earned income credit);

(19) An Indian per capita payment [payments] made pursuant to 25 USC 459, 25 USC 1261 and 25 USC 1401, as distribution from a judgment award [awards] and trust fund [funds] of \$2,000 or less per individual per payment.

(20) An [Any] amount of income necessary for the fulfillment of an approved plan for achieving self-support of a household member pursuant to 42 USC 1382a(b)(4)(B)(iv);

(21) An on-the-job training payment [payments] that is [are] received pursuant to 29 USC 1630 through 1635.

Section 4. Income Eligibility Standards. Participation in the Food Stamp Program shall be limited to a household whose income falls [those households whose incomes fall] at or below the applicable standards as established by the Food and Nutrition [Consumer] Service and which are set forth below:

(1) A household which contain a member who is elderly or has a disability as defined in 921 KAR 3:010, Section 1(9) or (12) [(11)], shall have their net income compared to 100 percent of the federal income

poverty guidelines.

(2) A household in which any member receives or is authorized to receive cash, in-kind, or other benefits funded under temporary assistance to needy families shall:

(a) Be categorically eligible; and

(b) Not be required to meet either the eligibility standards for:

1. Gross income; or

2. Net income.

(3) A household in which all members are recipients of SSI [the Kentucky Transitional Assistance Program or Supplemental Security Income] shall:

(a) Be categorically eligible; and

(b) Not be required to meet the eligibility standards for:

1. Gross income; or

2. Net income.

(4) [(3)-All] Other households shall have their gross income (total income after excluded income has been disregarded but before any deductions have been made) compared to 130 percent of the federal income poverty guidelines and their net income compared to 100 percent of the federal income poverty guidelines.

Section 5. Income Deductions. The following shall be allowable income deductions:

(1) A standard deduction per household per month that [which] shall be periodically adjusted by the Food and Nutrition [Consumer] Service to reflect a change [changes] in the cost of living for a prior period of time as determined by the Food and Nutrition [Consumer] Service;

(2) Twenty (20) percent of gross earned income that is reported within ten (10) days of the date that the change of income becomes known to the household;

(3) A payment:

(a) For the actual cost for the care of:

1. A child; or

2. Other dependent;

(b) Not to exceed:

1. \$200 per month per dependent child under age two (2); and

2. \$175 per month for each other dependent; and

(c) Necessary for a household member to:

1. Seek, accept, or continue employment;

2. Attend training; or

3. Pursue education preparatory to employment;

(4) The cabinet shall use a homeless standard allowance of a shelter expense for a household [expenses for households] in which all members are homeless and are not receiving free shelter throughout the calendar month, unless that household verifies higher expenses.

(5) Allowable medical expenses in excess of thirty-five (35) dollars per month incurred by a household member who meets the definition of being elderly or having a disability as specified by 921 KAR 3:010, Section 1(9) and (12) [(11)]:

(a) Including:

1. Medical and dental care;

2. Hospitalization or outpatient treatment and nursing care;

3. Medication and medical supplies;

4. Health and hospitalization premiums;

5. Dentures, a hearing aid, eyeglasses, prosthetics; and

6. Similar medical expense [expenses]; and

(b) Excluding special diet cost [costs];

(6) Actual child support payment [payments] made by a household member shall be allowed as a deduction if:

(a) The household member is legally obligated to pay child support; and

(b) Verification is provided showing a payment is [payments are] currently being made.

Section 6. Monthly Shelter Cost Deduction. (1) The monthly shelter cost deduction shall be that amount in excess of fifty (50) percent of the household's income after [all] allowable deductions have been made.

(2) The shelter deduction shall not exceed the excess shelter maximum of \$250, except that a household shall not be subject to the maximum if a member is:

(a) Elderly; or

(b) Disabled.

(3) The excess shelter maximum shall be adjusted periodically by the Food and Nutrition [Consumer] Service to reflect change in the cost of living.

(4) Allowable monthly shelter expense [expenses] shall include the following:

(a) Continuing charge [charges] for the shelter occupied by the household including:

1. Rent;

2. Mortgage;

3. Payment on mobile home loan;

4. Interest on a payment [payments]; and

5. Similar charge [charges] leading to ownership of the shelter;

(b) Property tax [taxes];

(c) State and local assessment [assessments];

(d) Insurance on the structure itself;

(e) The cost of:

1. Heating and cooking fuel;

2. Cooling;

3. Electricity;

4. Water and sewage;

5. Garbage and trash collection fee [fees];

6. Telephone standard deduction;

7. A fee charged by a utility provider for the initial installation of the utility;

(f) The shelter cost [costs] for the home if:

1. Temporarily unoccupied by the household because of:

a. Employment or training away from home;

b. Illness; or

c. Abandonment caused by a natural disaster or casualty loss;

2. The current occupant is [occupants are] not claiming shelter cost [costs] for food stamp purpose [purposes]; and

3. The home is not leased or rented during the absence of the household;

(g) A charge for the repair of the home if substantially damaged or destroyed by fire, flood, or other natural disaster, except to the extent the cost is [costs are] reimbursed by:

1. A private or public relief agency;

2. Insurance; or

3. A similar source;

(5) The standard utility allowance shall be used to calculate shelter cost for a household:

(a) Receiving Low Income Home Energy Assistance Program benefits; or

(b) Incurring cost [costs], separate from its rent or mortgage payment, for:

1. Heating; or

2. Cooling (by air conditioning unit only).

(6) The standard utility allowance shall be:

(a) \$168 for a household of one (1);

(b) \$187 for a household of two (2);

(c) \$189 for a household of three (3); and

(d) \$196 for a household of four (4) or more;

(7) If the household is not entitled to the utility standard or home-less standard allowance, it shall be given the option of choosing the:

(a) Actual utility expense; or

(b) Basic utility allowance of \$122;

(8) The basic utility allowance shall be:

(a) Adjusted annually; and

(b) Allowed as an option to a household billed for:

1. Electricity (nonheating and noncooling);

2. Water or sewage;

3. Garbage or trash; or

4. Cooking fuel.

Section 7. Resources. (1) Uniform national resource standards of eligibility shall be utilized.

(2) Eligibility shall be denied or terminated if the total value of a household's liquid and nonliquid resources, not exempt under Section 8 [7] of this administrative regulation exceed:

(a) \$3000 for a household [all households] with one (1) or more members, when at least one (1) member is sixty (60) years or older; or

(b) \$2000 for any other household.

(3) A household that [which] is categorically eligible as specified in

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Section 4(2) and (3) of this administrative regulation shall be considered as having met the food stamp resource requirement.

(4) A household member who receives benefits from ~~[Kentucky Transitional Assistance Program or]~~ supplemental security income shall be considered categorically eligible and to have satisfied the Food Stamp Program's resource limit ~~[limits]~~ as specified in subsection (2) of this section.

(5) In a household in which any member receives cash, in-kind or other benefits funded under temporary assistance to needy families shall be considered categorically eligible and to have satisfied the Food Stamp Program's resource limit as specified in subsection (2) of this section.

Section 8. Exempt Resources. The following resources shall not be considered in determining eligibility:

(1) The home and surrounding property that ~~[which]~~ is not separated from the home by intervening property owned by others;

(2) Household goods;

(3) Personal effects;

(4) One (1) burial plot per household member;

(5) The cash value of life insurance policies;

(6) A pension fund, except:

(a) A Keogh plan that does not involve a contractual relationship with an individual who is not a household member; and

(b) An Individual Retirement Account;

(7) The value of one (1) prepaid burial plan per household member shall be excluded as follows:

(a) The entire value of a prepaid burial plan shall be excluded if, prior to the date the household member becomes eligible to participate in the Food Stamp Program, the money is not accessible to the household because it is held in an active irrevocable funeral trust agreement with the funeral home as the agent; or

(b) The equity value of a prepaid burial plan that is accessible to the household shall be excluded up to an amount of \$1,500;

(8) A licensed or unlicensed vehicle that is excluded pursuant to Section 9 [8] of this administrative regulation;

(9) Property that ~~[which]~~ annually produces income consistent with its fair market value, even if only used on a seasonal basis;

(10) Property that ~~[which]~~ is essential to the employment or self-employment of a household member;

(11) An installment contract for the sale of land or building ~~[buildings]~~ if the contract or agreement is producing income consistent with its fair market value;

(12) A governmental payment that is designated for the restoration of a home damaged in a disaster, if the household is subject to legal sanction if funds are not used as intended;

(13) A resource, of which the cash value is not accessible to the household;

(14) A resource which has been prorated as income;

(15) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs;

(16) A resource that ~~[which]~~ is excluded for food stamp purpose ~~[purposes]~~ by express provision of federal statute;

(17) Up to \$12,000 to Aleuts and \$20,000 to an individual ~~[individuals]~~ of Japanese ancestry for payment ~~[payments]~~ made by the U.S. to compensate for hardships experienced during World War II;

(18) Income that ~~[which]~~ is withheld by the employer to pay a certain expense ~~[expenses]~~ directly to a third party as a vendor payment to the extent that the remainder of the withheld income is not accessible to the household at the end of the year;

(19) Indian per capita payment ~~[payments]~~ made pursuant to 25 USC 459, 25 USC 1261, and 25 USC 1401, as distribution from a judgment award ~~[awards]~~ and trust fund ~~[funds]~~, of \$2,000 or less per individual per payment.

(20) A purchase ~~[Purchases]~~ of \$2,000 or less that is ~~[which are]~~ made solely with an Indian per capita payment ~~[payments]~~ after December 31, 1981 but prior to January 12, 1983;

(21) The earned income tax credit income received by a ~~[any]~~ member of the household for a period of twelve (12) months from receipt if the member was:

(a) Participating in the Food Stamp Program at the time the credit ~~[credits were]~~ received; and

(b) Participated in the program continuously during the twelve (12)

month period of exclusion; and

(22) A resource, except a vehicle, that ~~[which]~~ cannot be sold for a significant amount of funds for the support of the household.

Section 9. Vehicles. (1) The entire value of a licensed vehicle shall be excluded from the resource ~~[resources]~~ of a household if it is:

(a) Used for an income producing purpose over fifty (50) percent of the time;

(b) Annually producing income consistent with its fair market value, even if used only on a seasonal basis;

(c) Necessary for long distance travel, other than daily commuting, essential to the employment of a:

1. Household member;

2. Ineligible alien; or

3. Disqualified person;

(d) Used as the household's home;

(e) Necessary to transport, regardless of the purpose, a:

1. Household member with a physical disability;

2. Ineligible alien; or

3. Disqualified person;

(f) The sole means to carry:

1. Fuel for heating the home; or

2. Water for home use;

(2) The exclusion in subsection (1)(a) through (e) of this section shall be applicable if a vehicle is not in use because of temporary unemployment;

(3) An exclusion ~~[The exclusions]~~ under subsection (1)(c) and (e) of this section shall be:

(a) Applicable if the resource ~~[resources]~~ of the individual is ~~[are]~~ being considered available to the household; and

(b) Limited to one (1) vehicle per physically disabled household member;

(4) A vehicle shall be considered necessary for the transportation of a household member with a physical disability, regardless of special equipment, if it:

(a) Meets the specific need ~~[needs]~~ of the person with a disability; or

(b) Makes it possible to transport the disabled person;

(5) A licensed vehicle not excluded under subsection (1) of this section shall be:

(a) Individually evaluated for fair market value; and

(b) Attributed in full toward the household's resource level:

1. For that portion of the value exceeding \$4,650; and

2. Regardless of the amount of an encumbrance on the vehicle;

(6) A licensed vehicle shall be evaluated for its equity value, unless it is:

(a) Excluded in subsection (1) of this section;

(b) The only licensed vehicle for the household, regardless of use;

(c) Used:

1. As transportation for:

a. Employment;

b. Training;

c. Education preparatory to employment; or

d. Seeking employment in compliance with the Food Stamp Employment and Training Program, pursuant to 921 KAR 3:042; or

2. By the following, whose resource is ~~[resources are]~~ considered available to the household:

a. Household member;

b. Ineligible alien; or

c. Disqualified household member;

(7) A vehicle customarily used to commute to and from employment shall be covered by this equity exclusion during a temporary period of unemployment;

(8) The following shall be attributed to a household's resource level:

(a) The equity value of a licensed vehicle not covered by this exclusion; and

(b) An unlicensed vehicle not excluded by Section 8 [7](8) through (10) of this administrative regulation;

(9) If a licensed vehicle is assigned a fair market value in excess of \$4,650 and an equity value, the greater of these two (2) amounts shall be counted as a resource.

Section 10. Transfer of Resources. A household that ~~[which]~~ has

transferred a resource [resources] knowingly for the purpose of qualifying or attempting to qualify for food stamps shall be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer.

Section 11. Failure to Comply with Other Programs. (1) Except as provided in subsection (2) of this section, if the benefits of a household are reduced under a federal, state, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction, the food stamp allotment of the household shall be reduced by twenty-five (25) percent.

(2) If the benefits of a household are reduced pursuant to a federal, state, or local law relating to a means-tested public assistance program for the failure of a household member to perform a work requirement, the individual shall be subject to the disqualification procedure [procedures] pursuant to the 921 KAR 3:042.

DIETRA PARIS, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: December 27, 1999

FILED WITH LRC: December 30, 1999 at noon

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley, Director

(1) Type and number of entities affected: The affected entities are individuals and households who are eligible to participate in the Food Stamp Program. As of November 1999, there were 167,861 participating families and 406,463 participating individuals.

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

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

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

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

1. First year following implementation: This administrative regulation will not create any additional compliance, reporting or paperwork requirements.

2. Second and subsequent years: See item #1.

(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: No effect.

(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: To be determined after the publication of the Notice of Intent.

(b) Kentucky: The same as item (6)(a).

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the Cabinet is responsible to meet the federal requirements pursuant to 7 CFR 274.12.

(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 cabinet is required to administer the Food Stamp Program pursuant to 7 USC 2011 et seq. This administrative regulation is necessary in order to comply with the federal requirements.

(b) State whether a harmful effect on environment 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: None

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

(10) Any additional information or comments: None

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

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 7 USC 2014.

2. State compliance standards. None

3. Minimum or uniform standards contained in the federal mandate. The provisions of this administrative regulation are promulgated pursuant to 7 USC 2011 et seq., as amended, and applied in a like manner on a statewide basis.

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

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

STATEMENT OF EMERGENCY

921 KAR 3:030E

This emergency administrative regulation expands categorical eligibility to include TANF benefits beyond direct cash payments. This expansion will achieve greater flexibility in the Food Stamp Program policy, particularly those that pose barriers for working families. Currently, an average of 327 working low income households are being denied access to the Food Stamp Program due to excess resources. The Food Stamp Program provides a safety net to these low income households and ensures that children have a nutritious diet. Without this assistance, these families will be unable to maintain self-sufficiency. Due to the time frame for an ordinary administrative regulation to be effective, approximately 4,000 low income working families will be denied access to the Food Stamp Program as opposed to 327. Therefore, in order to prevent an imminent threat to public health, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor

VIOLA P. MILLER, Secretary

CABINET FOR FAMILIES AND CHILDREN

Department for Community Based Services

Division of Policy Development

921 KAR 3:030E. Application process.

RELATES TO: KRS 194B.050(1) [194B.050], 7 CFR 273.2, 273.10, 42 USC 1973gg-10, 7 USC 2020(e)(2)(B)(ii), (iii), (iv)

STATUTORY AUTHORITY: KRS 13A.120, 116.048, 194B.050(1), 7 USC 2020(e)(2)(B)(ii), (iii), (iv), EO 98-731

EFFECTIVE: December 30, 1999

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children shall administer a Food Stamp Program as prescribed under 7 USC 2011-2029. KRS 194B.050(1) provides that the secretary shall, by administrative regulation, develop policies and operate programs concerned with the welfare of citizens of the Commonwealth. This administrative regulation sets forth the application process used by the cabinet in the administration of the Food Stamp Program. KRS 116.048 designates the cabinet to have responsibility for the administration of the Food Stamp Program as a voter registration agency in accordance with 42 USC 1973gg-10. Therefore, this administrative regulation sets forth policy and procedures necessary to

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provide an eligible Food Stamp Program participant the opportunity to register, or to decline from registering, to vote.

Section 1. Right to apply or Reapply. (1) An individual shall have the right to apply or reapply for food stamp benefits on the same day that the household first contacts the food stamp office in person during office hours.

(2) The cabinet shall make the application process readily accessible to a household.

(3) In accordance with the procedures described in 920 KAR 1:070, interpreter services shall be provided for a person who is:

- (a) Deaf; or
- (b) Hard of hearing.

(4) Interpreter services shall be provided for a non-English speaking individual, utilizing procedures and forms specified by 920 KAR 1:070.

(5) An application shall be considered to have been filed when:

- (a) An application form containing the name, address and signature of the applicant is received by the food stamp office;
- (b) The applicant or representative is interviewed;
- (c) Required information on the application is provided to the food stamp office and verified; and
- (d) The application is received by the appropriate office.

Section 2. Who May Sign an Application. An application for food stamps shall be signed by:

- (1) A responsible member of the household; or
- (2) The household's authorized representative.

Section 3. Where an Application is Filed. (1) Except as provided in subsection (2) of this section, an application shall be filed in any office of the Department for Community-Based Services and processed in the county in which an applicant resides.

(2) A concurrent application for Supplemental Security Income (SSI) and Food Stamps shall be filed in the service area office of the Social Security Administration.

Section 4. Prompt Action on an Application. The cabinet shall provide an eligible household, that completes the initial application process, an opportunity to participate as soon as possible but not later than:

- (1) Thirty (30) days after the application is filed for a household ineligible for expedited services; or
- (2) The fifth calendar day following the date an application is filed for a household eligible for expedited services.

Section 5. Expedited Service. A household eligible for expedited services shall be:

- (1) A household in which:
 - (a) Monthly gross income is less than \$150; and
 - (b) Liquid resources do not exceed \$100; or
- (2) A destitute migrant or seasonal farm work household whose liquid resources do not exceed \$100; or
- (3) A household containing a homeless individual; or
- (4) A household for whom monthly rent or mortgage and actual utilities exceed the household's combined monthly gross income and liquid resources.

Section 6. Public Assistance Application Process. (1) A household in which every member is applying for Kentucky Transitional Assistance Program (K-TAP) shall be allowed to simultaneously apply for food stamp benefits. A single interview shall be conducted for both programs.

(2) Time standards specified in Section 4 of this administrative regulation shall apply to a public assistance application.

(3) A household in which every member receives, or is authorized to receive, [K-TAP-or] SSI shall be considered categorically eligible unless the entire household is:

- (a) Institutionalized; or
- (b) Disqualified from receiving food stamps.

(4) A household in which any member receives, or is authorized to receive cash, in-kind, or other benefits funded under temporary assistance for needy families shall be considered categorically eligible unless the entire household is:

(a) Institutionalized; or

(b) Disqualified from receiving food stamps.

(5) A categorically eligible household shall not be required to verify the following eligibility factors:

- (a) Resources;
- (b) Gross and net income limits;
- (c) Social Security number information;
- (d) Sponsored alien information; and
- (e) Residency.

Section 7. Joint SSI and Food Stamp Application Process. A household in which every member is an applicant or recipient of SSI shall be allowed to simultaneously apply for both SSI and food stamps at the appropriate Social Security Administration office.

Section 8. Voter Registration. (1) In accordance with KRS 116.048 and 42 USC 1973gg-10, an applicant or recipient meeting [all-of] the following criteria shall be provided the opportunity to complete an application to register to vote or update his current voter registration:

- (a) Be age eighteen (18) or over; and
- (b) Be present in the office at the time of the interview or when a change of address is reported; and
- (c) Not be registered to vote or not registered to vote at his current address.

(2) An individual not included in the assistance application shall not be registered to vote in this process, including an:

- (a) Authorized representative; or
- (b) Individual acting as a responsible party.

(3) An individual providing a voter registration service who seeks to unlawfully influence an applicant's political preference or party registration as prohibited by KRS 116.048(4) may be fined or imprisoned, not to exceed five (5) years, or both.

(4) A form [Forms] and information utilized in the voter registration process shall remain confidential and be used only for voter registration purposes.

(5) Only a Board of Elections official may view a form [forms] and information utilized directly in the voter registration process.

(6) Completion of the Voter Registration Form is only an application to apply to register to vote. The State Board of Elections shall approve the application to register to vote and send a confirmation or denial notice to the applicant.

(7) Forms necessary to register a Food Stamp Program participant to vote are incorporated by reference in this administrative regulation.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "KIM-77, Intent to Apply", edition 4/99;
- (b) "KIM-100, KAMES Application", edition 4/99;
- (c) "KIM-100, Supplement A, Representative/Interested Party", edition 3/97;
- (d) "KIM-100, Supplement B, Utility/Shelter Information", edition 4/99;
- (e) "KIM-100, Supplement C, Additional Members/Striker and Boarder Information", edition 1/98;
- (f) "KIM-100, Supplement D, Farm/Self-Employment/Rental Income", edition 10/97;
- (g) "KIM-100, Supplement E, Vehicles", edition 10/97;
- (h) "KIM-100, Supplement F, Emergency Shelter/Foster Care", edition 10/97;
- (i) "KIM-100, Supplement G, Member General Information", edition 4/99;
- (j) "KIM-100, Supplement H, IM Alien Information", edition 10/97;
- (k) "KIM-100, Supplement I, State Supplementation/Pass Through", edition 10/97;
- (l) "KIM-100, Supplement J, Long Term Care", edition 4/99;
- (m) "KIM-100, Supplement L, General Deprivation", edition 10/97;
- (n) "KIM-100, Supplement M, Incapacity/Unemployment", edition 4/99;
- (o) "KIM-100, Supplement N, Deprivation", edition 10/97;
- (p) "KIM-100, Supplement P, DCSE Cooperation/Absence Verification", edition 10/97;
- (q) "KIM-100, Supplement PP, AP Referral", edition 12/96;

- (r) "KIM-100, Supplement Q, KWP/Work Registration", edition 4/99;
- (s) "KIM-100, Supplement R, Earned Income", edition 10/97;
- (t) "KIM-100, Supplement S, Unearned Income", edition 10/97;
- (u) "KIM-100, Supplement SS, Lump Sum/Pass Income", edition 10/97;
- (v) "KIM-100, Supplement T, Resources", edition 10/97;
- (w) "KIM-100, Supplement U, Medical Expenses", edition 10/97;
- (x) "KIM-100, Supplement V, Health Insurance", edition 10/97;
- (y) "KIM-100, Supplement W, KAMES-Integration Supplement - Lock-In & KenPAC", edition 3/97;
- (z) "KIM-100, Supplement X, IM Nonmember", edition 4/99;
- (aa) "KIM-100, Supplement XX, KAMES-Integration Supplement - FS Nonmember", edition 3/97;
- (bb) "KIM-100, Supplement Y, Student Information", edition 10/97;
- (cc) "PAFS-706, Voter Registration Rights and Declination", edition 4/95;
- (dd) "Voter Registration Application for U.S. Citizens Only", edition 4/99.

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

DIETRA PARIS, Commissioner
CHARLES P. LAWRENCE, Attorney at Law
VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: December 20, 1999
FILED WITH LRC: December 30, 1999 at noon

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley, Director

(1) Type and number of entities affected: The affected entities are individuals and households who are eligible to participate in the Food Stamp Program. As of November 1999, there were 167,861 participating families and 406,463 participating individuals.

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

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

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

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

1. First year following implementation: This administrative regulation will not create any additional compliance, reporting or paperwork requirements.

2. Second and subsequent years: See item #1.

(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: No effect.

(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: To be determined after the publication of the Notice of Intent.

(b) Kentucky: The same as item (6)(a).

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered since the cabinet is responsible to meet the federal requirements pursuant

to 7 CFR 274.12.

(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 cabinet is required to administer the Food Stamp Program pursuant to 7 USC 2011 et seq. This administrative regulation is necessary in order to comply with the federal requirements.

(b) State whether a harmful effect on environment 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: None

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

(10) Any additional information or comments: None

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

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 7 USC 2014.

2. State compliance standards. None

3. Minimum or uniform standards contained in the federal mandate. The provisions of this administrative regulation are promulgated pursuant to 7 USC 2011 et seq., as amended, and applied in a like manner on a statewide basis.

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

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

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEW SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee

KENTUCKY BOARD OF SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY
(As Amended at ARRS, January 13, 2000)

201 KAR 17:011. Requirements for interim licensure.

RELATES TO: KRS 334A.035, 334A.050

STATUTORY AUTHORITY: KRS 334A.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.035 and 334A.050 establish requirements for licensure as a speech-language pathologist and audiologist, including a requirement that an applicant meet specified education and experience criteria as determined by the board. This administrative regulation establishes criteria for interim licensure for speech-language pathologists and audiologists [as authorized by KRS 334A.050, as amended].

Section 1. Education and Experience. (1)(a) In addition to the citizenship requirements of KRS 334A.050, each applicant for interim licensure in speech-language pathology or audiology in Kentucky shall hold [the following qualifications:

(1)(a)] a master's degree or equivalent with major emphasis in speech-language pathology, audiology, or speech-language and hearing science from a college or university program accredited by the American Speech-Language-Hearing Association.

(b) An applicant shall have "equivalent" education if the applicant holds: ["Equivalent" is defined as holding:]

1. A doctoral degree in speech-language pathology or audiology from a program accredited by the American Speech-Language-Hearing Association; or

2. A bachelor's degree from a regionally accredited college or university, and has completed [completion of] all coursework and clinical practicum requirements leading to a doctorate or master's degree from a university program accredited by the American Speech-Language-Hearing Association. [, and at least forty-two (42) post baccalaureate semester hours from a regionally accredited college or university toward a master's degree, of which at least thirty (30) semester hours must be in the areas of speech-language pathology, audiology, or speech-language and hearing science. At least twenty-one (21) of these forty-two (42) semester hours must be obtained from a single college or university, none may have been completed more than ten (10) years prior to the date of application and no more than six (6) semester hours may be credit offered for clinical practicum.

(2) In evaluation of credits to be used in the computation of an applicant's educational requirements, one-quarter (1/4) hour will be considered the equivalent of two-thirds (2/3) of a semester hour. Transcripts that do not report credit in terms of semester or quarter hours should be submitted for special evaluation.

(3) A total of sixty (60) semester hours of academic credit must have been accumulated from accredited colleges or universities that demonstrate that the applicant has obtained a well-integrated program of course study dealing with the normal aspects of human communication, development thereof, disorders thereof, and clinical techniques for evaluation and management of such disorders. Twelve (12) of these sixty (60) semester hours must be obtained in courses that provide information that pertains to normal development and use in speech, language, and hearing. Thirty (30) of these sixty (60) semester hours must be obtained in courses that provide information relative to communication disorders, and information about and training in evaluation and management of speech, language, and hearing disorders. At least twenty-four (24) of these thirty (30) semester hours must be in courses in the professional area (speech-language pathology or audiology) for which licensure is requested, and at least six (6) must be in audiology for licensure in speech-language pathology or in speech-language pathology for licensure in audiology. Moreover, no more than six (6) semester hours may be in courses that provide credit for clinical practicum obtained during academic training. Credit for study of information pertaining to related fields that augment the

work of the clinical practitioner of speech-language pathology and/or audiology may also apply toward the total sixty (60) semester hours. Thirty (30) of the total sixty (60) semester hours that are required for licensure must be in courses that are acceptable toward a graduate degree by the college or university in which they are taken. This requirement may be met by courses completed as an undergraduate providing the college or university in which they are taken specifies that these courses would be acceptable toward a graduate degree if they were taken at the graduate level. Moreover, twenty-one (21) of these thirty (30) semester hours must be within the twenty-four (24) semester hours required in the professional area (speech-language pathology or audiology) for which interim licensure is requested or within the six (6) semester hours required in the other area.

(4) The applicant must have completed a minimum of 300 clock hours of supervised clinical experience with individuals who present a variety of communication disorders, and this experience must have been obtained with the training institution or in one of its cooperating programs.

(5) The applicant shall submit to the board a written description verifying his completion of the required academic coursework and supervised clinical experience on the form provided for that purpose. No credit may be allowed for courses listed on the application unless satisfactory completion is verified by an official transcript. Satisfactory completion is defined as the applicant's having received academic credit (i.e., semester hours, quarter hours, or other unit of credit) with a passing grade as defined by the training institution.

(6) Application for approval of academic coursework and supervised clinical experience shall be made as soon as possible after completion of these experiences, and either before or within thirty (30) days after the postgraduate professional experience is begun.]

(2) [(7)] A written plan for the postgraduate professional experience shall [must] be submitted with the application for interim licensure [on form, provided for that purpose] within thirty (30) days after initiating the postgraduate professional experience. The applicant shall [must] proceed to obtain postgraduate professional experience under a supervisor who is a speech-language pathologist or audiologist licensed in Kentucky. An applicant for interim licensure shall submit a completed Application for Interim Licensure to the board.

Section 2. Incorporation by Reference. (1) "Application for Interim Licensure", November 1999, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GEORGE O. PURVIS, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: September 14, 1999

FILED WITH LRC: September 15, 1999 at 11 a.m.

KENTUCKY BOARD OF SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY
(As Amended at ARRS, January 13, 2000)

201 KAR 17:012. Requirements for licensure.

RELATES TO: KRS 334A.033, 334A.050

STATUTORY AUTHORITY: KRS 334A.080(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.033 and 334A.050 establish requirements for licensure as a speech-language pathologist and audiologist, including a requirement that an applicant meet specified education and experience criteria as determined by the board. This administrative regulation es-

establishes criteria for licensure for speech-language pathologists and audiologists [as authorized by KRS 334A.050, as amended].

Section 1. Education and Experience. In addition to the citizenship requirements of KRS 334A.050, each applicant for licensure in speech-language pathology or audiology in Kentucky shall meet the requirements established in this section [hold the following qualifications]:

(1)(a) An applicant shall have completed a master's degree or equivalent with major emphasis in speech-language pathology, audiology, or speech-language and hearing science from a college or university program accredited by the American Speech-Language-Hearing Association.

(b) An applicant shall have "equivalent" education if the applicant holds: ["Equivalent" is defined as holding:]

1. A doctoral degree in speech-language pathology or audiology from a program accredited by the American Speech-Language-Hearing Association; or

2. A bachelor's degree from a regionally accredited college or university, and has completed [completion of] all coursework and clinical practicum requirements leading to a doctorate or master's degree from a university program accredited by the American Speech-Language-Hearing Association.

(2) Postgraduate professional experience.

(a) After completion of academic coursework and clinical practicum, the applicant [then] shall successfully complete a period of postgraduate professional experience.

(b) The experience shall consist of at least thirty-six (36) weeks of full-time professional experience to consist of a minimum of thirty (30) work hours a week or its part-time equivalent as follows:

1. Fifteen (15) to nineteen (19) hours per [1] week over seventy-two (72) weeks;

2. Twenty (20) to twenty-four (24) hours per [1] week over sixty (60) weeks; or

3. Twenty-five (25) to twenty-nine (29) hours per [1] week over forty-eight (48) weeks.

(c) The experience shall be completed under the supervision of an individual who holds a Kentucky license or the Certificate of Clinical Competence from the American Speech-Language-Hearing Association in Speech-Language Pathology or Audiology as appropriate.

1. The postgraduate professional experience supervisor shall engage in no fewer than thirty-six (36) supervisory activities during the postgraduate professional experience.

2. This supervision shall include eighteen (18) on-site observations of direct client contact at the interim licensee's work site.

a. One (1) hour shall equal one (1) on-site observation.

b. A maximum of six (6) on-site observations may be accrued in one (1) day.

c. At least six (6) on-site observations shall be accrued during each third of the experience.

d. These on-site observations shall be of the interim licensee providing screening, evaluation, assessment, habilitation, and rehabilitation.

3. The supervision shall include eighteen (18) other monitoring activities.

a. At least six (6) other monitoring activities shall be completed during each of the three (3) segments of the postgraduate professional experience.

b. These other monitoring activities may be executed by correspondence, review of video tapes or audio tapes, evaluation of written reports, phone conferences with the interim licensee, or evaluations by professional colleagues.

4. The supervisor periodically shall conduct a formal evaluation of the applicant's progress in the development of professional skills.

(3) [, and at least forty-two (42) post-baccalaureate semester hours from a regionally accredited college or university toward a master's degree, of which at least thirty (30) semester hours must be in the areas of speech-language pathology, audiology, or speech-language and hearing science. At least twenty-one (21) of these forty-two (42) semester hours must be obtained from a single college or university, none may have been completed more than ten (10) years prior to the date of application and no more than six (6) semester hours may be credit offered for clinical practicum.

(2) In evaluation of credits to be used in the computation of an applicant's educational requirements, one-quarter (1/4) hour will be considered the equivalent of two-thirds (2/3) of a semester hour. Transcripts that do not report credit in terms of semester or quarter hours should be submitted for special evaluation.

(3) A total of sixty (60) semester hours of academic credit must have been accumulated from accredited colleges or universities that demonstrate that the applicant has obtained a well-integrated program of course study dealing with the normal aspects of human communication, development thereof, disorders thereof, and clinical techniques for evaluation and management of such disorders. Twelve (12) of these sixty (60) semester hours must be obtained in courses that provide information that pertains to normal development and use in speech, language, and hearing. Thirty (30) of these sixty (60) semester hours must be obtained in courses that provide information relative to communication disorders, and information about and training in evaluation and management of speech, language, and hearing disorders. At least twenty-four (24) of these thirty (30) semester hours must be in courses in the professional area (speech-language pathology or audiology) for which licensure is requested, and at least six (6) must be in audiology for licensure in speech-language pathology or in speech-language pathology for licensure in audiology. Moreover, no more than six (6) semester hours may be in courses that provide credit for clinical practicum obtained during academic training. Credit for study of information pertaining to related fields that augment the work of the clinical practitioner of speech-language pathology and/or audiology may also apply toward the total sixty (60) semester hours. Thirty (30) of the total sixty (60) semester hours that are required for licensure must be in courses that are acceptable toward a graduate degree by the college or university in which they are taken. This requirement may be met by courses completed as an undergraduate providing the college or university in which they are taken specifies that these courses would be acceptable toward a graduate degree if they were taken at the graduate level. Moreover, twenty-one (21) of these thirty (30) semester hours must be within the twenty-four (24) semester hours required in the professional area (speech-language pathology or audiology) for which licensure is requested or within the six (6) semester hours required in the other area.

(4) The applicant must have completed a minimum of 300 clock hours of supervised clinical experience with individuals who present a variety of communication disorders, and this experience must have been obtained with the training institution or in one of its cooperating programs.

(5) The applicant must have obtained the equivalent of not less than nine (9) months of full-time professional experience with full-time employment defined as a minimum of thirty (30) clock hours of work a week. This requirement also may be fulfilled by part-time employment as follows:

(a) Work of fifteen (15) through nineteen (19) hours per week over eighteen (18) months;

(b) Work of twenty (20) through twenty-four (24) hours per week over fifteen (15) months; or

(c) Work of twenty-five (25) through twenty-nine (29) hours per week over twelve (12) months.

In the event that part-time employment is used to fulfill a part of the postgraduate professional experience, 100 percent of the minimum hours of the part-time work per week requirement must be spent in direct professional experience. The postgraduate professional experience must be completed within a maximum period of thirty-six (36) consecutive months. If the experience is not initiated within two (2) years of the date the academic coursework and supervised clinical experience is completed, the applicant must meet the academic and practicum requirements when the experience is begun.

(6) The applicant shall [must] have passed one (1) of the national examinations in speech-language pathology and audiology which are approved by the American Speech-Language-Hearing Association and in effect at the time of application for licensure, either the national examination in speech-language pathology or the national examination in audiology.

(4) (7) The applicant shall submit to the board a written description verifying his completion of the required academic coursework and supervised clinical experience on the Application for License, with required supporting documentation [form provided for that purpose]. [No] Credit shall not [may] be allowed for courses listed on the

application unless satisfactory completion is verified by an official transcript. Satisfactory completion ~~shall exist if [is defined as]~~ the ~~applicant has [applicant's having]~~ received academic credit ~~[(i.e.,]~~ semester hours, quarter hours, or other unit of credit) with a passing grade as defined by the training institution.

(5) ~~[(8)]~~ Application for approval of academic coursework and supervised clinical experience shall be made as soon as possible after completion of these experiences, and either before or within thirty (30) days after the professional postgraduate experience is begun.

(6) ~~[(9)]~~ Within thirty (30) days after completion of the postgraduate professional experience, the applicant and his supervisor ~~[, who shall be a speech-language pathologist or audiologist licensed in Kentucky;]~~ shall ~~[must]~~ submit a written report to the board verifying the successful completion of postgraduate professional experience on the Application for License, with required supporting documentation [forms provided for that purpose].

~~[(10)] Any applicant for licensure who has not previously held a license or an interim license in speech-language pathology or audiology in this state, must submit to the board proof of his successful completion of acceptable postgraduate professional experience on forms provided for that purpose.]~~

Section 2. Incorporation by Reference. (1) "Application for License", November 1999, is incorporated by reference.

(2) This material may be inspected, copied, or obtained at the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

GEORGE O. PURVIS, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: September 20, 1999

FILED WITH LRC: September 29, 1999 at 3 p.m.

**KENTUCKY BOARD OF SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY
(As Amended at ARRS, January 13, 2000)**

201 KAR 17:015. Board members, expenses.

RELATES TO: KRS 334A.100

STATUTORY AUTHORITY: KRS 334A.080(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.100 authorizes board members to receive per diem and traveling expenses to the extent authorized by board policy. This administrative regulation establishes the per diem and travel expense rates for board members [authorizes board members to receive a per diem and travel expenses] when conducting board-related business.

Section 1. **A member [Members]** of the board shall receive:

(1) ~~[Receive]~~ Compensation in the amount of \$100 per day for each day of actual board service; and

(2) Travel expenses as provided by 200 KAR 2:006. ~~[The board members shall receive no compensation for their services, but may receive a per diem in the amount of fifty (50) dollars per day or fraction thereof devoted to board service and travel expenses to the extent authorized by 200 KAR Chapter 2.]~~

GEORGE O. PURVIS, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: September 14, 1999

FILED WITH LRC: September 15, 1999 at 11 a.m.

**KENTUCKY BOARD OF SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY
(As Amended at ARRS, January 13, 2000)**

201 KAR 17:025. Requirements for an interim license as a speech-language pathology assistant.

RELATES TO: KRS 334A.035(2), 1994 Ky. Acts ch. 32, sec. 4

STATUTORY AUTHORITY: KRS 334A.035(2), 334A.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.033 [1994 Ky. Acts ch. 32, sec. 4] establishes the requirements [guide-lines] for licensure as a speech-language pathology assistant. KRS 334A.035(2) requires an applicant for licensure as a speech-language pathology assistant to complete postgraduate professional experience in order to become licensed. This administrative regulation establishes the requirements for interim licensure.

Section 1. Education. (1) In order to receive an interim license to become a speech-language pathology assistant, the applicant shall possess a baccalaureate degree in speech-language pathology.

(2) A baccalaureate degree in speech-language pathology shall be a baccalaureate degree from a regionally accredited institution in communication sciences or disorders or its equivalent.

(3) In order to be considered as equivalent, the applicant shall have obtained a baccalaureate degree and a minimum of twenty-seven (27) hours in the core areas of communication sciences or disorders including the following:

- (a) Anatomy and physiology;
- (b) Phonetics and speech science;
- (c) Speech and language development;
- (d) ~~[(e)]~~ Communication disorders in children;
- (e) ~~[(f)]~~ Audiology;
- (f) ~~[(g)]~~ Aural rehabilitation; and
- (g) ~~[(h)]~~ Intervention for children with communication disorders.

Section 2. Supervision. (1) The interim licensee shall function under the supervision of an appropriate supervisor during the period of interim licensure.

(2) ~~The superv. or shall [It shall be the responsibility of the supervisor to]~~ design and provide a supervision system that protects pupil welfare and maintains the highest possible standards of quality speech-language pathology services.

(3) ~~The supervisor may require~~ additional supervision ~~[may be required;]~~ based on the experience of the speech-language pathology assistant, the pupils served, and the physical or geographic proximity to the supervisor.

(4) As the supervisory responsibility of the supervisor increases, the direct service responsibilities of the supervisor shall decrease.

(5) Treatment for the pupils served **shall remain [remains]** the responsibility of the supervisor. ~~[Therefore;]~~ The level of supervision required **shall be [is considered]** the minimum level necessary for the supervisor to retain direct contact with the pupils.

(6) Each speech-language pathology assistant shall be required to receive no less than three (3) hours per full-time week of documented direct supervision. Supervision shall be adjusted proportionally for less than full-time employment. ~~[This ensures that]~~ The supervisor **shall [will]** have direct contact time with the speech-language pathology assistant as well as with the pupil.

(7) Direct supervision **shall consist of [means]** on-site, in-view observation and guidance as a clinical activity is performed.

(a) A speech-language pathology assistant **shall [must]** be supervised by either:

1. A licensed speech-language pathologist; or

2. **A teacher certified to teach exceptional children with communication disorders, pursuant to 704 KAR 20:670. [A "certified" speech-language pathologist as defined by the Education Professional Standards Board.]**

(8) Supervision shall provide information about the quality of the speech-language pathology assistant's performance with assigned tasks and verify that clinical activity is limited to tasks specified in the speech-language pathology assistant's scope of responsibilities.

(9) Information obtained during direct supervision may include data relative to:

- (a) Accuracy in implementation of screening, diagnostic, and treatment procedures;
- (b) Agreement between the assistant and the supervisor on correct or incorrect judgment of target behavior;
- (c) Accuracy in recording data; and
- (d) Ability to interact effectively with the pupil.

(10) Indirect supervision shall be required no less than three (3) hours per full-time week. Supervision shall be adjusted proportionally for less than full-time employment. Indirect supervision may include:

- (a) Demonstration;

- (b) Record review;
- (c) Review and evaluation of audio or videotaped sessions; or
- (d) Supervisory conferences that may be conducted by telephone.

(11) A minimum total of six (6) hours of direct and indirect supervision per full-time week shall be required for each speech-language pathology assistant and shall be documented. Additional direct and indirect supervision may be necessary depending on the experience of the assistant and the needs of the pupil.

(12) A speech-language pathology assistant shall not [at any time] provide direct services if [when] a supervising speech-language pathologist cannot be reached by personal contact, phone, pager, or some other immediate means.

(13) If, for any reason (including [i.e.,] maternity leave, illness, or a change of jobs), the supervisor is no longer available to provide the level of supervision stipulated, the speech-language pathology assistant shall [may] not provide service until a fully qualified speech-language pathologist has been designated as the speech-language pathology assistant's supervisor.

(14) Although more than one (1) supervisor may provide supervision of a speech-language pathology assistant, a supervisor shall not be listed as the supervisor of record for more than two (2) speech-language pathology assistants. If [When] multiple supervisors are used, each supervisor shall be responsible for that portion of the caseload that is theirs and each shall sign the license application and postgraduate professional experience report. [one (1) shall be designated as the supervisor of record.]

[15] The maximum number of pupils served by the speech-language pathology assistant shall not exceed the caseload established for a speech-language pathologist by administrative regulation.]

Section 3. Postgraduate Professional Experience. (1) The applicant shall obtain the equivalent of not less than nine (9) months of full-time professional experience with full-time employment, which shall be [defined as] a minimum of thirty (30) clock hours of work a week. This requirement [also] may be fulfilled by part-time employment as follows:

- (a) Work of fifteen (15) through nineteen (19) hours per week over eighteen (18) months;
- (b) Work of twenty (20) through twenty-four (24) hours per week over fifteen (15) months; or
- (c) Work of twenty-five (25) through twenty-nine (29) hours per week over twelve (12) months.

(2) If [in the event that] part-time employment is used to fulfill a part of the postgraduate professional experience, 100 percent of the minimum hours of the part-time work per week requirement shall [must] be spent in direct professional experience.

(3) The postgraduate professional experience shall be completed within a maximum period of thirty-six (36) consecutive months.

Section 4. Evaluation and Recommendation. Within thirty (30) days after completion of the postgraduate professional experience, the applicant and his supervisor shall submit a written report to the board verifying the successful completion of postgraduate professional experience.

[Section 5. Examination for Licensure as a Speech-language Pathology Assistant. (1) During the period of interim licensure, an applicant for licensure shall submit to an examination composed of the Praxis Series, Professional Assessments for Beginning Teachers, specialty area test in speech-language pathology and administered by the Educational Testing Service (ETS).

(2) The passing score on the examination for licensure as a speech-language pathology assistant shall be 480.

(3) If an applicant fails the examination, the applicant may, with payment of the required fee, be rescheduled to take the examination at its next regularly scheduled date.

Section 6. Licensure as a Speech-language Pathology Assistant. Upon successful completion of each requirement set forth in this administrative regulation, completion of the required application, and payment of the required fee, the holder of an interim license shall be eligible to be licensed as a speech-language pathology assistant and shall immediately apply for licensure.]

GEORGE O. PURVIS, Chair
DIANE SCHULER FLEMING, Assistant Attorney General
APPROVED BY AGENCY: September 14, 1999
FILED WITH LRC: September 15, 1999 at 11 a.m.

KENTUCKY BOARD OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY (As Amended at ARRS, January 13, 2000)

201 KAR 17:027. Supervision requirements for a speech-language pathology assistant.

RELATES TO: 1994 Ky. Acts ch. 32, sec. 4

STATUTORY AUTHORITY: KRS 334A.033(1)(b), 334A.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.033

[1994 Ky. Acts, ch. 32, sec. 4] establishes the requirements for licensure as a speech-language pathology assistant. KRS 334A.033(1)(a) and (b) provide that a [One (1) of the requirements is that the] speech-language pathology assistant shall [may only] practice under supervision and that the board shall establish the requirements for supervision. This administrative regulation establishes the supervisory requirements.

Section 1. The supervision requirements specified in this administrative regulation shall be the [these guidelines are] minimum requirements.

(1) The supervisor shall [It shall be the responsibility of the supervisor to] design and provide a supervision system that protects pupil welfare and maintains the highest possible standards of quality speech-language pathology services.

(2) The supervisor may require additional supervision [may be required] based on the experience of the speech-language pathology assistant, the pupils served, and the physical or geographic proximity to the supervisor.

(3) As the supervisory responsibility of the supervisor increases, the direct service responsibilities of the supervisor shall decrease.

Section 2. Treatment for the pupils served shall remain [remains] the responsibility of the supervisor. [Therefore,] The level of supervision required shall be [is considered] the minimum level necessary for the supervisor to retain direct contact with the pupils.

Section 3. Each speech-language pathology assistant shall be required to receive no less than two (2) hours per full-time week of documented direct supervision. [This ensures that] The supervisor shall [will] have direct contact time with the speech-language pathology assistant as well as with the pupil.

(1) Direct supervision shall consist of [means] on-site, in-view observation and guidance as a clinical activity is performed. [(a)] A speech-language pathology assistant shall [must] be supervised by either:

(a) [1.] A licensed speech-language pathologist; or

(b) A teacher certified to teach exceptional children with communication disorders, pursuant to 704 KAR 20:670. [2.] A "certified" speech-language pathologist as defined by the Educational Professional Standards Board.

(2) Supervision shall provide information about the quality of the speech-language pathology assistant's performance with assigned tasks and verify that clinical activity is limited to tasks specified in the speech-language pathology assistant's scope of responsibilities.

(3) Information obtained during direct supervision may include data relative to:

- (a) Accuracy in implementation of screening, diagnostic, and treatment procedures;
- (b) Agreement between the assistant and the supervisor on judgment of target behavior;
- (c) Accuracy in recording data; and
- (d) Ability to interact effectively with the pupil.

Section 4. Indirect supervision shall be required no less than two (2) hours per full-time week and may include:

- (1) Demonstration;
- (2) Record review;

- (3) Review and evaluation of audio or videotaped sessions; or
- (4) Supervisory conferences that may be conducted by telephone.

Section 5. A minimum total of four (4) hours of direct and indirect supervision per full-time week shall be required for each speech-language pathology assistant and shall be documented. Additional direct and indirect supervision may be necessary depending on the experience of the assistant and the needs of the pupil.

Section 6. A speech-language pathology assistant shall not [at any time] provide direct services if [when] a supervising speech-language pathologist cannot be reached by personal contact, phone, pager, or some other immediate means.

Section 7. If, for any reason (including [i.e.,] maternity leave, illness, or a change of jobs), the supervisor is no longer available to provide the level of supervision stipulated, the speech-language pathology assistant shall [may] not provide service until a fully qualified speech-language pathologist has been designated as the speech-language pathology assistant's supervisor.

Section 8. Although more than one (1) supervisor may provide supervision of a speech-language pathology assistant, a supervisor shall not be listed as the supervisor of record for more than two (2) speech-language pathology assistants. If [When] multiple supervisors are used, each supervisor shall be responsible for that portion of the caseload that is theirs. [one (1) shall be designated as the supervisor of record.]

[Section 9. The maximum number of pupils served by the speech-language pathology assistant shall not exceed the caseload established for a speech-language pathologist by administrative regulation.]

GEORGE O. PURVIS, Chair
 DIANE SCHULER FLEMING, Assistant Attorney General
 APPROVED BY AGENCY: September 14, 1999
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KENTUCKY BOARD OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY (As Amended at ARRS, January 13, 2000)

201 KAR 17:030. License fees and requirements for inactive status.

RELATES TO: KRS 334A.160, 334A.170

STATUTORY AUTHORITY: KRS 334A.080(3), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.080(6) requires the board to establish fees for licensure as a speech-language pathologist, speech-language pathology assistant, or audiologist, in accordance with the maximum limits established in KRS 334A.160 and 334A.170. KRS 334A.030(3) requires the board to establish requirements for licensure and renewals. This administrative regulation establishes the required fees and the requirements for inactive status. [This administrative regulation is necessitated by KRS 334A.160 and sets forth in detail all fees charged by the board.]

Section 1. Fee Schedule. The following fees shall be paid in connection with speech-language pathologist and audiologist applications, [examinations,] renewals, and penalties.

- (1) Application fee for a speech-language pathologist license, twenty-five (25) dollars.
- (2) Application for an audiologist license, twenty-five (25) dollars.
- (3) Combined application fee for a speech-language pathologist and audiologist license, fifty (50) [twenty-five (25)] dollars.
- (4) Application fee for a speech-language pathology assistant license, twenty-five (25) dollars.
- (5) Initial speech-language pathologist license fee, fifty (50) dollars.
- (6) Initial audiologist license fee, fifty (50) dollars.
- (7) Combined speech-language pathologist and audiologist license fee, \$100.

(8) Initial speech-language pathology assistant license fee, thirty-five (35) [twenty-five (25)] dollars.

(9) Renewal fee for speech-language pathologist license, thirty-five (35) [twenty-five (25)] dollars.

(10) Renewal fee for audiologist license, thirty-five (35) [twenty-five (25)] dollars.

(11) Combined renewal fee for speech-language pathologist and audiologist license, seventy (70) [fifty (50)] dollars.

(12) Renewal fee for speech-language pathology assistant, ten (10) dollars.

(13) Renewal fee for grace period extending from January 31 to March 2:

(a) For speech-language pathologist license, forty-five (45) [thirty (30)] dollars.

(b) For audiologist license, forty-five (45) [thirty (30)] dollars.

(c) Combined fee for speech-language pathologist and audiologist license, ninety (90) [sixty (60)] dollars.

(d) For speech-language pathology assistant, fifteen (15) dollars.

(14) Delinquency renewal after March 2 shall be:

(a) For speech-language pathologist license, fifty-five (55) [thirty-five (35)] dollars.

(b) For audiologist license, fifty-five (55) [thirty-five (35)] dollars.

(c) Combined fee for speech pathologist and audiologist license, \$100 [seventy (70) dollars].

(d) For speech-language pathology assistant, twenty (20) dollars.

(15) Application fee for interim licensure for a speech-language pathologist, twenty-five (25) dollars.

(16) Application fee for interim licensure for an audiologist, twenty-five (25) dollars.

(17) Combined fee for speech-language pathologist and audiologist interim licensure, fifty (50) dollars.

(18) [Application fee for interim licensure for a speech-language pathology assistant, twenty-five (25) dollars.]

(19) There shall not be a [be no] renewal fee for interim licensure, [and] The application fee of twenty-five (25) dollars for full licensure shall be waived for a person who has [persons who have] been duly licensed as an interim licensee [licensees].

(19) Application fee for interim licensure for a speech-language pathology assistant, twenty-five (25) dollars.

Section 2. A completed Annual Renewal Application or Renewal Application for Speech-Language Pathology Assistants, whichever is appropriate, shall be submitted if the licensee wants to:

(1) Renew his license;

(2) Request to return to an active status from an inactive status;

(3) Request, or remain on, an inactive status; or

(4) Terminate licensure. [A person shall not practice as a speech-language pathologist, speech-language pathology assistant, or audiologist in this state unless the license has been renewed as provided by law and upon payment of the prescribed fee. All licenses not renewed by March 2 following the date of issuance shall be deemed expired and no person shall engage in the [such] practice.]

Section 3. If [(1) Where] an application is filed during the period of December 17 to January 30 and a license issued, the board shall waive [waives] the renewal of the license for the ensuing licensing year.

Section 4. Inactive Licenses. (1) Fees.

(a) The inactive license fee for a speech-language pathologist for a licensing year shall be five (5) dollars.

(b) The inactive license fee for an audiologist for a licensing year shall be five (5) dollars.

(c) The inactive license fee for a speech-language pathologist and audiologist for a licensing year shall be ten (10) dollars.

(2) [The holder of an inactive license shall not actively engage in the practice of speech-language pathology or audiology.] Reactivation of an inactive license to practice speech-language pathology or audiology may be obtained by:

(a) Filing a completed Annual Renewal Application or Renewal Application for Speech-Language Pathology Assistants, whichever is appropriate; [the proper application with the board for

reactivation; and]

(b) Payment of the current renewal fee; and
(c) Compliance with the continuing education requirements established in 201 KAR 17:090, Sections 10 and 11, [found in 201 KAR 17:091, Section 2.]

(3) Application for an inactive license shall be made to the board prior to March 2 and be accompanied by the appropriate [prescribed] fee of five (5) dollars or ten (10) dollars for the [such] licensing year.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Annual Renewal Application", January 2000; and
(b) "Renewal Application for Speech-Language Pathology Assistants", January 2000.

(2) This material may be inspected, copied, or obtained at the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [4. A person who fails to renew his license within the five (5) years after its expiration may not renew it, and it may not be restored, reissued or reinstated thereafter, but such persons may apply for and obtain a new license if he meets the requirements of KRS Chapter 334A and the administrative regulations adopted thereunder including successful passage of an examination.]

GEORGE O. PURVIS, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

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**KENTUCKY BOARD OF SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY
(As Amended at ARRS, January 13, 2000)**

201 KAR 17:041. Professional code of ethics.

RELATES TO: KRS 334A.180

STATUTORY AUTHORITY: KRS 334A.080(3)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 334A.080(3) requires the board to promulgate an administrative regulation that establishes ethical standards of practice.** This administrative regulation establishes the [is necessitated by KRS 334A.080(3) which requires the board to adopt and publish a] code of ethics.

Section 1. Responsibility to Patients. (1) A licensee shall:

(a) Advance and protect the welfare of the patient;
(b) Respect the rights of a person seeking his assistance; and
(c) Make reasonable efforts to ensure that his services are used appropriately.

(2) A licensee shall not:

(a) [Discriminate against or refuse professional service to any one on the basis of race, gender, religion, or national origin;
(b) Exploit the trust and dependency of a patient;
(b)1. Except as provided by subparagraph 2 of this paragraph, [(c)] engage in a dual relationship with a patient, including a social, business, or personal relationship that may:
a. [1:] Impair professional judgment;
b. [2:] Incur a risk of exploitation of the patient; or
c. [3:] Otherwise violate a provision of this administrative regulation.

2. If a dual relationship cannot be avoided, and does not impair professional judgment, incur a risk of exploitation of the patient, or otherwise violate a provision of this administrative regulation, a licensee shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation of the patient does not occur;

(c) [(d)] Use his professional relationship with a patient to further his own interests;

(d) [(e)] Continue a therapeutic relationship [relationships] unless it is reasonably clear that the patient is benefiting from the relationship;

(e) [(f)] Fail to assist a person in obtaining other therapeutic services if the licensee is unable or unwilling, for appropriate rea-

sons, to provide professional help;

(f) [(g)] Abandon or neglect a patient in treatment without making reasonable arrangements for the continuation of treatment;

(g) [(h)] Videotape, record, or permit third-party observation of the provision of services without having first obtained written informed consent from the patient;

(h) [(i)] Engage in sexual or other harassment or exploitation of his patient, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in an investigation or ethical proceeding [investigations and ethical proceedings]; or

(i) [(j)] Diagnose, treat, or advise on a problem [problems] outside the recognized boundaries of his competence.

Section 2. Confidentiality. (1) A licensee shall respect and guard the confidences of each individual patient.

(2) A licensee [Licensees] shall not disclose a patient confidence except:

(a) As mandated, or permitted by law;

(b) To prevent a clear and immediate danger to a person;

(c) During the course of a civil, criminal, or disciplinary action arising from the therapy, at which the licensee is a defendant; or

(d) In accordance with the terms of a written waiver. If the patient is a minor, a parent may provide a waiver.

(3) A licensee may use patient or clinical materials in teaching, writing, and public presentations if:

(a) A written waiver has been obtained in accordance with subsection (2) [(1)](d) of this section; or

(b) Appropriate steps have been taken to protect patient identity and confidentiality.

(4) A licensee shall store or dispose of patient records so as to maintain confidentiality.

Section 3. Professional Competence and Integrity. A licensee shall maintain standards of professional competence and integrity and shall be subject to disciplinary action in accordance with KRS 334A.180:

(1) [(a)] Upon conviction of a [any] felony, or a misdemeanor related to the practice of the licensee. [(b)] Conviction shall include adjudication based on:

(a) [1:] A plea of no contest or an "Alford Plea"; or

(b) [2:] The suspension or deferral of a sentence.

(2) If his license or certificate is subject to disciplinary action by another state's regulatory agency that the board determines violates applicable Kentucky state law or administrative regulation;

(3) Upon a showing of impairment due to mental incapacity or the abuse of alcohol or other substances which negatively impact the licensee's practice;

(4) If the licensee misrepresented or concealed a material fact in obtaining a license, renewing a license, or reinstating a license;

(5) If he has refused to comply with an order issued by the board; or

(6) If he has failed to cooperate with the board by not:

(a) Furnishing in writing a complete explanation to a complaint filed with the board;

(b) Appearing before the board at the time and place designated; or

(c) Properly responding to a subpoena [subpoenas] issued by the board.

Section 4. Responsibility to His Student or Supervisee. A licensee shall:

(1) Be aware of his influential position with respect to a student or supervisee;

(2) Avoid exploiting the trust and dependency of a student or supervisee;

(3) Avoid a social, business, personal, or other dual relationship that could:

(a) Impair professional judgment; or [and]

(b) Increase the risk of exploitation;

(4) Take appropriate precautions to ensure that judgment is not impaired and to prevent exploitation if a dual relationship cannot be avoided;

(5) Not provide professional services to a:

- (a) Student;
- (b) Employee; or
- (c) Supervisee;
- (6) Not engage in sexual intimacy or contact with a:
 - (a) Student;
 - (b) Employee; or
 - (c) Supervisee;

(7) Not permit a student or supervisee to perform or represent himself as competent to perform a professional service beyond his level of:

- (a) Training;
- (b) Experience; or
- (c) Competence;

(8) Not disclose the confidence of a student or supervisee except:

- (a) If [Unless] permitted or mandated by law;
- (b) If [Unless] it is necessary to prevent a clear and immediate danger to a person;
- (c) During the course of a civil, criminal, or disciplinary action arising from the supervision, at which the licensee is a defendant;
- (d) In an educational or training setting, if [of which] there are multiple supervisors or professional colleagues who share responsibility for the training of the supervisee; or
- (e) In accordance with the terms of a written informed consent agreement.

Section 5. Financial Arrangements. A licensee shall:

- (1) Disclose his fees to a patient and supervisee at the beginning of service;
- (2) Make financial arrangements with a patient, third-party payor, or supervisee that:
 - (a) Are reasonably understandable; and
 - (b) Conform to accepted professional practices;
- (3) Not offer or accept payment for a referral; and
- (4) Represent facts truthfully to a patient, third-party payor, or supervisee regarding services rendered.

Section 6. Advertising. (1) A licensee shall:

- (a) Accurately represent education, training, and experience relevant to the practice;
- (b) Not use professional identification, including a business card, office sign, letterhead or telephone or association directory listing, that includes a statement or claim that is false, fraudulent, misleading, or deceptive pursuant to subsection (2) of this section. [including the following:
 - 1. A business card;
 - 2. An office sign;
 - 3. Letterhead;
 - 4. Telephone or association directory listing.]
- (2) A statement shall be considered false, fraudulent, misleading, or deceptive if it:
 - (a) Contains a material misrepresentation of fact;
 - (b) Is intended to or likely to create an unjustified expectation; or
 - (c) Deletes a material fact or information. [Preamble. The preservation of the highest standards of integrity and ethical principles is vital to the successful discharge of the professional responsibilities of all speech-language pathologists and audiologists. This code of ethics has been promulgated by the Kentucky Board of Speech-language Pathology and Audiology in an effort to stress the fundamental rules considered essential to this basic purpose. Any action that is in violation of the spirit and purpose of this code shall be considered unethical. Failure to specify any particular responsibility or practice in this code of ethics should not be construed as denial of the existence of other responsibilities or practices.]

Section 2. The fundamental rules of ethical conduct are described in three (3) categories: principles of ethics, ethical proscriptions, and matters of professional propriety as follows:

(1) Principles of ethics. Six (6) principles serve as a basis for the ethical evaluation of professional conduct and form the underlying moral basis for the code of ethics. Licensees must observe these principles as affirmative ethical obligations under all conditions of professional activity.

(2) Ethical proscriptions are formal statements of prohibitions that

are derived from the principles of ethics.

(3) Matters of professional propriety. Matters of professional propriety represent guidelines of conduct designed to promote the public interest and thereby better inform the public and particularly the persons in need of speech-language pathology and audiology services as to the availability and the rules regarding the delivery of those services.

Section 3. Principles of Ethics I. (1) Licensees should hold paramount the welfare of persons served professionally.

(a) Licensees shall use every resource available, including referral to other specialists as needed to provide the best service possible.

(b) Licensees shall fully inform persons served of the nature and possible effects of the services.

(c) Licensees shall fully inform research subjects or subjects participating in teaching activities of the nature and possible effects of these activities.

(d) Licensees' fees shall be commensurate with services rendered.

(e) Licensees shall provide appropriate access to records of persons served professionally.

(f) Licensees shall take all reasonable precautions to avoid injuring persons in the delivery of professional services.

(g) Licensees shall evaluate services rendered to determine effectiveness.

(2) Ethical proscription:

(a) Licensees must not exploit persons in the delivery of professional services, including accepting persons for treatment when benefit cannot reasonably be expected or continuing treatment unnecessarily.

(b) Licensees must not guarantee the results of any therapeutic procedures directly or by implication. A reasonable statement of prognosis may be made, but caution must be exercised not to mislead persons served professionally to expect results that cannot be predicted from sound evidence.

(c) Licensee must not use persons for teaching or research in a manner that constitutes an invasion of privacy or fails to afford informed free choice to participate.

(d) Licensees must not evaluate or treat speech, language or hearing disorders except in a professional relationship. They must not evaluate or treat solely by correspondence. This does not preclude follow-up correspondence with persons previously seen, nor providing them with general information of an education nature.

(e) Licensees must not reveal to unauthorized persons any professional or personal information obtained from the persons served professionally, unless required by law or unless necessary to protect the welfare of the person or the community.

(f) Licensees must not discriminate in the delivery of professional services on any basis that is unjustifiable or irrelevant to the need for and potential benefits from such services, such as race, sex or religion.

(g) Licensees must not charge for services not rendered.

Section 4. Principle of Ethics II. (1) Licensees shall maintain high standards of professional competence.

(a) Licensees shall continue their professional development throughout their careers.

(b) Licensees shall identify competent, dependable referral services for persons served professionally.

(c) Licensees shall maintain adequate records of professional services rendered.

(2) Ethical proscriptions:

(a) Licensees must neither provide services nor supervision of services for which they have not been properly prepared, nor permit services to be provided by anyone under their supervision who is not properly prepared.

(b) Licensees must not provide clinical services by prescription from anyone who does not hold a Kentucky license in the field of speech-language pathology and/or audiology.

(c) Licensees must not delegate any service requiring the professional competence of a licensed speech-language pathologist and/or audiologist to anyone unqualified.

(d) Licensees must not offer clinical services by supportive personnel for whom they do not provide appropriate supervision and

assume full responsibility.

(e) Licensees must not require anyone under their supervision to engage in any practice that is in violation of the code of ethics.

Section 5. Principle of Ethics III. (1) Licensees' statements to persons served professionally and to the public shall provide accurate information about the nature and management of communication disorders, and about the professional services rendered by its practitioners.

(2) Ethical proscriptions:

(a) Licensees must not misrepresent their training or competence.

(b) Licensees' public statements providing information about professional services and products must not contain representations or claims that are false, deceptive or misleading.

(c) Licensees must not use professional or commercial affiliations in any way that would mislead or limit services to persons served professionally.

(3) Matters of propriety. Licensees should announce services in a manner consonant with highest professional standards in the community.

Section 6. Principle of Ethics IV. (1) Licensees shall maintain objectivity in all matters concerning the welfare of persons served professionally. Licensees who dispense products to persons served professionally shall observe the following standards:

(a) Products associated with professional practice must be dispensed to the person served as a part of a program of comprehensive habilitative care.

(b) Fees established for professional services must be independent of whether a product is dispensed.

(c) Persons served must be provided freedom of choice for the source of services and products.

(d) Price information about professional services rendered and products dispensed must be disclosed by providing to or posting for persons served a complete schedule of fees and charges in advance of rendering services, which schedule differentiates between fees for professional services and charges for products dispensed.

(e) Products dispensed to the person served must be evaluated to determine effectiveness.

(2) Ethical proscriptions. Licensees must not participate in activities that constitute a conflict of professional interest.

(3) Matters of propriety:

(a) Licensees should not accept compensation for supervision from the person being supervised.

(b) Licensees should present products they have developed to their colleagues in a manner consonant with highest professional standards.

Section 7. Principle of Ethics V. (1) Licensees shall honor their responsibilities to the public, their profession, and their relationships with colleagues and members of allied professions:

(2) Matters of professional propriety:

(a) Licensees should seek to provide and expand services to persons with speech, language and hearing handicaps as well as to assist in establishing high professional standards for such programs.

(b) Licensees should educate the public about speech, language and hearing processes; speech, language and hearing problems; and matters related to professional competence.

(c) Licensees should strive to increase knowledge within the profession and share research with colleagues.

(d) Licensees should establish harmonious relations with colleagues and members of other professions, and endeavor to inform members of related professions of services provided by speech language pathologists and audiologists, as well as seek information from them.

(e) Licensees should assign credit to those who have contributed to a publication in proportion to their contribution.

Section 8. Principal of Ethics VI. (1) Licensees shall inform the board of violations of this code of ethics:

(2) Licensees shall cooperate fully with the board inquiries into matters of professional conduct related to this code of ethics.]

GEORGE O. PURVIS, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

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KENTUCKY BOARD OF SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY
(As Amended at ARRS, January 13, 2000)

201 KAR 17:070. Complaint procedure.

RELATES TO: KRS 334A.080(1), 334A.180

STATUTORY AUTHORITY: KRS 334A.080(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.180 establishes [delineates] the causes for which disciplinary action may be taken against a licensee. This administrative regulation establishes procedures for the filing, evaluation, and disposition of an administrative complaint [complaints].

Section 1. Definitions. (1) "Chairman" means the chairman or vice-chairman of the board.

(2) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (5) of this section, issued by the board alleging a violation of a specified provision of KRS Chapter 334A; the administrative regulations promulgated thereunder, or any other state or federal statute or regulation.

(3) "Complaint" means a [any] written allegation of misconduct by a credentialed individual or other person which might constitute a violation of KRS Chapter 334A, the administrative regulations promulgated thereunder, or any other state or federal statute or regulation.

(4) "Complaint screening committee" means a committee consisting of three (3) persons appointed by the chairman of the board to review complaints, investigate [investigative] reports, and to participate in informal proceedings to resolve a formal complaint, and may include [- in addition to board members] the executive director of the board or another staff member [may be appointed to serve on this committee].

(5) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against a licensed individual or other person and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests the court to take criminal or civil action.

(6) "Informal proceedings" means the proceedings instituted at a [any] stage of the disciplinary process with the intent of reaching a dispensation of any matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(7) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by the Attorney General or the board.

Section 2. Receipt of Complaints. (1) A complaint:

(a) May be submitted by an:

1. Individual;

2. Organization; or

3. Entity;

(b) Shall be:

1. In writing; and

2. Signed by the person offering the complaint; and

(c) May be filed by the board based upon information in its possession.

(2) [Upon receipt of a complaint:] (a) Upon receipt of a complaint, a copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint. The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(b) Upon receipt of his copy of the written response of the individual named in the complaint, a copy of his response shall be sent to the complainant. The complainant shall have seven (7) days from the receipt to submit a written reply to the response.

Section 3. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the complaint screening committee shall consider the individual's response.

complainant's reply to the response, and any other relevant material available and make a recommendation to the board. The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If the board determines before formal investigation that a complaint is without merit, the board [it] shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants a formal investigation, the board [it] shall:

(a) Authorize an investigation into the matter; and

(b) Order a report to be made to the complaint screening committee at the earliest opportunity.

Section 4. Results of Formal Investigation; Board Decision on Hearing. (1)(a) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint.

(b) The committee shall review the investigative report and make a recommendation to the board.

(c) The board shall determine whether:

1. There has been a prima facie violation of KRS Chapter 334A or the administrative regulations promulgated thereunder; and

2. A complaint shall [should] be filed.

(2) If the board determines that a complaint does not warrant issuance of a formal complaint, the board [it] shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3)(a) If the board determines that a violation has occurred but is not serious, the board may issue a written admonishment to the licensee.

(b) A copy of the written admonishment shall be placed in the permanent file of the licensee.

(c) The licensee shall have the right to:

1. File a response in writing to the admonishment within thirty (30) days of its receipt and have the response [may have it] placed in his permanent file; or

2. [Alternatively, the licensee may] File a request for a hearing with the board within thirty (30) days of the admonishment.

(d) Upon receipt of the request, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.

(4) If the board determines that a complaint warrants the issuance of a formal complaint against a respondent, the complaint screening committee shall prepare a formal complaint which states clearly the charge or charges to be considered at the hearing. The formal complaint shall be reviewed by the board and, if approved, signed by the chairman and served upon the individual as required by KRS Chapter 13B.

(5) If the board determines that a person may be in violation of KRS 334A.030(2), the board [it] shall:

(a) Order the individual to cease and desist from further violations of KRS 334A.030(2);

(b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 334A.030(2) with a request that appropriate action be taken under KRS 334A.990; or

(c) Initiate action in Franklin Circuit Court for injunctive relief to stop the violation of KRS 334A.030(2) pursuant to KRS 334A.990(2).

Section 5. Settlement by Informal Proceedings. (1) The board, through counsel and the complaint screening committee, may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairman.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 6. Notice and Service Process. A notice required by

KRS Chapter 334A or this administrative regulation shall be issued pursuant to KRS Chapter 13B.

Section 7. Notification. The board shall make public:

(1) Its final order in a disciplinary action under KRS 334A.180 with the exception of a written admonishment issued pursuant to Section 4(3) of this administrative regulation; and

(2) An action to restrain or enjoin a violation of KRS 334A.030(2). [All complaints shall be in writing and verified and shall bear the date and signature of the person making the complaint.

Section 2. The person making the complaint shall signify willingness to testify in the event that it is necessary.

Section 3. Before a complaint is investigated it shall present substantial evidence of a specific violation.

Section 4. Complaints may be received by any board member, the board attorney, or by any board staff member.

Section 5. The person(s) receiving a complaint shall make an investigation to verify complaints and collect additional information.

Section 6. The person(s) receiving a complaint shall interview the person against whom the complaint has been made.

Section 7. The person(s) receiving a complaint shall evaluate information received; determine if the complaint is valid, and if an apparent violation has been committed.

Section 8. Consult legal counsel as indicated.

Section 9. The board shall notify the individual against whom the complaint has been made of the charges. They shall be advised of their rights in accordance with the administrative regulations of the board as follows:

- (1) For legal counsel; and
- (2) To access to evidence.

Section 10. If the complaint warrants a formal hearing, the board shall provide the respondent with:

- (1) A formal written presentation of charges;
- (2) A notice of the right to be represented by counsel;
- (3) A reasonable time to prepare any defense;
- (4) The right to answer charges;
- (5) The right to subpoena witnesses in their behalf; and
- (6) The notice of the right to appeal after an adjudication against them.

Section 11. A board member who has participated in the preliminary investigations shall not participate in the hearing process.

Section 12. All subpoenas shall be issued in the name of the board and shall be signed by the chairman of the board. The person requesting the subpoena shall bear the cost of serving the subpoena, paying the witness fees and expenses. The board shall bear the cost of witnesses subpoenaed in the board's behalf.

Section 13. The board shall notify the person making the complaint and the person against whom the complaint was made of the final disposition of the case.]

GEORGE O. PURVIS, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

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KENTUCKY BOARD OF SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY
(As Amended at ARRS, January 13, 2000)

201 KAR 17:090. Continuing education requirements.

RELATES TO: KRS 334A.170(4)

STATUTORY AUTHORITY: KRS 334A.080(3), 334A.170(4)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.170(4) requires a person applying for licensure renewal to show evidence of completion of continuing professional education as required by the board. This administrative regulation establishes [delineates] the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Definitions. [As used in this administrative regulation, unless the context otherwise requires:]

(1) "Academic courses offered by an accredited postsecondary institution" means:

(a) A speech-language pathology or audiology course, designated by a speech-language pathology or audiology title or content; or

(b) An academic course, relevant to speech-language pathology or audiology.

(2) "Approved" means recognized by the Kentucky Board of Speech-Language Pathology and Audiology.

(3) "Continuing education hour" means sixty (60) clock minutes of participating in continuing educational experiences.

(4) "Program" means an organized learning experience:

(a) Planned and evaluated to meet behavioral objectives; and

(b) Presented in one (1) session or a series.

(5) "Provider" means an organization approved by the Kentucky Board of Speech-Language Pathology and Audiology for providing a continuing education program [programs].

(6) "Relevant" means having content applicable to the practice of speech-language pathology or audiology as determined by the board.

Section 2. Accrual of Continuing Education Hours. (1) A minimum of fifteen (15) continuing education hours shall be accrued by each person holding licensure as a speech-language pathologist, speech-language pathology assistant or audiologist during the annual period for renewal.

(2) A person who holds a license in both speech-language pathology and audiology shall [be required to] complete a minimum of twenty-five (25) continuing education hours during the licensure period for renewal for the following year. This person shall obtain continuing education hours in both areas of licensure.

(3) All continuing education hours shall be in or related to the field in which the person is licensed.

(4) Continuing education hours earned in excess of those required under subsection [Section 2](1) or [and] (2) of this section [administrative regulation] may be carried over into the immediately following licensure renewal period to the following extent:

(a) A licensee holding one (1) license may carry over five (5) continuing education hours; or

(b) A licensee holding dual licensure may carry over eight (8) continuing education hours.

(5) A person newly licensed during the license renewal period shall not be required to complete continuing education as a prerequisite for the first renewal of his [their] license.

Section 3. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the license shall be directly related to the professional growth and development of a speech-language pathologist, speech-language pathology assistant or audiologist.

(1) The hours shall [They may] be earned by completing any of the following educational activities:

(a) [(+)] Programs not requiring board review and approval. An educational program from any of the following providers shall be deemed to be relevant to the practice of speech-language pathology or audiology and shall be approved without further review by the

board if the program [it] is:

1. [(a)] Sponsored or approved by:

a. [(+)] The American Speech-Language-Hearing Association; or

b. [(2)] The American Academy of Audiology; or

2. [(b)] An academic course offered by an accredited post-secondary institution directly related to speech-language pathology or audiology;

(b) [(2)] Programs requiring board review and approval. A program from any of the following sources shall be reviewed and determined if the program [it] is relevant and therefore subsequently approved by the board:

1. [(a)] A program, including a home study course or [and] in-service training provided by another organization, educational institution, or service provider approved by the board;

2. [(b)] A program or academic course presented by the licensee. A presenter of a relevant program [programs] or academic course shall [courses may] earn full continuing education credit for each contact hour of instruction, not to exceed one-half (1/2) of the continuing education renewal requirements. Credit shall not be issued for repeated instruction of the same course; or

3. [(c)] Authoring an article in a relevant, professionally recognized or juried publication. Credit shall not be granted for an article unless the article [it] was published within the one (1) year period immediately preceding the renewal date and a licensee shall not earn more than one-half (1/2) of the continuing education hours required for renewal. [Not] More than one (1) publication shall not be counted during a renewal period.

(2) [(3)] A general education course, elective course, or a course designated to meet degree requirements shall not be acceptable. Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equals fifteen (15) continuing education hours.

Section 4. Procedures for Approval of Continuing Education Programs. A course, which has not been preapproved by the board, may be used for continuing education if approval is secured from the board for the course. In order for the board to adequately review a program [these programs], the following information shall be submitted:

(1) A published course or similar description;

(2) Names and qualifications of the instructors;

(3) A copy of the program agenda indicating hours of education, coffee and lunch breaks;

(4) Number of continuing education hours requested;

(5) Official certificate of completion or college transcript from the sponsoring agency or college; and

(6) Application to the board for continuing education credits approval.

Section 5. Procedures for Preapproval of Continuing Education Sponsors and Programs. (1) Sponsor approval. An [Any] entity seeking to obtain approval:

(a) Of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program, and shall provide the information required in Section 4 of this administrative regulation; or

(b) As a prior-authorized continuing education provider under Section 3(1)(a) of this administrative regulation shall satisfy the board that the entity seeking this status:

1. Consistently offers programs which meet or exceed all the requirements set forth in subsection [Section 2](2) of this section [administrative regulation]; and

2. Does not exclude a [any] licensee from its programs.

(2) A continuing education activity shall be qualified for approval if the board determines the activity being presented:

(a) Is an organized program of learning;

(b) Pertains to subject matters, which integrally relate to the practice of speech-language pathology or audiology;

(c) Contributes to the professional competency of the licensee; and

(d) Is conducted by individuals who have educational training or experience acceptable to the board.

Section 6. Responsibilities and Reporting Requirements of a

Licensee. (1) During the licensure renewal period, up to fifteen (15) percent of all licensees shall be selected at random by the board and required to furnish documentation of the completion of the appropriate number of continuing education hours. Verification of continuing education hours shall not otherwise be reported to the board;

(2) A licensee shall:

(a) Be responsible for obtaining required continuing education hours;

(b) Identify his own continuing education needs and seek activities that meet those needs;

(c) Seek ways to integrate new knowledge, skills and attitudes;

(d) Select approved activities by which to earn continuing education hours;

(e) Submit to the board, if applicable, a request for approval for continuing education activities not approved as required in Section 3(1) [(2)] of this administrative regulation;

(f) At the time of renewal, list the continuing education hours obtained during that licensure renewal period;

(g) Document attendance, participation in, and successful completion of continuing education activity for a period of one (1) year from the date of the renewal; and

(h) Maintain records of continuing education hours.

(3) The following items shall [may] be used to document continuing education activity:

(a) Transcript;

(b) Certificate;

(c) Affidavit signed by the instructor; or

(d) Receipt for the fee paid to the sponsor;

(4) [Comply with the provisions of this administrative regulation.]

Failure to comply with the provisions of this administrative regulation shall constitute a violation of KRS 334A.170(4) and shall result in:

(a) Refusal to renew licensure;

(b) Suspension of licensure; or

(c) Revocation of licensure;

(5) Documentation sent to the board prior to renewal shall be returned to the licensee by regular mail.

Section 7. Responsibilities and Reporting Requirements of Providers and Sponsors. (1) A provider of continuing education not requiring board approval shall be responsible for providing documentation, as established in Section 5(2) [(4)] of this administrative regulation, directly to the licensee.

(2) A sponsor of continuing education requiring board approval shall be responsible for submitting a course offering to the board for review and approval before listing or advertising that offering as approved by the board.

Section 8. Board to Approve Continuing Education Hours; Appeal of Denial. (1) If an application for approval of continuing education hours is denied, in whole or part, the licensee shall have the right to appeal the board's decision.

(2) An appeal shall be:

(a) In writing;

(b) Received by the board within thirty (30) days after the date of the decision denying approval of continuing education hours; and

(c) Conducted in accordance with KRS Chapter 13B.

Section 9. Waiver or Extensions of Continuing Education. (1) On application, the board shall [may] grant a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

(a) Medical disability of the licensee;

(b) Illness of the licensee or an immediate family member; or

(c) Death or serious injury of an immediate family member.

(2) A written request for waiver or extension of time involving medical disability or illness shall be:

(a) Submitted by the person holding licensure; and

(b) Accompanied by a verifying document signed by a licensed physician.

(3) A waiver of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.

(4) If the medical disability or illness upon which a waiver or

extension has been granted continues beyond the period of the waiver or extension, the person holding licensure shall reapply for the waiver or extension.

Section 10. Continuing Education Requirements for a Person on Inactive Status or Holding Interim Licensure. (1) The continuing education requirements established in Section 2 of this administrative regulation shall be waived for a licensee on inactive status during the time period he remains inactive. A person on inactive status who requests reactivation shall meet the requirements of Section 11 of this administrative regulation.

(2) The continuing education requirements established in Section 2 of this administrative regulation shall not apply to a person holding interim licensure.

Section 11. Continuing Education Requirements for Reinstatement or Reactivation of Licensure. (1) A person requesting reinstatement or reactivation of licensure shall submit evidence of fifteen (15) hours of continuing education within the twelve (12) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(2) If the person seeking reinstatement or reactivation does not meet the requirement established in subsection (1) of this section, the board shall reinstate or reactivate licensure, and the person shall obtain fifteen (15) hours of continuing education within six (6) months of the date on which licensure is reinstated.

(3) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 2 of this administrative regulation and shall not be used to comply with the requirements of that section. [Continuing Education Hour Defined; Accrual of Continuing Education Hours Mandatory; Computation of Accrual: One (1) continuing education hour means sixty (60) contact minutes of participating in continuing educational experiences. A minimum of fifteen (15) continuing education hours shall be accrued by each licensee during the licensure period for renewal for the following year. The licensure period shall be January 1 through December 31 of each calendar year. All hours shall be in or related to the field of speech-language pathology or audiology and in the specific area for which licensure is sought. Individuals who hold a license in both speech-language pathology and audiology will be required to complete a minimum of twenty-five (25) continuing education hours during the licensure period for renewal for the following year. These individuals shall obtain continuing education hours in both areas of licensure.

Section 2. Methods of Acquiring Continuing Education Hours. The following educational activities are examples of, but not limited to, methods of acquiring continuing education hours provided they are directly related to the professional growth and development of speech-language pathologists and/or audiologists:

(1) Short courses, miniseminars, self-study programs or independent studies, and teleconferences sponsored or approved by the American Speech-Language-Hearing Association;

(2) Educational sessions of the Kentucky Speech-Language-Hearing Association state convention and/or regional conferences; or

(3) The following types of educational activities may be submitted to the board for approval provided they are directly related to the fields of speech-language pathology and/or audiology:

(a) Educational sessions provided within the licensee's work setting;

(b) College credit courses approved by and/or acceptable to the board taken for credit or through official audit;

(c) Scientific and educational lectures, workshops or seminars;

(d) Scientific and educational lectures, workshops, or seminars presented by the licensee: A maximum of two (2) continuing education hours may be credited for scientific and educational lectures, workshops, or seminars presented by the licensee. The two (2) hour maximum credit for presentations by the licensee will be applicable to only one (1) licensee (speech-language pathology or audiology) for those individuals who hold dual licensure.

(4) Related continuing education subjects which are not specifically a part of the field of speech-language pathology or audiology may be approved for up to two (2) continuing education hours if the board believes that the related areas serve to enhance the licensee's

ability to practice. The two (2) hour maximum credit for related areas of study by the licensee shall be applicable to only one (1) license (speech-language pathology or audiology) for those individuals who hold dual licensure.

Section 3. Procedures for Accreditation of Sponsors and Approval of Continuing Education Activities. Prior approval of continuing education activities may be requested from the board by an institution, organization, agency, or individual licensee who desires approval of a continuing education activity prior to its presentation. A licensee who desires to establish accreditation of continuing education activity prior to attendance shall be received at the board no later than forty-five (45) days in advance of the commencement of the activity, on a form provided by the board, stating the type of learning activity, the subject matter, the names and qualifications of the instructors, and the number of continuing education hours offered. A continuing education activity shall qualify for approval if the board determines that the activity being presented:

- (1) Is an organized program of learning; and
- (2) Pertains to subject matters which integrally relate to the practice of speech-language pathology and/or audiology; and
- (3) Contributes to the professional competency of the licensee; and
- (4) Is conducted by individuals who have education training, or experience acceptable to the board.

Section 4. Responsibilities and Reporting Requirements of Licensees. The ultimate responsibility for continuing education activities rests with the individual. His responsibility is to identify his own continuing education needs, to take the initiative in seeking continuing professional education activities to meet these needs, and to seek ways to integrate new knowledge, skills and attitudes. Each licensee has specific responsibility to:

- (1) Select approved activities by which to earn continuing education hours;
- (2) Obtain from the board prior approval for continuing education activities not accredited by the board;
- (3) Maintain records of continuing education hours. Each licensee shall maintain, for a period of three (3) years, all documentation verifying successful completion of continuing education hours. During each licensure renewal period, up to fifteen (15) percent of all licensees shall be required by the board to furnish documentation of the completion of the appropriate number of continuing education hours for a period not to exceed the current renewal period and the two (2) years immediately preceding. Verification of continuing education hours is not otherwise to be reported to the board;
- (4) Documentation of attendance and participation in a continuing education activity may be in the form of, but not limited to, official documents such as transcripts, certificates, affidavits signed by instructors, receipts for fees paid to the sponsor, or less formal evidence such as written summaries of experiences that are not otherwise formally or officially documented in any way. The type of documentation required varies depending on the specific activity submitted to the board for approval; and
- (5) Fully comply with the provisions of this administrative regulation. Failure to comply shall constitute unprofessional conduct as set forth in KRS 334A.180 and may result in the refusal to renew, suspension, or revocation of the license.

Section 5. Carry-over of Continuing Education Hours; One (1) Year Exemption for Newly Licensed Persons. (1) Continuing education hours earned in excess of those required under Section 1 of this administrative regulation may be carried over into the immediately following licensure renewal period to the following extent:

- (a) A licensee holding one (1) license may carry over five (5) continuing education hours; or
 - (b) A licensee holding dual licensure may carry over eight (8) continuing education hours.
- (2) Those persons newly licensed during the license renewal period shall not be required to complete continuing education as a prerequisite for the first renewal of their license.

Section 6. Board to Approve Continuing Education Hours; Appeal when Approval Denied. (1) The board may appoint a committee to

review all applications for approval of continuing education hours.

(2) In the event of denial, in whole or part, of any application for approval of continuing education hours, the licensee shall have the right to appeal in writing to the board. Notice of such appeal shall be received by the board within thirty (30) days after the entry date of the board's order denying approval of continuing education hours.

(3) A hearing before the full board may be held at the request of the licensee if the written appeal is denied, provided the board receives written request for such hearing within ten (10) days after the entry date of the board's order denying the written appeal.

Section 7. Interim Licensees. Continuing education requirements do not apply to the holders of interim licenses.]

GEORGE O. PURVIS, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: September 14, 1999

FILED WITH LRC: September 15, 1999 at 11 a.m.

**TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, December 14, 1999 and
As Amended by House Natural Resources and Environment
Committee, January 12, 2000 and by Senate Agriculture
and Natural Resources Committee, January 13, 2000)**

301 KAR 1:085. Mussel shell harvesting.

RELATES TO: KRS 150.025, 150.110, 150.170, 150.175, [150.190, 150.510,] 150.520

STATUTORY AUTHORITY: KRS 150.025(1), [150.170, 150.175,] 150.520

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations governing the taking of wildlife. KRS 150.520 grants the department specific authority to regulate the taking, buying and selling of mussels and to require reporting of musseling operations. This administrative regulation establishes licensing requirements, seasons, size limits, waters open, and reporting requirements for musseling. [It is necessary to regulate the manner of taking mussels because of their value and their susceptibility to overharvest. This amendment is necessary to create mussel sanctuaries around Ohio River islands now part of a national wildlife refuge.]

Section 1. Section 1. Definitions. (1) "Brail" means a wood or metal rod with attached hooks which is dragged across the bottom to take mussels.

(2) "East side" means the area in Kentucky Lake or Barkley Lake east of the line of red navigational buoys marking the main channel.

(3) "Mussel" means:

- (a) An intact live or dead mussel;
- (b) A mussel shell; or
- (c) A part of a mussel shell.

(4) "To brail" means to take mussels using a brail.

(5) "To mussel" means to take mussels by means of commercial musseling gear.

(6) "West side" means the area in Kentucky Lake or Barkley Lake west of:

- (a) The line of red navigational buoys marking the channel; or
- (b) A water depth of fifty-five (55) feet.

Section 2. (1) Except as specified in subsection (2) of this section, a person shall possess a mussel license if he:

(a) Has more than six (6) mussels in his possession, unless he has a mussel buyer's license;

(b) Possesses commercial musseling equipment while on the water; or

(c) Sells or attempts to sell a mussel.

(2) A licensed musseler may be accompanied by one (1) unlicensed helper.

(3) An unlicensed helper shall not perform an act authorized by a mussel license unless he is in the presence of a licensed musseler.

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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] trail 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 Lindseys Creek, Ohio, and river mile 397.1 at Old Ferry Landing, Manchester, Ohio:

(6) The Green River from lock and dam #5 downstream four and eight-tenths (4.8) miles to the confluence of Ivy Creek and from the eastern boundary of Mammoth Cave National Park upstream ninety-seven and six-tenths (97.6) miles to the Green River Lake dam:

(7) The Barren River from lock and dam #1 downstream three and five-tenths (3.5) miles to the confluence with Mortar Branch:

Section 8. Musseling is permitted during the hours of 6 a.m. and 6 p.m. daily except in Barkley and Kentucky Lakes where the hours shall be as follows:

(1) West side of each lake as marked by the red navigation buoys or fifty-five (55) feet of water depth:

(a) December – February – 8:30 a.m. to 3:30 p.m.

(b) March – November – 8 a.m. to 6 p.m.

(2) East side of each lake as marked by the red navigation buoys on both lakes:

(a) December – February – 9:30 a.m. to 3 p.m.

(b) March – November – 9:30 a.m. to 5 p.m.

(3) Exception: The brailing hours for the entire canal area connecting Kentucky and Barkley lakes and all of Barkley Lake from Barkley Dam south to Cumberland River mile 36.2 (Big Horse Ford light and day marker) shall be as follows:

(a) December – February – 8:30 a.m. to 3:30 p.m.

(b) March – November – 8 a.m. to 6 p.m.

(4) Saturday and Sunday brailing on Kentucky Lake is prohibited during the month of March and during the period beginning on the Saturday preceding Memorial Day and extending through Labor Day.

(5) Saturday and Sunday brailing on Barkley Lake is prohibited beginning on the Saturday preceding Memorial Day and extending through the 30th day of September. Brailing is further prohibited on Kentucky and Barkley Lakes on Memorial Day, July 4th and Labor Day.

Section 9. The statewide size limits for taking of mussels shall be as follows. All mussels smaller than these minimum sizes shall immediately be returned to the bed from which taken:

(a) [(1)] Washboard mussel [mussels], *Megalania nervosa*:

1. Three and thirteen-sixteenths (3 13/16) inches from March 1, 2000 through February 28, 2001 [until February 28, 2000];

2. Three and seven-eighths (3 7/8) inches from March 1, 2001 until February 28, 2002 [2000 through February 29, 2001];

3. Three and fifteen-sixteenths (3 15/16) inches from March 1, 2002 until February 28, 2003 [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:

(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) [(3)] 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

TOURISM CABINET

Department of Fish and Wildlife Resources

(As Amended at ARRS, January 13, 2000)

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

RELATES TO: KRS ~~[150.025(1), 150.320(1);]~~ 150.330, 150.340, 150.360, 150.603(1), 150.620

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to establish open seasons for the taking of wildlife. KRS 150.360(1) authorizes the department to promulgate an administrative regulation restricting the methods for the taking of wildlife. This administrative regulation **establishes procedures for [allows]** the taking of migratory game birds within reasonable limits based upon an adequate supply, and within the frameworks established by the U.S. Fish and Wildlife Service.

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

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

Section 2. Season Dates for Gun Archery and Falconry. (1) A person shall not hunt a migratory game bird except on a date established in this administrative regulation.

(2) A person **shall use the following time frames when hunting migratory birds:** ~~[may hunt:]~~

(a) Dove beginning on:

1. September 1 for ~~fifty-four (54) [thirty (30)]~~ consecutive days; ~~and~~

2. ~~[The first Saturday in October for twenty-four (24) consecutive days; and~~

3.] Thanksgiving Day for six (6) consecutive days.

(b) Woodcock beginning on the ~~fourth [third]~~ Saturday in October for forty-five (45) consecutive days.

(c) Common snipe~~[:]~~ beginning on:

1. The third Wednesday in September for forty-seven (47) consecutive days; and

2. Thanksgiving Day for sixty (60) consecutive days.

(d) Wood duck and teal beginning on the third Wednesday in September for five (5) consecutive days.

(e) Virginia and sora rails, common moorhen and purple gallinule~~[:]~~ beginning on September 1 for seventy (70) consecutive days.

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

(1) Doves:

(a) Daily limit shall be fifteen (15); and

(b) Possession limit shall be thirty (30). ~~[daily limit, fifteen (15); possession limit, thirty (30).]~~

(2) Woodcock:

(a) Daily limit shall be three (3); and

(b) Possession limit shall be six (6). ~~[daily limit, three (3); possession limit, six (6).]~~

(3) Common snipe:

(a) Daily limit shall be eight (8); and

(b) Possession limit shall be sixteen (16). ~~[daily limit, eight (8); possession limit, sixteen (16).]~~

(4) Virginia rails and sora rails, singly or in the aggregate:

(a) Daily limit shall be fifteen (15); and

(b) Possession limit shall be thirty (30). ~~[daily and possession limit, twenty-five (25).]~~

(5) Common moorhen and purple gallinules singly or in the aggregate:

(a) Daily limit shall be fifteen (15); and

(b) Possession limit shall be thirty (30). ~~[daily limit, fifteen (15); possession limit, thirty (30).]~~

(6) Wood duck and teal:

(a) Daily limit shall be four (4), which shall not include more than two (2) wood ducks; and

(b) Possession limit shall be eight (8), which shall not include more than four (4) wood ducks. ~~[Daily limit, four (4), which shall not include more than two (2) wood ducks;~~

~~(b) Possession limit, eight (8), which shall not include more than four (4) wood ducks.]~~

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

Section 4. Shooting Hours. A person shall not take a migratory game bird except during a time established in this section.

(1) Doves:

(a) **The time between [From] 11 a.m. and [until] sunset** during the September and October portions of the season; and

(b) **The time between [From] one-half (1/2) hour before sunrise and [to] sunset** during the November and December portions of the season.

(2) Other species listed in this administrative regulation **may be taken between [from] one-half (1/2) hour before sunrise and [to] sunset.**

Section 5. Shot Requirements. A person hunting wood duck or teal shall not use or possess a shotgun shell:

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

(2) Containing:

(a) Lead shot;

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

(c) Shot larger than size "T".

Section 6. Exceptions to Statewide Migratory Game Bird Seasons on Specified Wildlife Management Areas. (1) ~~[On] A wildlife manage-~~

ment area owned or controlled by the department:

(a) Except as provided in this section, all provisions of this administrative regulation shall apply.

(b) A person shall not:

1. Hunt wood duck or teal on an area closed to waterfowl hunting by 301 KAR 2:222;

2. Hunt in an area marked by a sign as closed to hunting; and

3. Enter an area marked by a sign as closed to the public.

(2) A person hunting dove on the Ballard, Barlow Bottoms, Sloughs, Ohio River Islands, Duck Island, Kaler Bottoms, Kentucky River or Westvaco Wildlife Management Area shall only possess or use United States Fish and Wildlife Service approved nontoxic [not use or possess a shotgun shell containing lead] shot.

(3) Ballard Wildlife Management Area:

(a) A person shall not hunt doves, rails, moorhens or gallinules after October 13, except as provided in 301 KAR 2:221;

(b) A person shall not hunt snipe after October 13;

(c) The body of water known as Swan Lake and all other areas designated by signs are closed to all migratory bird hunting; and

(d) A person shall not hunt woodcock on any portion of the Ballard Wildlife Management Area. [A person shall not hunt a migratory game bird after October 13, except as provided in 301 KAR 2:221.]

(4) Central Kentucky Wildlife Management Area.

(a) A person shall not hunt doves [a migratory game bird] after October 13, except as provided in 301 KAR 2:221;

(b) A person shall not hunt snipe after October 13, except as provided in 301 KAR 2:221;

(c) No woodcock hunting is permitted on the Central Kentucky Wildlife Management Area; and

(d) A dove hunter shall not carry a firearm except during shooting hours.

(5) Grayson Lake Wildlife Management Area.

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

(b) A person shall not hunt:

1. Within the no wake zone at the dam site marina;

2. On Deer Creek Fork; or

3. On or from the shores of Camp Webb or the state park.

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

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

(a) Dove after September 30, except on tracts 2, 3, 6, and 7;

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

(c) On a tract designated by a number followed by the letter "A".

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

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

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

(a) Terrain of the field;

(b) Topography of the field; and

(c) Providing for approximately forty (40) yards between hunters.

(2) A strategically located sign shall be posted in a field advising a hunter:

(a) Of the recommended hunter density; and

(b) That hunting in excess of the desired hunter density limit shall be at the hunter's own risk.

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

C. THOMAS BENNETT, Commissioner

TOM BAKER, Chairman

ANN R. LATTA, Secretary

DOUGLAS S. PORTER, Assistant Attorney General

APPROVED BY AGENCY: June 4, 1999

FILED WITH LRC: November 15, 1999 at 10 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, January 13, 2000)

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

RELATES TO: KRS 150.620

STATUTORY AUTHORITY: KRS [Chapter 13A,] 150.025, 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.015 states that it is the policy of the Commonwealth to protect and conserve wildlife. KRS 150.025(1) authorizes the department to promulgate administrative regulations consistent with the chapter. This administrative regulation establishes procedures to ensure the safe operation of department-owned shooting ranges on the department's property. [This administrative regulation is necessary to allow for the safe operation of department-owned shooting ranges on department property. Such ranges would enhance the programs of the department and further carry out its mandate under KRS 150.015. The function of this administrative regulation is to set the parameters for the safe use of such facilities and conforms with the regulatory guidelines of the department and the state.]

Section 1. Definitions. (1) "Firing line" means an area from which a weapon is discharged either as designated by signage or by a range officer.

(2) "Range officer" means a designated individual responsible for supervising a shooting range and ensuring compliance with this administrative regulation.

(3) [(2)] "Shooting range" means a facility on a wildlife management area owned or controlled by the department which is:

(a) Established and maintained for target shooting with a rifle, pistol, or shotgun with single projectile ammunition. Multiple projectile ammunition may be used on a shotgun patterning range if one (1) is provided;

(b) Designated by a department sign as a public shooting range; and

(c) Not a trap, skeet or similar facility where shotguns with multiple projectiles are fired at moving targets.

Section 2. (1) If a shooting range exists on department property, a person shall not target practice, sight in a firearm or otherwise discharge a firearm except on the shooting range.

(2) Subsection (1) of this section shall not apply to:

(a) A hunter shooting at a legal game species; or

(b) A department employee or certified volunteer hunter education instructor in the performance of his official duty; or

(c) Individuals participating in a department sponsored hunter education class.

Section 3. (1) Unless otherwise posted by a department sign or pursuant to an event permit issued according to 301 KAR 3:010, on a shooting range a person shall not:

(a) Enter except at a designated entrance;

(b) Discharge a firearm:

1. Before 9 a.m.; or

2. After sunset except on a lighted range.

(c) Be under the influence of alcohol or other intoxicant;

(d) Use a target other than a paper target;

(e) Place a target anywhere except in the target frames provided;

(f) Leave a target on a frame after he has finished shooting;

(g) Use or have in his possession:

1. A tracer bullet;

2. Armor piercing ammunition; or

3. A fully automatic firearm.

(h) Leave spent cartridge cases or litter on the range;

(i) Point a firearm in an unsafe direction or otherwise carelessly handle a firearm; or

(j) Engage in horseplay or other potentially unsafe practices.

(2) A person under the age of sixteen (16) shall not discharge a firearm unless he is under the direct supervision of a person at least

eighteen (18) years old.

(3) A spectator or other person not actively engaged in shooting shall not go beyond the firing line.

(4) A person actively engaged in shooting shall not go beyond the firing line:

(a) Without first stating "cease fire" in a voice loud enough for the other shooters to hear or clearly indicating for the other shooters to understand; and

(b) Waiting until the other shooters have:

1. Ceased firing; and

2. Holstered their firearms or placed them in a rack or on a table provided.

(5) Upon hearing a "cease fire" command or seeing a person move beyond the firing line, a person shall:

(a) Immediately cease firing;

(b) Unload his firearm;

(c) Leave his firearm's action open;

(d) Place his firearm:

1. In a holster;

2. In a rack or on a table at the shooting station; or

3. On the ground;

(e) Not handle a firearm while a person is beyond the firing line.

(6) More than one (1) person shall not be at a shooting station at the same time, unless one (1) person is an instructor and the other is a student.

(7) ~~[If a department employee is serving as a range officer,]~~ A person shall immediately obey the range officer's [his] command.

Section 4. A shooting range may be reserved for group use, provided that:

(1) The group has an event permit as specified in 301 KAR 3:010; and

(2) The reservation is made thirty (30) days in advance; and

(3) The group designates a range officer who shall oversee the event and ensure that all participants are in compliance with this regulation.

DOUGLAS SCOTT PORTER, Assistant Attorney General

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

TOM BAKER, Chairman

APPROVED BY AGENCY: November 15, 1999

FILED WITH LRC: November 15, 1999 at 10 a.m.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, January 13, 2000)

301 KAR 5:050. Purchasing licenses electronically.

RELATES TO: KRS 150.195, 150.225, 150.235

STATUTORY AUTHORITY: KRS 150.025(1), 150.195(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.195 requires the department to provide for the issuance of all licenses and permits. This administrative regulation enhances the current license system by enabling licensees to purchase licenses over the internet or the telephone.

Section 1. A person may remotely purchase a license or permit from the department by:

(1) Connecting through the internet or by telephone; and [as prescribed by the agency;]

(2) Providing the following information at the time the license is purchased:

(a) Full name;

(b) Complete mailing address;

(c) Date of birth;

(d) Driver's license or Social Security number;

(e) Telephone number or e-mail address;

(f) A valid Visa or Mastercard number and expiration date; and

(3) Paying a processing fee equal to six (6) percent of the total cost of the licenses purchased.

Section 2. (1) The department shall not complete a transaction not approved by the credit card company.

(2) Upon completion of the license transaction, the department shall issue an authorization number to the license purchaser.

(3) The authorization number shall serve in lieu of the paper license. A person, while performing an act authorized by the license, shall carry upon his person and present upon request to a law enforcement officer:

(a) The authorization number; and

(b) Identification that has a picture and date of birth.

(4) A person using an authorization number in lieu of a deer or turkey permit shall:

(a) Before hunting, write his name, address and applicable authorization number on cards corresponding to the number big game, including deer or turkey, he is allowed to take during the appropriate season;

(b) Immediately after taking an animal, write the date the animal was taken on the card; and

(c) Attach the card to the carcass while it is being transported by vehicle or is out of the hunter's possession; and

(d) Complete any check-in procedure required for that species.

DOUGLAS SCOTT PORTER, Assistant Attorney General

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

TOM BAKER, Chairman

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ECONOMIC DEVELOPMENT CABINET
Department of Financial Incentives
Kentucky Enterprise Zone Program
(As Amended at ARRS, January 13, 2000)

306 KAR 1:010. Definitions for 306 KAR Chapter 1.

RELATES TO: KRS 154.45-001-154.45-120, **26 USCA Sections 167, 168, 179** [154.655]

STATUTORY AUTHORITY: KRS [~~Chapter 13A,~~] 154.45-070 [154.680(4)]

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes [provides] definitions for terms used in relation to the Kentucky Enterprise Zone Program. [KRS 154.650 et seq. establishes and directs the Enterprise Zone Authority of Kentucky (hereinafter referred to as the authority) to organize and regulate the implementation of the Enterprise Zone Act. This administrative regulation is being amended to comply with the deficiencies found during quadrennial review by the Task Force on Economic Development. This administrative regulation sets forth definitions.]

Section 1. Definitions. (1) "Area" means a census block or group of census blocks for which census data is available, as determined by Employment Services.

(2) "Authority" means the Kentucky Enterprise Zone Authority.

(3) "Building materials" means tangible personal property that enters into and becomes a permanent part of a building or other structure on land as an improvement to real property. The term shall not include tangible personal property used in the ordinary repair, maintenance or improvement of existing structures, except for remodeling or rehabilitation.

(4) "Designee" means the authorized representative of the local enterprise zone.

(5) "Employee" means a person who works twenty (20) hours or more per week and is employed by a business located in an enterprise zone, but shall not include a person hired by the business to work as a seasonal employee.

(6) "Employment services" means the Workforce Development Cabinet, Department for Employment Services.

(7) "Equipment" means an asset [assets] used in the operation of a business that is [which are] subject to depreciation pursuant to 26 USCA Sections 167, 168, and 179 [under Sections 167 and 168 of the] (Internal Revenue Code), including an asset that is [assets which are] expensed pursuant to 26 USCA Sections 167,

168, and 179 [under Section 179 of the Internal Revenue Code]. The term "equipment" shall not include the following:

- (a) [Any] Tangible personal property used to maintain, restore, mend, or repair machinery or equipment;
- (b) Consumable operating supplies;
- (c) Office supplies; or
- (d) Maintenance supplies.

(8) "Existing business" is defined in KRS 154.45-010(4).

(9) "Machinery" means an asset [assets] used in the operation of a business that is [which are] subject to depreciation pursuant to 26 USCA Sections 167, 168, and 179 [under Sections 167 and 168 of the Internal Revenue Code], including an asset that is [assets which are] expensed pursuant to 26 USCA Sections 167, 168, and 179 [under Section 179 of the Internal Revenue Code] that meets [meet] the following criteria:

(a) A mechanical device or an integrated combination of mechanical devices designed to perform or produce, through the transmission of force, motion, or energy from one (1) part of the device or devices to another, a certain function, result, or effect;

(b) [Any] Material incorporated into the machinery as a part of its installation; and

(c) [Any] Attached equipment necessary to the mechanical operation of the machinery. "Machinery" shall not include [any] tangible personal property [purchased and] used [by the qualified business] to maintain, restore, mend or repair machinery.

(10) "New business" is defined in KRS 154.45-010(6).

(11) ["Public assistance" means, but is not limited to, Kentucky Transitional Assistance Program benefits, food stamps, or Medicaid benefits;

(12) "Qualified business" is defined in KRS 154.45-010(7).

(12) [(13)] "Remodeling" means the alteration of an existing building or structure if [where] the value for property tax purposes is increased by at least twenty (20) percent.

(13) [(14)] "Rehabilitation" means the restoration from a state of decay of an existing building or structure [from a state of decay] that has been unoccupied for a continuous period of at least twelve (12) months.

(14) [(15)] "Seasonal employee" means a person who is employed by a qualified business to work only during a certain season [seasons] or a definite portion [portions] of the year.

(15) [(16)] "Substantial performance in the zone" means a service [services] performed by an employee of a qualified business either:

(a) At the location of the qualified business in the enterprise zone; or

(b) Outside the enterprise zone, if:

1. [so long as] The service [services] performed outside the enterprise zone is [are exclusively] directed exclusively from the location of the qualified business within the enterprise zone; and

2. The employee does not have a separate business location outside the enterprise zone.

(16) [(17)] "Targeted workforce" is defined in KRS 154.45-010(9).

(17) [(18)] "Unemployed" means a person who received no wages or received wages of [more than] \$1,000 or less [of income from wages] for the [most recent] ninety (90) day period prior to being hired by a [the] business located within the enterprise zone [for which information is available to employment services]. ["Qualified business" is governed by KRS 154.655(5):

(2) Employees shall include all full-time employees and all part-time employees who are employed on a regular basis by the business physically located within the same zone, and must not be the result of a dismissal;

(3) "Substantial performance in the zone" means any business performed outside of the zone area only if the business originates in the office of the business physically located within the zone, if the employees are dispatched from that office and if the employees are required to report to that office.

(4) New business data source means the Department for Social Insurance, Division of Unemployment Insurance or the Department for Employment Services, Human Resources Cabinet.]

GORDON C. DUKE, Commissioner
ROBIN FIELDS KINNEY, General Counsel

APPROVED BY AGENCY: November 12, 1999
FILED WITH LRC: November 15, 1999 at 10 a.m.

ECONOMIC DEVELOPMENT CABINET
Department of Financial Incentive
Kentucky Enterprise Zone Program
(As Amended at ARRS, January 13, 2000)

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

RELATES TO: KRS 154.45-001-154.45-120 [154.660]

STATUTORY AUTHORITY: KRS [Chapter 13A:] 154.45-070(1) [154.680(4)]

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 154.45-070(1) requires the Enterprise Zone Authority of Kentucky to promulgate administrative regulations to monitor compliance by local governments and qualified businesses with the provisions of the Enterprise Zone Program.** This administrative regulation establishes the application process [requirements] for a new or existing business seeking [applying for] certification as an enterprise zone qualified business. [is being amended to comply with the deficiencies found during quadrennial review by the Task Force on Economic Development. This administrative regulation sets forth the procedures by which an application is to be made. This administrative regulation also established a procedure to alter the zone's boundary.]

Section 1. Application Process for New or Existing Business. (1) A new business seeking certification as a [an enterprise zone] qualified business shall submit to the authority a completed [an] Application for Qualified Business Certification as a New Business within an Enterprise Zone. **The application shall contain [to the authority which contains]** the following information:

(a) Certification from Employment Services that an authorized representative of [from] the business has:

1. Applied for certification; and

2. [has] Executed the Kentucky Enterprise Zone Program Employee Orientation form;

(b) For each targeted workforce employee:

1. Certification from Employment Services; [for each employee hired by the business that meets the targeted workforce criteria pursuant to KRS 154.45-010] and

2. An executed original of the Kentucky Enterprise Zone Program Employee/Employer Certification form;

(c) An executed original of the Cabinet for Economic Development Economic Incentive Disclosure Statement; and

(d) An executed original of the Application for Qualified Business Certification as a New Business within an Enterprise Zone.

(2) An existing business with at least twenty (20) percent increase in capital investment that seeks [seeking] certification as a [an enterprise zone] qualified business [with a minimum of twenty (20) percent increase in capital investment] shall submit an application [to the authority] which contains the following information:

(a) A balance sheet for the business located within the enterprise zone, dated within ninety (90) days from the date the application is submitted to the local zone administrator;

(b) An executed original of the Cabinet for Economic Development Economic Incentive Disclosure Statement; and

(c) An executed original of the Application for Qualified Business Certification as an Existing Business within an Enterprise Zone.

(3) An existing business with at least a twenty (20) percent increase in the number of employees hired, of which at least twenty-five (25) percent are from the targeted workforce, that seeks [seeking] certification as a [an enterprise zone] qualified business [with a minimum of twenty (20) percent increase in the number of employees hired, of which at least twenty-five (25) percent are from the targeted workforce.] shall submit an application [to the authority] which contains the following information:

(a) Certification from Employment Services that the business has been informed of the targeted workforce criteria [required pursuant to KRS 154.45-010];

(b) Certification from Employment Services for each [employee hired by the business meeting the] targeted workforce employee

[criteria pursuant to KRS 154.45-010];

(c) An executed original of the Cabinet for Economic Development Economic Incentive Disclosure Statement; and

(d) An executed original of the Application for Qualified Business Certification as an Existing Business within an Enterprise Zone.

(4) **Employment Services shall qualify an employee as a targeted workforce employee if:**

(a) **Within the most recent three (3) year period for which employment, income, and public assistance records are available, the employee was unemployed or received public assistance, or both; or**

(b) **The employee currently resides in the enterprise zone.** [For a new or existing business seeking certification as an enterprise zone qualified business under subsection (1) of this section, Employment Services shall determine persons employed from the targeted workforce as follows:

(a) For employees hired who had been unemployed, previous employment history and income from wages shall be considered for the most recent three (3) year period for which employment records and income records are available;

(b) For employees who received public assistance, history of receipt of public assistance shall be considered for the most recent three (3) year period for which public assistance records are available.]

Section 2. Application for Expansion of an Enterprise Zone by Local Government. [(1)] A local government seeking expansion of an enterprise zone pursuant to KRS 154.45-020 or 154.45-030 shall submit an application to the authority which contains the following information:

(1) [(a)] An executed original and eleven (11) copies of the Application for Expansion of an Enterprise Zone;

(2) [(b)] A legal description of the area proposed for expansion;

(3) [(c)] Certification from Employment Services that the area proposed for expansion meets the eligibility criteria pursuant to KRS 154.45-040;

(4) [(d)] An executed copy of an interlocal agreement if two (2) or more local governments are included in the area proposed for expansion;

(5) [(e)] An executed copy of **relevant [all]** resolutions adopted by each local government included in the area proposed for expansion; and

(6) [(f)] A map of the enterprise zone, including the area proposed for expansion, drawn at [up to] a maximum scale of 200 feet to the inch, clearly showing enterprise zone boundaries, streets, property lines, zoning, and census tract, group, or block data.

[(2) Upon review of the application for expansion of an enterprise zone, the authority may require any of the following:

(a) Oral presentation by the local government requesting the expansion;

(b) Additional information from a local government included in the area proposed for expansion;

(c) Inspection or evaluation of the area proposed for expansion.]

Section 3. Incorporation by Reference. (1) The **following material is incorporated by reference:**

(a) "Application for Qualified Business Certification as a New Business within an Enterprise Zone (10/99)";

(b) [is incorporated herein by reference. A copy of the form may be inspected, copied or obtained from the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670 from 8 a.m. to 4:30 p.m., Monday through Friday;

(2) The] "Application for Qualified Business Certification as an Existing Business within an Enterprise Zone (10/99)";

(c) [is incorporated herein by reference. A copy of the form may be inspected, copied or obtained from the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670 from 8 a.m. to 4:30 p.m., Monday through Friday;

(3) The] "Application for Expansion of an Enterprise Zone (10/99)";

(d) [is incorporated herein by reference. A copy of the form may be inspected, copied or obtained from the Cabinet for Economic

Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670 from 8 a.m. to 4:30 p.m., Monday through Friday;

(4) The] "Cabinet for Economic Development Economic Incentive Disclosure Statement (10/99)";

(e) [is incorporated herein by reference. A copy of the form may be inspected, copied or obtained from the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670 from 8 a.m. to 4:30 p.m., Monday through Friday;

(5) The] "Kentucky Enterprise Zone Program Employer Orientation Form (10/99)";

(f) [is incorporated herein by reference. A copy of the form may be inspected, copied or obtained from the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670 from 8 a.m. to 4:30 p.m., Monday through Friday;

(6) The] "Kentucky Enterprise Zone Program Employee/Employer Certification Form (10/99)".

(2) **This material [is incorporated herein by reference. A copy of the form] may be inspected, copied or obtained at [from] the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670, Monday through Friday, [from] 8 a.m. to 4:30 p.m., Monday through Friday.] [Application Process. (1) The authority shall make available application forms:**

(2) As part of the application review process, the authority may:

(a) Require applicants to submit oral presentations;

(b) Inspect and evaluate the proposed zone area; and

(c) Request additional information as they deem necessary.

(3) Failure of an applicant to receive a designation does not preclude future applications.]

GORDON C. DUKE, Commissioner

ROBIN FIELDS KINNEY, General Counsel

APPROVED BY AGENCY: November 12, 1999

FILED WITH LRC: November 15, 1999 at 10 a.m.

**ECONOMIC DEVELOPMENT CABINET
Department of Financial Incentive
Kentucky Enterprise Zone Program
(As Amended at ARRS, January 13, 2000)**

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

RELATES TO: KRS 154.45-001-154.45-120 [154.665]

STATUTORY AUTHORITY: KRS [Chapter 13A,] 154.45-070(1) [154.680(4)]

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 154.45-070(1) requires the Enterprise Zone Authority of Kentucky to promulgate administrative regulations to monitor compliance by local governments and qualified businesses with the provisions of the Enterprise Zone Program.** This administrative regulation establishes the **method of determining eligibility [requirements]** for expansion of an existing enterprise zone. [is being amended to comply with the deficiencies found during quadrennial review by the Task Force on Economic Development. This administrative regulation establishes specific eligibility criteria for designation of enterprise zones.]

Section 1. Expansion of an Enterprise Zone. (1) The **following information shall be determined by the most recent decennial United States census date available to Employment Services:**

(a) Average rate of unemployment as required by KRS 154.45-040(a); and

(b) [the] Income data required pursuant to KRS 154.45-040(b). [shall be determined by the most recent decennial United States census available to Employment Services.]

(2) The decrease in population required pursuant to KRS 154.45-040(c) shall be determined by the most recent population data available and certified by Employment Services. [Eligibility Requirements. KRS 154.665 establishes the areas eligible for designation as an enterprise zone.

(1) Average rate of unemployment for areas seeking eligibility for an enterprise zone shall be determined by:

- (a) The 1990 decennial United States Census; or
- (b) Other statistical data based on Bureau of Labor Statistics

Methodology:

- (2) Income data shall be based on:
 - (a) The 1990 decennial United States Census; or
 - (b) Authority approval of a study or survey by another source.]

GORDON C. DUKE, Commissioner
 ROBIN FIELDS KINNEY, General Counsel
 APPROVED BY AGENCY: November 12, 1999
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ECONOMIC DEVELOPMENT CABINET
 Department of Financial Incentive
 Kentucky Enterprise Zone Program
 (As Amended at ARRS, January 13, 2000)

306 KAR 1:040. Qualified business certificates. [Qualification:]

RELATES TO: KRS 141.040, 154.45-001-154.45-120 [154.680]
 STATUTORY AUTHORITY: KRS [Chapter 13A.] 154.45-070(1)

[154.680(4)]
 NECESSITY, FUNCTION, AND CONFORMITY: **KRS 154.45-070(1) requires the Enterprise Zone Authority of Kentucky to promulgate administrative regulations to monitor compliance by local governments and qualified businesses with the provisions of the Enterprise Zone Program.** This administrative regulation establishes procedures for:

(1) Issuance of [the procedure when issuing] a qualified business enterprise zone certificate; and

(2) [the] Use of revenue exemption certificates. [sets forth the requirements imposed upon a qualified business prior to their obtaining the benefits under KRS Chapters 132, 138, 139 and 141.]

Section 1. **Qualified Business Certificates. (1) The authority shall issue a separate certificate to a qualified business, or to a business applying for certification as a qualified business, for each additional location certified under the same qualified business number, if each location is:**

- (a) In the same enterprise zone; and
- (b) Operating under the same:
 - 1. Federal employer identification number; or
 - 2. Social Security number.

(2) Each certificate issued for an additional location shall contain:

(a) The same enterprise zone business number as qualified business' number; and

(b) A separate location number, in parentheses.

(3) A qualified business certified as having more than one (1) qualified business location shall be entitled to claim a tax exemption for the additional business location, pursuant to KRS 154.45-090, only from the date the additional business location was certified. [(1) To determine if a qualified business or a business applying for certification as a qualified business having more than one (1) business location within the same enterprise zone is eligible to have additional locations certified under the same enterprise zone qualified business number, the authority shall consider if each business location is operating under the same federal employer identification number or Social Security number.

(2) A qualified business or a business applying for certification as a qualified business certified by the authority as having more than one (1) business location operating under the same federal employer identification number or Social Security number within the same enterprise zone may be issued a separate certificate with the same enterprise zone business number and a separate location number, in parentheses, for each additional location within the same enterprise zone.

(3) A qualified business certified by the authority as having more than one (1) business location operating under the same federal employer identification number or Social Security number within the

same enterprise zone shall only be entitled to claim an exemption pursuant to KRS 154.45-090 for the additional business location from the date the additional business location was certified by the authority.]

Section 2. **Change of Business Name or New/Additional Location to Qualified Business Certificate. (1) [When] A qualified business that plans to move from a certified location to a new location within the same enterprise zone, or that plans to change [changes] the name of the qualified business[, the qualified business] shall request a new certificate [from the authority] by submitting:**

(a) A completed [either an executed] original of a Request for Change or Additional Location to Enterprise Zone Qualified Business Certificate; or

(b) [form or] A letter containing the same information required by the form in paragraph (a) of this subsection, and signed by an authorized representative of:

- 1. The business; and
- 2. The local enterprise zone.

(2) A [authorized representative containing the same information requested on the above-mentioned form. Any] previously qualified business that changes name or location, or adds a [an additional] location, within an enterprise zone [or changes its name] shall not be eligible for tax [any] exemptions provided by KRS 154.45-090 unless the authority issues an updated certificate.

Section 3. **Merger or Sale of Qualified business. (1) A qualified business sold or merged with another business that remains within the same enterprise zone and continues normal operation shall [of the qualified business may] be eligible to have the qualified business certificate transferred if [provided] the business seeking to retain certification [as a qualified business] maintains the eligibility requirements specified in [pursuant to] KRS 154.45-010(7).**

(2) A [To retain certification resulting from the sale or merger of a qualified business, the] business seeking to retain the qualified business certification shall submit to the authority the following information:

(a) A completed [An executed] original of a Request for Change or Additional Location to Enterprise Zone Qualified Business Certificate [form];

(b) Written verification from the original enterprise zone qualified business that it agrees to surrender its qualified business certificate;

(c) Written verification that the business seeking to retain certification meets the criteria pursuant to KRS 154.45-010(7); and

(d) The federal employer identification number (FEIN) of the business seeking to retain certification as a qualified business].

Section 4. **Revenue Exemption Certificates. (1) To claim an exemption on sales and use tax for building materials used for remodeling, rehabilitation, or new construction within an enterprise zone, the property owner [within an enterprise zone] shall complete Revenue Form 51A152 and submit it to the vendor at the time the building materials are purchased.**

(2) To claim an exemption on sales and use tax for new and used machinery and equipment [purchased and used within the enterprise zone], a qualified business shall complete Revenue Form 51A151 and submit it to the vendor at the time the machinery or equipment is purchased.

(3) To claim an exemption on sales and use tax for exempt building materials, machinery, or equipment installed in an enterprise zone, a contractor having contracts with a qualified business or other property owner within an enterprise zone must [jointly] execute the appropriate certificate of exemption jointly with the person or business entitled to receive the exemption.

(4) To claim an exemption on vehicle usage tax for a commercial or [and] noncommercial vehicle [vehicles] purchased and used by the qualified business solely for business use, the qualified business shall complete Revenue Form 71A151 and submit it to the county clerk in the county where the vehicle is registered.

(5) To claim the enterprise zone tax credit [exemption], a qualified business that files its state income tax pursuant to KRS 141.040 shall submit a Schedule EZC Form 720, 41A720EZC with its Kentucky state income tax return.

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Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Request for Change or Additional Location to Enterprise Zone Qualified Business Certificate (10/99)";

(b) [is incorporated by reference. A copy of the form may be inspected, copied or obtained from the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670 from 8 a.m. to 4:30 p.m., Monday through Friday;

(2) The] "Enterprise Zone Sales And Use Tax Exemption Certificate for Qualified Businesses Machinery And Equipment (7/92)";

(c) [is incorporated by reference. A copy of the form may be inspected, copied or obtained from the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670 from 8 a.m. to 4:30 p.m., Monday through Friday;

(3) The] "Enterprise Zone Sales And Use Tax Exemption Certificate for Building Materials (1/94)";

(d) [is incorporated by reference. A copy of the form may be inspected, copied or obtained from the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670 from 8 a.m. to 4:30 p.m., Monday through Friday;

(4) The] "Enterprise Zone Motor Vehicle Usage Tax Exemption Certification (6/92)"; and

(e) [is incorporated by reference. A copy of the form may be inspected, copied or obtained from the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670 from 8 a.m. to 4:30 p.m., Monday through Friday;

(5) The] "Enterprise Zone Tax Credit Schedule EZC Form 720 (10/98)";

(2) This material [is incorporated by reference. A copy of the form] may be inspected, copied or obtained at [from] the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670, Monday through Friday, [from] 8 a.m. to 4:30 p.m. [Monday through Friday.] [Qualification: (1) Existing business' increase in capital investment will be based on:

(a) Fixed assets;

(b) A firm's net fixed assets:

1. As shown on the firm's most recent interim financial statement;

2. Dated within sixty (60) days of the date of application for certification as a qualified business;

(2) The authority shall require:

(a) The firm's most recent fiscal or calendar year-end financial statement;

(b) Reports will be sent to the Kentucky Enterprise Zone Authority, Economic Development Cabinet, Frankfort, Kentucky. The authority may request appropriate financial statements which reflects the firm's increase in order to verify the fulfillment of the contract.

(3) Existing business' increase in number of employees shall be verified by the Department of Employment Services, Human Resources Cabinet, if hiring has been placed through this agency:

(a) By appropriate financial statements showing a breakout of employment and payroll; or

(b) By affidavit of an authorized company official.

(4) New business' increase in number of employees shall be verified by the Department of Employment Services, Human Resources Cabinet, if hiring has been placed through this agency by appropriate financial statements showing a breakout of employment and payroll.

Section 2. Monitoring. The authority may monitor, audit and perform other investigations necessary to assure compliance with the requirements under the Act.

Section 3. Removal of Qualification. Should the authority determine that a qualified business has not fulfilled the terms of the contract used for certification or has not acted in good faith, the authority shall give written notice to the qualified business in question by certified mail. Within sixty (60) days of receipt of said notice, the qualified business may respond to the authority. The authority will render its decision within sixty (60) days of said response.]

GORDON C. DUKE, Commissioner

ROBIN FIELDS KINNEY, General Counsel

APPROVED BY AGENCY: November 12, 1999

FILED WITH LRC: November 15, 1999 at 10 a.m.

ECONOMIC DEVELOPMENT CABINET Department of Financial Incentive Kentucky Enterprise Zone Program (As Amended at ARRS, January 13, 2000)

306 KAR 1:070. Monitoring [Duties of the authority].

RELATES TO: KRS 141.040, 154.45-001-154.45-120 [154:680]

STATUTORY AUTHORITY: KRS [Chapter 13A,] 154.45-070(1) [154:680]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 154.45-070(1) requires the Enterprise Zone Authority of Kentucky to promulgate administrative regulations to monitor compliance by local governments and qualified businesses with the provisions of the Enterprise Zone Program. This administrative regulation establishes the procedure for monitoring an enterprise zone qualified business [duties of the authority]. [is being amended to comply with the deficiencies found during quadrennial review by the Task Force on Economic Development. This administrative regulation sets forth the functions of the authority.]

Section 1. Compliance Monitoring. (1) The authority shall, on an annual basis, in the month the business was qualified, mail to each qualified business an annual monitoring form. The form shall be completed and returned to the authority within thirty (30) days of receipt by the qualified business.

(2) A qualified business that fails to submit the annual monitoring form or fails to maintain compliance with the requirements of KRS 154.45-010(7) shall be given written notice by the authority, by certified mail, that the business shall lose its qualified business certificate within sixty (60) days from receipt of the notice, unless the business can provide sufficient written documentation demonstrating compliance with the requirements of KRS 154.45-010(7).

(3) The authority shall decertify a qualified business that:

(a) Fails to respond within the sixty (60) day period; or

(b) Provides insufficient written documentation of compliance.

(4) The authority shall notify the Revenue Cabinet in writing within thirty (30) days of the decertification of a qualified business resulting from any of the following circumstances:

(a) Failure to meet the targeted workforce criteria within ninety (90) days after start of operation;

(b) Failure to increase its capital investment by a minimum of twenty (20) percent within eighteen (18) months from the date of application;

(c) Failure to maintain at least twenty-five (25) percent of its total workforce from the targeted workforce; or

(d) Failure to submit the annual monitoring form.

Section 2. Repayment of Tax. (1) A qualified business decertified under Section 1(4)(a) or (b) of this administrative regulation shall:

(a) Repay the sales and use tax on purchases of machinery and equipment;

(b) Repay the usage tax on any vehicle purchased; and

(c) Be ineligible to claim income tax credit or exemption pursuant to KRS 141.040, for which enterprise zone credit or exemptions were previously claimed.

(2) A qualified business decertified under Section 1(4)(c) of this administrative regulation shall:

(a) Repay the sales and use tax on purchases of machinery and equipment;

(b) Repay the usage tax on any vehicle purchased; and

(c) Be ineligible to claim income tax credit or exemption pursuant to KRS 141.040, from the date the business receives notice by certified mail that the business has been decertified by the authority.

(3) A qualified business decertified under Section 1(4)(d) of this administrative regulation shall:

(a) Repay the sales and use tax on purchases of machinery and equipment;

(b) Repay the usage tax on any vehicle purchased; and

(c) Be ineligible to claim income tax credit or exemption pursuant to KRS 141.040, from the date that:

1. The last monitoring form was submitted to the authority;

or

2. The business was certified by the authority, if no previous monitoring form was submitted.

(4) Repayment of the sales and use tax exemption claimed by the business shall be made directly to the Revenue Cabinet within twenty (20) days following the close of the month during which the qualified business received its decertification notice from the authority.

(5) The Revenue Cabinet shall be responsible for the collection of any sales and use tax, vehicle usage tax, or income tax credit the business fails to repay after decertification.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Kentucky Enterprise Zone Program Qualified Existing Business/Capital Investment Annual Monitoring Form (10/99)"; and

(b) "Kentucky Enterprise Zone Program Qualified New Business Annual Monitoring Form (10/99)".

(2) This material may be inspected, copied, or obtained at the Cabinet for Economic Development Kentucky Enterprise Zone Program, Capital Plaza Tower, 24th Floor, 500 Mero Street, Frankfort, Kentucky 40601, (502) 564-7670, Monday through Friday, 8 a.m. to 4:30 p.m. [An annual report shall be prepared by the designee and submitted in writing to the authority each year at the annual meeting. The report shall include, but not be limited to, reaffirmation of the local government's commitment and incentives offered to a qualified business, the number of qualified businesses certified, the number of active qualified businesses, the number of qualified businesses decertified, and a statement regarding any changes in the make-up or structure of the enterprise zone.] [Duties of the Authority. (1) By a vote of the majority of the authority or of those eligible to vote the zone shall be designated and determined eligible for the benefits available under this act.

(2) The authority shall keep all applications on file as a repository of information to be made available to other applicants as well as to assist the authority in assisting a designated area seeking federal Enterprise Zone status.

(3) The authority shall prepare guidelines and such other information as may be necessary from time to time to assist local governments and employers in obtaining the benefits of any incentive or inducement program provided by law and to further certify that qualified employers are made eligible for the benefits of this act.

Section 2. Conditions. The application submitted by the applicant and the subsequent approval of said application by the authority and designation of an area as enterprise zone as submitted by applicant shall constitute a contract between the applicant and the authority which shall be binding as to both terms and conditions:

Section 3. Annual Review. An annual report is to be prepared by the designee and submitted to the authority by February 15 each year wherein the designee certifies continued compliance with the requirements of the act and makes note of all changes in the zone's make-up and structure. This review shall be for informational and monitoring purposes.]

GORDON C. DUKE, Commissioner
ROBIN FIELDS KINNEY, General Counsel

APPROVED BY AGENCY: November 12, 1999

FILED WITH LRC: November 15, 1999 at 10 a.m.

JUSTICE CABINET
Department of Juvenile Justice
(As Amended at ARRS, January 13, 2000)

505 KAR 2:010. Definitions.

RELATES TO: KRS 15A.210

STATUTORY AUTHORITY: KRS 15A.210 to 15A.240

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing secure juvenile detention centers and juvenile holding facilities.

Section 1. Definitions. The following definitions shall apply in this chapter:

(1) "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition are supported by evidence.

(2) "Admission" means the point of entry into a program; during admission processing the juvenile receives an orientation to the goals of the program and program rules and regulations. Assignment to living quarters and to appropriate staff members shall also be completed at this time.

(3) "Agency" means the unit of a governing authority which has direct responsibility for the operation of a juvenile detention center program, including the implementation of policy as set by the governing authority.

(4) "Agency administrator" means the jailer or the administrative officer appointed by the governing authority that is responsible for all operations of the agency and all related programs placed under control of the agency.

(5) "Casework" means the function of the caseworker, social worker, or other professional in providing services to the juvenile.

(6) "Chronic care" means health care provided to patients over a long period of time.

(7) "Cocorrectional facility" means an institution designed to house both male and female juveniles.

(8) "Code of ethics" means a set of rules describing acceptable standards of conduct for all employees.

(9) "Community resources" means those social and welfare agencies, service clubs, citizen interest groups, self-help groups, and citizen volunteers who have the potential to assist juveniles.

(10) "Contraband" means any item possessed by juveniles or found within the facility that is illegal by law or that is expressly prohibited by those legally charged with the responsibility for administration and operation of the facility or program.

(11) "Corporal punishment" means any act of inflicting punishment directly on the body, causing pain or injury.

(12) "Detention" means the care of a youth who requires custody in a physically restricting facility or program.

(13) "Dispositional hearing" means a hearing held subsequent to the adjudicatory hearing in order to determine what order of disposition should be made concerning any adjudicated child.

(14) "Dormitory" means any room sleeping more than five (5) juveniles.

(15) "Educational program" means a program of formal academic education or a vocational training activity designed to improve the juvenile's employment capability.

(16) "Emergency care" means care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call.

(17) "Environmental health" means all the conditions, circumstances, and surrounding influences that affect the health of persons or groups required to be in the area.

(18) "Facility" means a place, an institution, a building or part thereof, set of buildings, or an area, whether or not enclosing a building or set of buildings, which is used for the lawful custody and treatment of youths and may be owned [and/or] operated by public or private agencies.

(19) "First aid" means care for a condition that requires immediate assistance from a person trained in first aid care and the use of the facility's first aid kits.

(20) "Governing authority" means for public or [?] governmental agencies, the administrative department or division to which the agency reports; it is the policy-setting body. For private agencies, this

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may be an administrative headquarters or central unit, or the board of directors or trustees.

(21) "Grievance" means a circumstance or action made by a youth which is considered to be unjust and grounds for complaint or resentment.

(22) "Handicapped youth" means a person with a mental or physical impediment or disadvantage that restricts that person's ability to utilize programs or services.

(23) "Holidays" means all days legally designated as nonworkdays by statute or by the governing authority.

(24) "Information system" means the collection, organization, and delivery of information for administrative use.

(25) "Independent outside source" means a person qualified by license, education, or experience to examine a condition or service. To be considered independent, the examiner shall not be in the employment of the facility being inspected. An auditor or inspector examining a program or condition within a community center may not be an employee of that center and still be considered independent.

(26) "Juvenile" means a person under the age of eighteen (18) and shall mean the same as "child" defined in KRS 600.020(5).

(27) "Juvenile court" means the juvenile session of the district court.

(28) "Life safety code" means a manual published and updated by the National Fire Protection Association specifying minimum standards for fire safety necessary in the public interest including corrections facilities.

(29) "Official personnel file" means a current and accurate record of the employee's job history, including all important information relating to that history.

(30) "Parent" means the biological or adoptive mother or father of a youth.

(31) "Person exercising similar custodial control or supervision" means a person who has assumed the role and responsibility of a parent or guardian for the youth, but who does not necessarily have legal custody of the youth.

(32) "Physical examination" means a thorough evaluation of a patient's current physical condition and medical histories conducted by, or under the supervision of, a licensed professional.

(33) "Placing authority" means that court or agency with the authority to order a juvenile into a specific placement. This may be the juvenile court, the Department of Juvenile Justice, or other duly constituted and authorized placement agency.

(34) "Policy" means a definite, stated course or method of action that guides and determines present and future decisions and activities. A policy is a statement of principles that guides the agency in the attainment of objectives. To comply with a standard that requires a policy for a certain area, there shall be not only a written policy, but also evidence that a line of action or principle has been adopted and is being followed by the agency.

(35) "Procedure" means a procedure that provides the detailed and sequential actions that must be executed to ensure that a policy is fully implemented.

(36) "Professional associations" means a collective body of persons engaged in a particular profession or vocation, e.g., the American Correctional Association, the American Medical Association, the National Association of Clinical Psychologists, and the National Juvenile Detention Association.

(37) "Program" means the plan or system through which a juvenile detention facility agency works to meet its goals.

(38) "Public offense" means an act if committed by an adult would be a crime.

(39) "Rated capacity" means the actual number of beds available for regular use. This does not include hospital beds, segregation beds, or other spaces used only on a temporary basis.

(40) "Renovation" means a significant structural or design change in the physical plant of a facility.

(41) "Secure institution" means any facility that is designed and operated to ensure that all entrances and exits are under the exclusive control of the facility's staff, thereby not allowing a juvenile to leave the facility unsupervised or without permission.

(42) "Security devices" means locks, gates, doors, bars, fences, screens, ceiling, floors, walls, and barriers used to confine and control detained persons. Also included are electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies,

and other equipment used to maintain facility security.

(43) "Training" means formal classroom instruction; on-the-job training under the direction of an instructor or coworker; training meetings, staff meetings or conferences that include a formal agenda and instruction by a teacher, manager, or official; physical training; or other instructional programs that include a trainer **and** [?] trainee relationship. Training programs include requirements for completion, attendance recording, and a system for recognition of completion.

(44) "Volunteers" means persons who donate their time and effort to enhance the activities of the program. They are selected on the basis of their skills or personal qualities to provide services in recreation, counseling, education, religious activities, etc.

RALPH E. KELLY, Ed.D., Commissioner

MICHAEL KEITH HORN, Office of General Counsel

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JUSTICE CABINET Department of Juvenile Justice (As Amended at ARRS, January 13, 2000)

505 KAR 2:020. Administration, organization and management.

RELATES TO: KRS 15A.210 to **15A.240**

STATUTORY AUTHORITY: KRS 15A.210 [~~to 15A.240~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) The agency operating a detention facility **shall be** [is] a legal entity or a part of a legal entity.

(2) The governing authority of the detention facility shall hold meetings at least annually with the facility administrator in order to facilitate communication, establish policy, explore problems, ensure conformity to legal and fiscal requirements, and implement programs.

(3) There shall be a written statement that describes the philosophy, goals or purposes of the facility, which shall be reviewed at least annually and updated if necessary.

(4) If services for adult and juvenile offenders are provided for by the same agency, statements of philosophy, policy, program and procedures shall distinguish between criminal codes and the statutes which establish and give direction to programs for juveniles; there shall be a separate service delivery system for juveniles.

(5) Abused, dependent or neglected youths shall not be held in the facility.

(6) Written agency policy shall prohibit the confinement of any offender in the facility unless the facility complies with standards or rules promulgated by the Administrative Office of the Courts or a lawful court order.

(7) Service personnel other than facility staff shall perform work in the facility only under direct and continuous supervision of facility staff in those areas permitting contact with juveniles.

(8) There shall be a written description of the facility that specifies its mission within the context of the system of which it is a part. This description shall be reviewed at least annually and updated if necessary.

(9) The facility shall adopt and enforce written policies and procedures which:

(a) Provide for regular meetings and case conferences between the staff of the Department of Juvenile Justice and social service agencies, the court, the local law enforcement agency and the detention facility staff to develop and maintain sound interagency policies and procedures;

(b) Provide for a communications system within the facility that requires, at a minimum, that the facility administrator meet at least monthly with all department heads and that all department heads meet monthly with their key staff members;

(c) Specify that the facility administrator participates in the formulation of goals for the facility, establishes policies and priorities

related to them and translates the goals into measurable objectives for accomplishment by the staff;

(d) Provide that legal assistance shall be available to the facility administrator;

(e) Provide for a daily population report on every juvenile in detention, including the day admitted, accumulated days of stay, and county of origin and offense for which juvenile is charged;

(f) Provide a mechanism for communication with executive, legislative and judicial bodies at all governmental levels;

(g) Provide for participation of employees in the formulation of policies, procedures and programs;

(h) Permits the participation of other community agencies in policy development, coordinated planning and interagency consultation;

(i) Provide for collaboration with colleges and universities where available in programs of mutual concern;

(j) Provide for a public information program that is reviewed at least annually and updated if necessary;

(k) Grant representatives of the media access to the facility, consistent with the preservation of juveniles' privacy and the maintenance of order and security in the facility;

(l) Provide that the facility administrator report at least quarterly to the governing authority major problems and plans for resolving them;

(m) Govern facility compliance with statutes and administrative regulations relating to campaigning, lobbying and political practices; and

(n) Provide that the facility administrator cooperates with the interstate compact administrator in the return of juveniles charged with juvenile offenses to the requesting state, pursuant to the provisions of the interstate compact on juveniles.

(10) The facility administrator or parent agency shall participate in federal, state and regional planning efforts with both juvenile justice and nonjuvenile justice agencies.

(11) The facility shall have a policy manual that specifically describes its purpose, program and services offered, which is reviewed at least annually and updated if necessary.

(12) There shall be an operations manual that delineates written policies and procedures for operating and maintaining the facility; the manual shall be explained and made available to all employees at the time of their employment.

(13) There shall be an organizational chart for the facility staff that accurately reflects the structure of authority, responsibility and accountability within the facility.

(14) The facility and its programs shall be managed by a single administrative officer to whom all employees or units of management shall be responsible.

(15) When employees of other public or private agencies provide a service to the facility, written policy and procedure shall be developed and reviewed, at least annually, to describe their roles and functions as they relate to the authority and responsibility of the facility administrator.

(16) The facility administrator shall review space requirements, at least annually, and record requests for corrective action in writing.

(17) The facility administration shall furnish written information to the parent agency at least annually, which is used to report on the system's objectives, availability of services and programs, juvenile population, budget, major developments, problems, plans and [such] additional information as the parent agency may require.

(18) The facility shall make available to all employees a written code of ethics that prohibits employees from using their official position to secure privileges for themselves or others and from engaging in activities that constitute a conflict of interest.

(19) The facility shall meet all applicable licensing requirements of the jurisdiction in which it is located.

(20) There may exist a community advisory committee, representative of the community, which serves as a link between the program and the community.

(21) All monies collected at the facility shall be secured daily in an officially designated and secure place.

(22) The facility shall have written policy and procedure approved by the governing authority that includes, at a minimum:

- (a) Internal controls;
- (b) Petty cash procedures;

(c) Bonding for all appropriate staff;

(d) Signature control on checks;

(e) Handling of juvenile funds;

(f) Employee expense reimbursement; and

(g) Issuance or use of vouchers.

(23) If there is a commissary or canteen, strict controls shall be maintained over its operation and regular accounting procedures shall be followed. All profits from the commissary or canteen shall be used for the benefit of the residents.

(24) Juveniles' personal funds held by the facility shall be controlled by accepted accounting procedures.

Section 2. (1) The facility administrator shall have access to and use an organized system of information retrieval and review that is part of an overall research and decision-making capacity.

(2) The facility staff shall establish or participate in the establishment of policies and procedures developed for management information purposes. These policies are reviewed at least annually.

(3) There shall be specific, written definitions of criteria for evaluating overall facility performance.

(4) Facility staff shall maintain a daily report of juvenile population movement.

(5) The administrator shall participate in the review of policies and practices regarding the collection and retention of information pertaining to the juveniles assigned to the facility, at least annually.

(6) The facility or parent agency staff collects and aggregates data relative to its program.

(7) Programs shall be periodically analyzed and evaluated to determine their contribution to the mission of the facility.

(8) The administrator shall review and approve all facility research projects in conformity with parent agency policy before implementation.

(9) Written policy and procedure shall govern voluntary juvenile participation in nonmedical, nonpharmaceutical and noncosmetic research programs.

Section 3. All requirements in this section shall apply only to facilities operated by private corporations or to facilities operated by two (2) or more counties.

(1) The facility administrator shall participate in budget preparation and reviews conducted by the parent agency.

(2) The fiscal system shall account for all income and expenditures on an ongoing basis.

(3) The facility shall adopt written policies and procedures which:

(a) Provide for a financial audit, independent of the facility, which is conducted annually;

(b) Specify that the methods used for collecting, safeguarding and disbursing monies comply with accepted accounting procedures;

(c) Require reports of all monies collected and disbursed to the governing authority and other designated authorities;

(d) Provide for facility insurance coverage that includes at a minimum: worker's compensation, civil liability, liability for official vehicles, and public employee blanket bond;

(e) Govern inventory control of property, stores and other assets;

(f) Govern the requisition and purchase of supplies and equipment;

(g) Require the systematic review of equipment needs and the replacement of equipment if necessary; and

(h) Regulate position control, personnel records and the payroll function.

(4) The facility shall operate under a constitution or articles of incorporation that meets all of the legal requirements of the governmental jurisdiction in which the facility is located.

(5) The facility or its parent agency shall have a local, regional, or state governing authority.

(6) The facility or its parent agency shall have identified, documented and publicized its tax status with the Internal Revenue Service and the Kentucky Revenue Cabinet.

(7) The facility shall have bylaws, approved by the governing authority, which are filed with the appropriate local, state and/or federal body.

(8) At a minimum, the facility bylaws include for the governing

authority:

- (a) Membership (types, qualifications, community representation, rights, duties);
- (b) Size of the governing body;
- (c) Method of selection;
- (d) Terms of office;
- (e) Duties and responsibilities of officers;
- (f) Times authority will meet;
- (g) Committees;
- (h) Quorums;
- (i) Parliamentary procedures;
- (j) Recording of minutes;
- (k) Method of amending the bylaws;
- (l) Conflict of interest provisions; and
- (m) Specification of the relationship of the chief executive to the governing body.

(9) When the facility administration is the governing authority, meetings shall be held as prescribed in the bylaws, a permanent record is kept of all such meetings.

RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
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JUSTICE CABINET
Department of Juvenile Justice
(As Amended at ARRS, January 13, 2000)

505 KAR 2:030. Personnel.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) The facility shall adopt and enforce written policies and procedures which:

(a) Provide for lateral entry as well as promotion from within the organization;

(b) Require that a criminal record check be conducted on new employees;

(c) Require that a copy of all personnel policies and administrative regulations is made available to all employees. Each employee shall sign a statement acknowledging receipt of the personnel policies and administrative regulations and his or her responsibility for being aware of their contents;

(d) Require a current and accurate personnel record and separate health record for each employee; ~~[Require a current, accurate and confidential personnel record and separate health record for each employee; confidentiality shall be ensured by restricting its availability to only the employee who is the subject of the record and to other agency employees who have a need for the record in the performance of their duties;]~~

(e) Provide for provisional appointments to ensure the availability of personnel for short-term, full-time or part-time work in emergency situations;

(f) Provide for a written annual performance evaluation of all employees, which is based on defined criteria and is reviewed and discussed with the employee;

(g) Provide that employees are reimbursed for all approved expenses incurred in the performance of their duties; and

(h) Ensure that consultants, contract personnel and volunteers who work with juveniles comply with the facility's policies on confidentiality of information.

(2) If a county is operating the facility, the personnel policies shall be consistent with the county policies; otherwise, there shall be a personnel policy manual which covers, at a minimum:

- (a) Organization;
- (b) Recruitment policies and procedures;
- (c) Employment practices and procedures;

- (d) In-service training;
- (e) Promotion;
- (f) Job qualifications, descriptions and responsibilities;
- (g) Grievance procedures;
- (h) Employee evaluation;
- (i) Physical fitness policy;
- (j) Personnel records;
- (k) Benefits, holidays, leave and work hours;
- (l) Basis for determining salaries;
- (m) Disciplinary procedures;
- (n) Retirement;
- (o) Resignation and termination;
- (p) Staff-juvenile relationships; and
- (q) Equal employment opportunity provisions.

(3) The administrator shall review the facility's personnel policy annually and submit recommended changes to the parent agency or governing board.

(4) Written policy shall specify that equal employment opportunities exist for all positions. When deficiencies exist in regard to the utilization of minority groups and women, the facility can document the implementation of an affirmative action program approved by the appropriate government agency, showing annual reviews and necessary changes required to keep it current.

(5) The facility administration shall have a written policy and procedure that does not categorically exclude employment of offenders.

(6) A written procedure shall exist whereby the employee can challenge information in his or her personnel file and have it corrected or removed if it proves to be inaccurate.

(7) The facility administrator shall be appointed by the chief executive officer with approval of the governing body.

(8) If the facility is operated by a county, the education and experience of the administrator shall be determined by statute governing county employment. Otherwise, the education and experience qualifications of the facility administrator shall be specified in writing by the appointing authority and include, at a minimum, a bachelor's degree in an appropriate discipline, two (2) years of experience working with juveniles, and three (3) years in staff supervision and administration; and/or, the completion of a career development program which includes work-related experience, training, or college credits providing a level of achievement equivalent to the bachelor's degree.

(9) If the facility is operated by a county, the term of the facility administrator shall be determined by statutes governing county employment. Otherwise, the term of the facility administrator is continuous and may be terminated only by the appointing authority for good cause and subsequent to a formal hearing on specific charges, if requested.

(10) The facility and/or parent agency administration shall systematically determine personnel requirements in all categories of employees working directly with juveniles in order to ensure access to staff and availability of services; personnel requirements are reviewed at least annually.

(11) There shall be a written grievance procedure for employees, which is available to them and which has been approved by the parent agency.

(12) Resident data shall be kept and transmitted to the Department of Juvenile Justice in a prescribed manner as identified by the Department of Juvenile Justice. This data shall include but not be limited to:

- (a) Admissions and releases;
- (b) Special incident reporting forms.

(13) After juvenile detention facilities are provided the Automated Fingerprint Identification System (AFIS) by the Kentucky State Police, each juvenile detained in any detention facility shall be fingerprinted by facility staff. The prints shall be kept at the facility for identification purposes and distributed to other approved agencies as required or needed.

RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
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JUSTICE CABINET
Department of Juvenile Justice
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505 KAR 2:040. Juvenile records.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) A juvenile detention center or holding facility shall establish a written policy and procedure governing record management, including [shall govern record management and include, but not be limited to,] the establishment, utilization, content, privacy, security and preservation of records, and a schedule for the retirement or destruction of inactive case records. These policies and procedures shall be reviewed annually.

(2) An admittance form shall be completed for every juvenile admitted to the facility and contain at least the following information:

- (a) Court case number, if any, and detention facility admission number;
- (b) Date and time of admission and release;
- (c) Name and nicknames;
- (d) Last known address;
- (e) Legal status (authority for detention);
- (f) Name of attorney, if any;
- (g) Name, title and signature of delivering officer;
- (h) Specific charges;
- (i) Sex;
- (j) Date of birth;
- (k) Place of birth;
- (l) Race or nationality;
- (m) Education and school attended;
- (n) Employment, if any;
- (o) Religion;
- (p) Health status;
- (q) Medical consent forms;
- (r) Name, relationship, address and phone number of the parent, guardian, or person juvenile resides with at time of admission;
- (s) Driver's license number, Social Security number and Medicaid number, if applicable;
- (t) Date of petition;
- (u) Court and disposition, if any;
- (v) Space for remarks (to include notation of any open wounds or sores requiring treatment, evidence of disease or body vermin, or tattoos);
- (w) Person recording data;
- (x) Inventory of property;
- (y) Emergency contact; and
- (z) Suicide assessment.

(3) A juvenile detention center or holding facility shall establish a written policy and procedure providing [shall provide] for guidelines for the collection and retention of information pertaining to the detained juveniles.

(4) A record shall be maintained on each juvenile and include, at a minimum, the following information:

- (a) Initial intake information form;
- (b) Documented legal authority to accept juvenile;
- (c) Information on referral source;
- (d) Record of court appearances;
- (e) Signed release of information forms;
- (f) A record of cash and valuables held;
- (g) Notations of temporary absences from the facility, if any;
- (h) Visitors' names and dates of visits, if any;
- (i) A record of telephone calls, if any;
- (j) Probation officer or caseworker assigned;
- (k) Progress reports on program involvement;
- (l) Program rules and disciplinary policy signed by juvenile;
- (m) Grievance and disciplinary record, if any;
- (n) Referrals to other agencies, if any; and
- (o) Final discharge or transfer report.

(5) A juvenile detention center or holding facility shall establish a written policy and procedure requiring [shall require] the responsible staff members to make all entries into the records assigned to them, and date and sign each entry.

(6) The facility shall maintain a single master file identifying all juveniles detained in the facility.

(7) The contents of records shall be identified and separated according to an established format.

(8) The facility shall maintain a system that identifies all juveniles in custody and their actual physical locations.

(9) Except as provided in KRS 61.870 through 61.884, a juvenile detention center or holding facility shall establish a written policy and procedure providing [shall provide] that records are safeguarded from unauthorized and improper disclosure. Manual records shall be marked confidential and kept in locked files that shall be also marked confidential. The written policy and procedure shall provide that when any part of the information system is computerized, security ensures confidentiality.

(10) The administration shall use a consent form that complies with applicable federal and state regulations. The juvenile signs a "release of information consent form" before the release of information as required by regulation and a copy of the form is maintained in the juvenile's record.

(11) Consistent with open record statutes, written policy and procedure shall provide that individuals and agencies may have access to records for the purposes of research, evaluation and statistical analysis in accordance with a formal written agreement that authorizes access, specifies uses of data, and ensures confidentiality and security.

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505 KAR 2:050. Safety and emergency procedures.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) The facility shall file documentation with the Department of Juvenile Justice that the facility complies with the applicable fire safety codes. A fire alarm and automatic detection system shall be required as approved by the Department of Juvenile Justice, or there shall be a plan for addressing these or other deficiencies within a reasonable time period. The Department of Juvenile Justice may approve any variances, exceptions, or equivalencies that do not constitute a serious life safety threat to the occupants of the facility.

(2) The facility shall comply with applicable federal, state and local sanitation, safety and health codes.

(3) A juvenile detention center or holding facility shall establish a written policy and procedure providing [shall provide] for a local fire and safety officer to perform a comprehensive and thorough monthly inspection of the facility for compliance with safety and fire prevention standards and for an annual review of this policy and procedure. There shall be a weekly fire and safety inspection of the facility by a qualified departmental staff member.

(4) A juvenile detention center or holding facility shall establish a written policy and procedure specifying [shall specify] the facility's fire prevention regulations and practices to ensure the safety of staff, juveniles, and visitors. These shall include the following [include, but are not limited to]:

- (a) Provision for an adequate fire protection service;
- (b) A system of fire inspection and testing of equipment at least

quarterly;

(c) An annual inspection by the Department of Juvenile Justice or its designee; and

(d) Availability of fire hoses or extinguishers at appropriate locations throughout the facility.

(5) Specification for the selection and approval of facility furnishings shall indicate the fire safety performance requirements of the materials selected. **The [Such]** materials shall be subjected to careful fire safety evaluation before purchase or use. Neoprene or cotton mattresses treated with boric acid are recommended. Polyurethane shall not be used in any living area.

(6) The facility shall be equipped with noncombustible receptacles for smoking materials and separate containers for other combustible refuse at readily accessible locations in the living quarters and other locations throughout the facility. Special containers shall be provided for flammable liquids and for rags used with flammable liquids.

(7)(a) All new and renovated facilities opened after July 1, 1987 shall have an alternate power source to maintain essential services for the entire facility.

(b) All existing facilities shall provide a sufficient alternate power source to operate emergency lighting, smoke detectors and alarms.

(8) The facility shall have a written plan for evacuation in the event of fire or major emergency. This plan shall be approved by the Department of Juvenile Justice. The plan shall be reviewed annually, updated if necessary, and reissued to the local fire jurisdiction. The plan includes the following:

- (a) Location of building **and** [7] floor plans;
- (b) Use of exit signs and directional arrows for traffic flow;
- (c) Location of publicly posted plans;
- (d) At least quarterly drills on all shifts in all institution locations;

and
(e) Staff drills when it is impossible to evacuate extremely dangerous juveniles.

(9) **A juvenile detention center or holding facility shall establish** a written policy and procedure **specifying** [shall specify] the means for the prompt release of juveniles from locked areas in case of emergency, and provide for a secondary release system.

(10) All facility personnel shall be trained in the implementation of written emergency plans.

(11) **A juvenile detention center or holding facility shall establish** a written policy and procedure **governing** [shall govern] the control and use of all flammable, toxic and caustic materials.

RALPH E. KELLY, Ed.D., Commissioner
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505 KAR 2:060. Security and control.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) There shall be a manual containing the facility's policies and procedures for security and control, which shall include detailed instructions for implementing these procedures. The manual shall be made available to all personnel and shall be reviewed annually and updated as necessary.

(2) The facility shall maintain a control center.

(3) There shall be a minimum of two (2) youth care workers on duty at all times in the facility, one (1) of whom is female when females are housed in the facility and one (1) of whom is male when males are housed in the facility. The general staffing ratio shall be one (1) youth care worker to every ten (10) residents or fraction

thereof during waking hours. The circumstances of particular facilities shall be taken into consideration as waiver requests are received by the Department of Juvenile Justice.

(a) If a waiver from this standard is desired, the responsible local authority shall submit a written request to the Department of Juvenile Justice. The written request shall include:

1. Identification and description of the specific problems involved in meeting the staffing ratio requirement.

2. A description of the needed ratio change, including identification of supporting factors.

3. A description of the classification to be used, additional staffing alternatives and programming.

4. Sufficient documentation demonstrating that the waiver, if granted, does not jeopardize the security or supervision of juveniles and programs, or the safe, healthful, and efficient operation of the facility.

(b) The Department of Juvenile Justice may grant a waiver of the minimum staffing ratio for an existing facility if it determines:

1. That strict compliance may cause unreasonable difficulties in securing housing for juvenile offenders; and

2. That a waiver does not seriously effect the security or supervision of juveniles and programs, or the safe, healthful and efficient operation of the facility.

(c) A waiver, if granted by the Department of Juvenile Justice, shall apply only to the petitioner for the period of time specified and may include conditions imposed by the department. A waiver shall not be granted for longer than twelve (12) months. A waiver granted for a twelve (12) month period shall be reviewed at the end of the period for reapproval.

(4) The facility shall adopt written policy and procedure which governs the availability, control and use of chemical agents and related security devices. Chemical agents and related security devices shall be used only at the direction of the facility administrator or designee. **Oleoresin capsicum** [O-C:] spray shall be of an organic nature. The use of mace is prohibited. A written report shall be prepared following all use of force and shall be submitted to the facility administrator. These reports shall be kept in a file labeled as such and maintained for review by the Department of Juvenile Justice.

(5) Written policy and procedure shall require that all security perimeter entrances, exterior doors and all doors the facility administrator determines should be locked are kept locked except when used for admission or exit of employees, detained juveniles or visitors, and in emergencies.

(6) The facility shall have a system to physically count juveniles that includes strict accountability for juveniles assigned to work and educational release, furloughs and other approved, temporary absences.

(7) The facility shall adopt and enforce written policies and procedures which:

(a) Require that supervisory staff maintain a permanent log and prepare shift reports that record routine and emergency situations;

(b) Provide for notifying appropriate staff of increases and decreases in the population, on a shift-by-shift basis;

(c) Provide for weekly inspection and maintenance of security devices; corrective action is initiated when necessary;

(d) Require that line supervisory staff inspect every area of the facility daily and submit a written report to an administrative official for review whenever deficiencies are noted;

(e) Require that the facility administrator or designee and other department heads inspect the facility's living and activity areas at least weekly;

(f) Provide that staff regulate juvenile movement;

(g) Govern the control and use of keys;

(h) Govern the control and use of tools, medical and culinary equipment;

(i) Provide that all persons injured in an incident, as defined in subsection (10) of this section, receive an immediate medical examination and treatment;

(j) Provide for a communications system within the facility, and between the facility and the community, in the event of an emergency;

(k) Provide that the facility maintains a written record of routine and emergency distribution and use of restraint equipment;

(l) Provide that instruments of restraint are never applied as punishment and are applied only with the approval of the facility administrator or designee;

(m) Govern safety and security precautions pertaining to facility and staff vehicles;

(n) Govern the transportation of juveniles outside the facility and from one (1) jurisdiction to another; and

(o) Limit the use of physical force to instances of self-protection, protection of the juveniles or others, prevention of property damage, prevention of escapes and in accordance with appropriate statutory authority. In no event shall physical force be justifiable as punishment. A written report shall be prepared following all uses of force and shall be submitted to the facility administrator.

(8) The written plan for searches of the facility and juveniles to control contraband shall be reviewed by legal counsel to ascertain the legality of the plan.

(9) The policy regarding searches for the control of contraband shall be published, made available to staff and juveniles, reviewed at least annually and updated if necessary.

(10) The taking of hostages, use of restraint equipment, use of physical force, and all other special incidents shall be reported in writing, dated, and signed by the staff person reporting the incident. [All special incidents, including, but not limited to, the taking of hostages, use of restraint equipment or the use of physical force shall be reported in writing, dated and signed by the staff person reporting the incident.] The report shall be placed in the juvenile's case record and reviewed by the facility administrator and/or the parent agency.

(11) Except in emergency situations, as determined by the facility administrator, firearms shall not be permitted in the facility.

(12) There shall be written operational shift assignments or post orders that state the duties and responsibilities for each assigned position in the facility. These shift assignments shall be reviewed at least annually and updated if necessary.

(13) There shall be written procedures for handling escapes, runaways and unauthorized absences. These procedures shall be reviewed at least annually and updated as necessary.

(14) The facility shall adopt written plans that: specify procedures to be followed in emergency situations, e.g., fire, disturbance, taking of hostages. These plans shall be made available to all applicable personnel and they shall be reviewed and updated at least annually.

(15) The facility shall adopt written plans which govern space arrangements and procedures to follow in the event of a group arrest that exceeds the maximum capacity of the juvenile detention facility. These plans shall be reviewed annually and updated if necessary.

(16) The facility shall adopt a written plan that provides for continuing operations in the event of a work stoppage or other job action. Copies of this plan shall be available to supervisory personnel, who are required to familiarize themselves with it.

(17) Power generators, where present, shall be tested at least every two (2) weeks and other emergency equipment and systems shall be tested at least monthly for effectiveness and repaired or replaced as necessary.

(18) Written policy and procedure shall provide for the following:

(a) A visual inspection, strip search, or body cavity search shall not be conducted unless there is a reasonable belief that a juvenile is carrying contraband or other prohibited material.

(b) A manual or instrument inspection of a juvenile's body cavities shall not be conducted unless authorized by the facility administrator or designee. This type of inspection shall be done by a:

1. Licensed physician;

2. Registered nurse;

3. Licensed practical nurse; or

4. Physician assistant.

(c) A strip search shall be conducted by a staff member of the same sex, with a documented account submitted to the facility administrator. This type of search shall not be conducted unless a juvenile is entering the facility or the requirements of paragraph (a) of this subsection are met. [Manual or instrument inspection of juvenile body cavities shall be conducted only when there is reason to do so and when authorized by the facil-

ity administrator or designee. All such inspections shall be conducted in privacy. Manual or instrument inspection of body cavities shall be done by a licensed physician, registered nurse, LPN or physician assistant.

(b) ~~Visual inspections shall be conducted only when there is a reasonable belief that the juvenile is carrying contraband or other prohibited material; and~~

(c) ~~Strip searches may be done, by a staff member of the same sex, with a documented account submitted to the facility administrator, without specific authorization only upon entry to the facility and at all other times based on articulable suspicion.]~~

(19) Transportation, other than facility provided, shall be available for use in emergencies.

(20) Incidents involving riots, escapes, the death or serious injury of a juvenile or a staff member, the taking of hostages, facility fire or other natural disasters affecting the facility, suicide, and suicide attempts resulting in injury shall be reported in writing to the Department of Juvenile Justice within forty-eight (48) hours, exclusive of weekends or holidays.

RALPH E. KELLY, Ed.D., Commissioner

MICHAEL KEITH HORN, Office of General Counsel

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Department of Juvenile Justice

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505 KAR 2:070. Food service.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) There shall be documentation that the facility's system of dietary allowance is reviewed at least annually by a dietician or physician to ensure compliance with nationally recommended food allowances.

(2) Menu evaluations shall be conducted at least quarterly by facility food service supervisory staff to verify adherence to the nationally recommended basic daily servings.

(3) The facility shall adopt and enforce written policies and procedures which:

(a) Require that food service staff develop advanced, planned menus and substantially follow the schedule, and that in the planning and preparation of all meals, food flavor, texture, temperature, appearance and palatability are taken into consideration;

(b) Provide for special diets as prescribed by appropriate medical or dental personnel;

(c) Provide for special diets for juveniles whose religious beliefs require the adherence to religious dietary laws;

(d) Preclude the use of food as a disciplinary measure;

(e) Require that at least three (3) meals, of which two (2) are hot meals, are provided at regular meal times during each twenty-four (24) hour period, with no more than fourteen (14) hours between the evening meal and breakfast. Provided basic nutritional goals are met, variations may be allowed based on weekend and holiday food service demands;

(f) Require that accurate records are maintained of all meals served;

(g) Specify that the food services comply with the applicable sanitation and health codes as promulgated by federal, state and local authorities;

(h) Provide for:

1. Weekly inspection of all food service areas, including dining and food preparation areas and equipment;

2. Sanitary, temperature-controlled storage facilities for all foods; and

3. Daily checks of refrigerator and water temperatures by adminis-

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trative, medical or dietary personnel.

(i) Ensure that the special food needs of juveniles shall be accounted for in the overall program of the facility; and

(j) Provide that staff members provide supervision of juveniles during meals.

(4) A staff member, experienced in food service management, shall supervise food service operations.

(5) The designated food service supervisor shall receive training in food service operations before assuming this responsibility.

(6) The food service plan shall provide for a single menu for staff and juveniles.

(7) There shall be provisions for adequate storage and loading areas and garbage disposal facilities.

RALPH E. KELLY, Ed.D., Commissioner

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505 KAR 2:080. Sanitation and hygiene.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to-15A-240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) The facility shall comply with applicable federal, state and local sanitation and health codes.

(2) The facility shall adopt and enforce written policies and procedures which:

(a) Require weekly sanitation inspections of all facility areas;

(b) Provide for the control of vermin and pests;

(c) Provide for waste disposal;

(d) Require that articles necessary for maintaining proper personal hygiene shall be provided to all juveniles;

(e) Provide for the issue of special and, when appropriate, protective clothing and equipment to juveniles assigned to food service, hospital, farm, garage, physical plant maintenance shops, and other special work;

(f) Provide for the issue of suitable clean bedding and linens, to include two (2) sheets, pillow and pillowcase, one (1) mattress and sufficient blankets to provide comfort under existing temperature controls. There is provision for linen exchange at least weekly or more often when health reasons dictate;

(g) Specify accountability for clothing and bedding issued to juveniles; and

(h) Provide an approved shower schedule that allows daily showers and showers after strenuous exercise.

(3) There shall be a written housekeeping plan for the facility's physical plant.

(4) The institution's potable water source and supply, whether owned and operated by the public water department or the institution, shall be approved by an independent, outside source to be in compliance with jurisdictional laws and regulations;

(5) Hair care services may be made available to juveniles.

(6) Youth shall have three (3) complete sets of clean clothing, towels and wash cloths per week.

(7) The stored supply of clothing, linens and bedding shall exceed that required for the facility's maximum juvenile population.

(8) The institution shall provide for the thorough cleaning and, when necessary, disinfecting of juveniles' personal clothing before storage or before allowing the juvenile to keep and wear personal clothing.

RALPH E. KELLY, Ed.D., Commissioner

MICHAEL KEITH HORN, Office of General Counsel

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505 KAR 2:090. Juvenile rights.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to-15A-240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) The facility shall adopt and enforce written policies and procedures which:

(a) Provide that juveniles shall not be subject to discrimination based on race, national origin, color, creed, sex, or physical handicap;

(b) Provide each juvenile freedom from discrimination based on race, religion, national origin, sex, handicap or political beliefs, and equal access to various programs and work assignments;

(c) Provide that supervision and control of juveniles shall be exercised by staff;

(d) Provide that juveniles may participate in religious services and religious counseling on a voluntary basis, subject only to the limitations necessary to maintain order and security;

(e) Grant juveniles access to recreational opportunities and equipment, including, when the climate permits, outdoor exercise in facilities listed in the physical plant regulations in this chapter;

(f) Ensure the right of juveniles to have access to the courts;

(g) Exist to assist juveniles in making confidential contact with attorneys and their authorized representatives. Such contact includes, but is not limited to, telephone communications, uncensored correspondence and visits;

(h) Provide that juveniles are not subjected to corporal or unusual punishment, humiliation, mental abuse or punitive interference with the daily functions of living, such as eating or sleeping;

(i) Grant juveniles the right to receive visits, subject only to the limitations necessary to maintain order and security;

(j) Grant juveniles the right to communicate or correspond with persons or organizations, subject only to the limitations necessary to maintain facility order and security;

(k) Provide juveniles reasonable access to the general public through the communications media, subject only to the limitations necessary to maintain order and security and protect the juveniles' rights. Media requests for interviews and any juvenile consent shall be in writing;

(l) Authorize juveniles to keep facial hair, if desired, except in individual cases where such restrictions are necessary for reasons of health and safety; and

(m) Govern the possession of items of jewelry that could be used to inflict bodily harm.

(2) There shall be equal access to programs and services for male and female juveniles in cocorrectional facilities.

(3) There shall be a written grievance procedure, which shall be explained and made available to juveniles, and allows for at least one (1) level of appeal.

(4) Juveniles shall not be required to participate in uncompensated work assignments unless the work is related to housekeeping, maintenance of the facility or grounds, or personal hygienic needs, or the work is part of an approved vocational or training program.

(5) There shall be no restrictions on the right of juveniles to determine the length and style of their hair, except in individual cases where such restrictions are necessary for reasons of health and safety.

(6) Juveniles may wear personal clothing consistent with facility guidelines or wear combinations of their own and facility clothing.

RALPH E. KELLY, Ed.D., Commissioner

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505 KAR 2:100. Training and staff development.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to-15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. For the purposes of this administrative regulation:

(1) "Administrative-management personnel" includes superintendents, deputy or assistant superintendents, business managers, personnel directors, youth care supervisors and shift supervisors;

(2) "Clerical support employee" is defined as an employee who has minimum contact with juveniles including, but not limited to, secretaries, clerks, typists, computer and warehouse personnel, accountants and personnel staff;

(3) "Professional specialist" includes, but is not limited to case managers, counselors, social workers, psychologists, teachers, librarians, medical personnel, chaplains, and recreation specialists;

(4) "Support employee" is defined as an employee who has regular or daily contact with juveniles including, but not limited to food, service, industry work supervisors, farm work supervisors, maintenance work supervisors;

(5) "Training" is defined as an organized, planned and evaluated activity designed to achieve specific learning objectives;

(6) "Youth care and [f] supervision staff" is defined as all staff assigned to full-time youth care or supervision duties.

Section 2. (1) The facility shall adopt and enforce written policies and procedures which:

(a) Provide that the facility's training program for all employees is planned, coordinated and implemented by a qualified employee at the supervisory level who has completed forty (40) hours of training as a trainer. The program shall be [is] reviewed annually;

(b) Provide that all training programs are presented by persons who are qualified in the areas in which they are conducting training;

(c) Provide that all new full-time employees, who have youth care responsibilities, shall receive forty (40) hours of orientation and [f] training before being independently assigned to a particular job. This orientation and [f] training shall [is-to] include, at a minimum, orientation to the purpose, goals, policies and procedures of the institution and parent agency; working conditions and regulations; responsibilities and rights of employees; and an overview of the juvenile justice and correctional field. Depending upon the employee and the requirements of the particular job, the orientation and [f] training may include some preparatory instruction related to the particular job. There shall be provisions for acknowledging and giving credit for prior training received;

(d) Provide that all clerical and [f] support employees who have minimal contact with juveniles receive an additional sixteen (16) hours of training during the first year of employment and sixteen (16) hours of training each year thereafter;

(e) Provide that all support employees who have regular or daily juvenile contact receive an additional forty (40) hours of training during their first year of employment and forty (40) hours of training each subsequent year of employment;

(f) Provide that all professional specialist employees who have juvenile contact receive an additional forty (40) hours of training during their first year of employment, and forty (40) hours of training each subsequent year of employment;

(g) Provide that all new youth care and [f] supervision staff receive an additional forty (40) hours of training during their first year of employment and forty (40) hours of training each subsequent year of employment. At a minimum, this training shall cover the following areas:

1. Security procedures;
2. Supervision of juveniles;
3. Use of force regulations and restraint techniques;
4. Report writing;

5. Juvenile rules and regulations;
6. Rights and responsibilities of juveniles;
7. Fire and emergency safety procedures;
8. Key control;
9. Interpersonal relations;
10. Social and [f] cultural lifestyles of the juvenile population;
11. Youth growth and development;
12. Communication skills;
13. First aid;
14. Cardiopulmonary resuscitation; and
15. Suicide precautions and behavioral management techniques.

(h) Provide that all administrative and managerial staff, except elected jailers, receive forty (40) hours of training during their first year of employment, and forty (40) hours of training each subsequent year of employment. This training shall cover the following areas, at a minimum:

1. General management and related subjects;
2. Labor law;
3. Employee-management relations;
4. The interaction of elements of the criminal and juvenile justice systems; and
5. Relationships with other service agencies.

(2) Where there is a full-time training director, there shall be an advisory training committee composed of the training director and a representative of each department.

(3) All part-time staff and volunteers working less than forty (40) hours per week shall receive training appropriate to their assignments, volunteers working the same schedule as full-time, paid staff receive the same training as full-time staff.

(4) Personnel who work with juveniles confined separately from the total population shall receive specialized training.

(5) Training may occur on-site, at an academy or training center, at an institution of higher learning, through contract service, at professional meetings, or through closely supervised on-the-job training which includes staff meetings at the facility.

RALPH E. KELLY, Ed.D., Commissioner
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505 KAR 2:110. Medical and health care services.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to-15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 requires the Department of Juvenile Justice to promulgate administrative regulations governing the operation of juvenile detention centers and juvenile holding facilities, including medical and health services. This administrative regulation governs medical and health care services at juvenile detention centers and juvenile holding facilities.

Section 1. (1) Medical treatment and services, including emergency psychiatric and dental matters involving medical judgment shall be the sole province of the responsible physician and dentist, respectively. Security regulations that are applicable to the facility personnel shall also apply to health personnel.

(2) The facility shall issue and enforce written policies and procedures which:

(a) Specify the provision of emergency mental health services for juveniles in need of the services including services provided by qualified mental health professionals who meet educational and licensure or certification criteria specified by their respective professional disciplines, such as psychiatry, psychology, psychiatric nursing and social work;

(b) Govern the relationship between the responsible physician and physicians in private practice working in the facility;

(c) Require that first aid kits shall be available. The responsible physician shall approve the contents, number, location and procedure for periodic inspection of the kits;

(d) Provide for medical examination of any employee or juvenile suspected of a communicable disease;

(e) Require medical screening to be performed by health-trained staff or qualified health care personnel on all juveniles, including intrasystem transfers, upon arrival at the facility. All findings shall be recorded on a printed screening form approved by the Department of Juvenile Justice;

(f) Ensure that juveniles shall be informed orally and in writing of the procedures required for gaining access to medical services;

(g) Provide for the prompt notification of a juvenile's parent or guardian and the responsible agency if serious illness, surgery, injury or death;

(h) Provide that youth care staff and other personnel are trained to respond to health-related situations within a four (4) minute response time. A training program shall be established by the responsible health authority in cooperation with the facility administrator, which includes the following:

1. Recognition of signs and symptoms, and knowledge of action required in potential emergency situations;

2. Administration of first aid and cardiopulmonary resuscitation (CPR);

3. Methods of obtaining assistance;

4. Signs and symptoms of mental illness, retardation and chemical dependency; and

5. Procedures for patient transfers to appropriate medical facilities or health care providers;

(i) Provide that emergency dental care is made available to each juvenile under the direction and supervision of a dentist licensed in the state;

(k) Provide for screening, and referral for care for mentally ill or retarded juveniles. The responsible physician shall have designated, in advance, specific referral sources;

(l) Ensure a special program for juveniles requiring close medical supervision. A physician shall develop a written medical treatment plan for each of these patients that includes directions to medical and nonmedical personnel regarding their roles in the care and supervision of these patients;

(m) Provide that juveniles in need of detoxification for chemical impairment shall not be admitted to the facility, but shall be referred for appropriate medical care;

(n) Provide for the proper management of pharmaceuticals and address the following subjects:

1. A formulary specifically developed for the facility;

2. Prescription practices that require that:

- a. Psychotropic medications are prescribed only if clinically indicated as one (1) facet of a program of therapy;

- b. "Stop order" time periods shall be required for all medications; and

- c. The prescribing provider reevaluates a prescription before its renewal;

3. Dispensing of medicine in conformance with appropriate state and federal law;

4. Administration of medication, which shall be carried out by persons properly trained and under the supervision of the health authority and facility administrator or designee;

5. Accountability for administering or distributing medications in a timely manner, according to physician orders;

6. Procedures for medication receipt, storage, dispensing and administration or distribution;

7. Maximum security storage and periodic inventory of all controlled substances, syringes and needles;

(o) Uphold the principle of confidentiality of the health record and support these requirements:

1. The active health record shall be maintained separately from the confinement record;

2. Access to the health record shall be controlled by the health authority; and

3. The health authority shall share with the facility administrator information regarding a juvenile's medical management, security and ability to participate in programs;

(p) Provide that if a juvenile is in need of hospitalization, a staff

member or a designee approved by the court accompanies him and stays with the juvenile at least during admission;

(q) Provide that all informed consent standards in the jurisdiction shall be observed and documented for medical care. The informed consent of parent, guardian or legal custodian applies if required by law. If health care is rendered against the patient's will, it shall be in accord with state and federal laws and regulations.

(3) Written health care policy and procedures shall be approved by the responsible physician or medical administrator.

(4) The specific duties of qualified medical personnel shall be governed by written job descriptions approved by the responsible physician and the facility administrator.

(5) Treatment by health care personnel other than a physician, dentist, psychologist, optometrist, podiatrist or other independent providers shall be performed pursuant to written standing or direct orders given by personnel who, by law, may give the orders. Nurse practitioners and physician's assistants may practice within the limits of applicable laws and regulations.

(6) Arrangements shall be made with health care specialists in advance of need.

(7) A written agreement shall exist between the facility administration and a nearby hospital for all medical services which cannot be provided within the facility.

(8) Appropriate state and federal licensure, certification or registration requirements and restrictions apply to personnel who provide health care services to juveniles. Verification of current credentials and job descriptions shall be on file in the facility.

(9) If medical services are delivered in the facility or through contract services, adequate space, equipment, supplies and materials, as determined by the responsible physician, shall be provided for the performance of primary health care delivery.

(10) Program staff shall be informed of juveniles' special medical problems. When a juvenile is admitted, staff shall be informed of any physical problems that might require medical attention.

(11) The facility shall issue and enforce written policy and procedure for the collection and recording of health appraisal data which requires that:

- (a) The process shall be completed in a uniform manner as determined by the health authority;

- (b) Health history and vital signs shall be collected by health-trained or qualified health personnel; and

- (c) Collection of all other health appraisal data shall be performed only by qualified health personnel.

(12) Juveniles' medical complaints shall be monitored and responded to by medically trained personnel.

(13) Sick call for nonemergency medical service, conducted by a physician or other qualified medical personnel, shall be available to each juvenile at least once per week.

(14) If sick call is not conducted by a physician, a physician shall be available once each week to respond to juvenile complaints regarding service they did or did not receive from other health personnel.

(15) The facility administration shall provide access to twenty-four (24) hour emergency medical and dental care as outlined in a written plan which includes:

- (a) Arrangements for the emergency evacuation of the juvenile from the facility;

- (b) Arrangements for the use of an emergency medical vehicle;

- (c) Arrangements for the use of one (1) or more designated hospital emergency rooms or other appropriate health facilities; and

- (d) Arrangements for emergency on-call physician and dental services if the emergency health facility is not located in a nearby community.

(16) Medical maintenance shall be provided to juveniles of the facility if medically indicated by written medical order.

(17) The person administering medications shall:

- (a) Have received training from a responsible physician and the official responsible for the facility;

- (b) Be accountable for administering medications according to orders; and

- (c) Record the administration of medications in a manner and on a form approved by a responsible physician.

(18) Stimulants, tranquilizers and psychotropic drugs requiring intramuscular administration shall be prescribed only by a physician,

following a physical examination of the juvenile by the physician, and shall be administered by a physician or registered nurse. Drugs and medications, including stimulants, tranquilizers, and psychotropics, usually administered by parents may be administered to juveniles by facility staff pursuant to a physician's prescription.

(19) Under no circumstances shall a stimulant, tranquilizer or psychotropic drug be administered for purposes of program management and control, or for purposes of experimentation and research.

(20) The facility shall have a written policy involving the location of the health record file. The health record file shall contain the following:

- (a) The completed receiving screening form;
- (b) Health appraisal data forms;
- (c) All findings, diagnoses, treatments, disposition;
- (d) Prescribed medications and their administration;
- (e) Laboratory, x-ray and diagnostic studies;
- (f) Signature and title of documentor;
- (g) Consent and refusal forms;
- (h) Release of information forms;
- (i) Place, date and time of health encounters;
- (j) Health service reports, e.g., dental, mental health and consultations;
- (k) Treatment plan, including nursing care plan;
- (l) Progress reports; and
- (m) Discharge summary of hospitalization and other termination summaries.

The method of recording entries in the records, the form and format of the records, and the procedures for their maintenance and safekeeping shall be approved by the Department of Juvenile Justice.

(21) Programs and training shall be provided for the development of sound habits and practices regarding personal hygiene.

(22) For juveniles being transferred to other facilities, summaries or copies of the medical history record shall be forwarded to the receiving facility prior to or at arrival.

(23) Written policy shall prohibit the use of juveniles for medical, pharmaceutical or cosmetic experiments. This policy shall not preclude individual treatment of a juvenile based on his need for a specific medical procedure that is not generally available.

(24) The facility may seek reimbursement for medical care from the parent, person exercising similar custodial control, the state or any other party who may be financially responsible.

RALPH E. KELLY, Ed.D., Commissioner

MICHAEL KEITH HORN, Office of General Counsel

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JUSTICE CABINET
Department of Juvenile Justice
(As Amended at ARRS, January 13, 2000)

505 KAR 2:120. Rules and discipline.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) All requirements in this administrative regulation shall be applied with consideration for the range of ages and maturity found in a juvenile detention facility in consideration of the juveniles' social-emotional ages, which may vary more than their physical ages.

(2) The facility shall adopt written rules of juvenile conduct which specify acts prohibited within the institution and penalties that may be imposed for various degrees of violation. The written rules shall be reviewed annually and updated if necessary. The use of tobacco products by juveniles shall be prohibited.

(3) A rulebook that contains all chargeable offenses, ranges of

penalties and disciplinary procedures shall be posted in a conspicuous and accessible area; a copy shall be made available to each juvenile and staff member, and shall be translated into those languages spoken by significant numbers of juveniles. When a literacy or language problem prevents a juvenile from understanding the rulebook, a staff member or translator shall assist the juvenile in understanding the rules.

(4) All personnel who deal with juveniles shall receive in-service training so that they shall be thoroughly familiar with the rules of juvenile conduct, the sanctions available, and the rationale for the rules.

(5) There shall be written guidelines for informally resolving minor juvenile misbehavior.

(6) The facility shall adopt and enforce written policies and procedures which:

(a) Specify that room restriction for minor misbehavior serves only a "cooling off" purpose, shall be short in time duration, with the time period - fifteen (15) minutes to sixty (60) minutes - specified at the time of assignment;

(b) Require that prior to room restriction, juveniles have the reasons for the restriction explained to them and have an opportunity to explain the behavior leading to the restriction;

(c) Require that employees prepare an incident report where they have a reasonable belief that a juvenile has committed a major violation of facility rules or reportable minor violations. Incident reports prepared by staff members shall include, but are not limited to, the following information:

- 1. Specific rules violated;
- 2. A formal statement of the event;
- 3. An explanation of the event, which should include who was involved, what transpired, and the time and location of occurrence;
- 4. Unusual juvenile behavior;
- 5. Staff witnesses;
- 6. Disposition of any physical evidence;
- 7. Any immediate action taken, including the use of force;
- 8. Reporting staff member's signature; and
- 9. Date and time report is made.

(d) Specify that juveniles placed in confinement status shall be afforded living conditions and privileges approximating those to the general juvenile population. Exceptions shall be justified by substantial evidence;

(e) Provide that the incident report shall be removed from all files of juveniles found not guilty of an alleged rule violation;

(f) Each facility shall develop a procedure to ensure the youth's due process for appealing disciplinary procedures.

(g) Ensure that prior to privilege suspension the juvenile has the reasons for the restriction explained to him, and has an opportunity to explain the behavior leading to the suspension; and

(h) Provide that in instances in which a juvenile is alleged to have committed a crime, the case is referred to appropriate law enforcement officials for possible prosecution.

(7) During room restriction staff shall visibly check the juvenile at least every fifteen (15) minutes, depending on his emotional state.

(8) When a juvenile has been charged with a major rule violation requiring confinement status for the safety of the juvenile or other juveniles, or to ensure the security of the facility, the youth may be confined for a period of up to twenty-four (24) hours. Confinement status for periods of over twenty-four (24) hours shall be reviewed every twenty-four (24) hours by the administrator or his designee who was not involved in the incident.

(9) Whenever juveniles are removed from the regular program, they shall be seen by a designated staff member, other than the staff member involved in the removal decision, as soon as possible, but not more than twenty-four (24) hours after removal.

(10) Juveniles held in confinement status shall be interviewed at least once each day by personnel from administrative, clinical, social work, religious or medical units.

(11) A log shall be kept stating who authorized the confinement status, persons visiting the juvenile, the person authorizing release from confinement status, and the time of the release.

RALPH E. KELLY, Ed.D., Commissioner

MICHAEL KEITH HORN, Office of General Counsel

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505 KAR 2:130. Intake.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [~~to 15A.240~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. Only juveniles meeting the criteria provided in this regulation shall be admitted to a detention facility.

(1)(a) The agency or individual seeking to place a juvenile in the facility shall present one (1) of the following at the time of admission or the juvenile shall not be accepted for admission:

1. A bench warrant which includes the reason for the issuance of the warrant;
2. A commissioner's warrant; or
3. A court order.

(b) If the reason for the ordered detention is contempt of court or an alleged or found violation of probation or parole, the documentation shall indicate the underlying charge that resulted in the contempt or the probation or parole violation. Lack of information relating to the underlying charge shall not be grounds to refuse admission, however facility staff shall obtain such information and place it in the juvenile's file as soon as possible.

(2) Admissions determinations shall be made according to the following guidelines:

(a) An accused public offender taken into custody on a bench warrant may be admitted to the facility pending a court hearing.

(b) An accused public offender accompanied by a court order may be admitted to the facility and securely detained for any length time during the probable cause, adjudication and disposition phases of the juvenile court process, subject to any limitations set by the court and reflected in the court order.

(c) A juvenile taken into custody on a commissioner's warrant for violation of supervised placement may be detained in accordance with KRS 635.100.

(d) A juvenile charged with a capital offense, Class A felony or Class B felony who is ordered detained shall be detained in a secure detention facility or a juvenile holding facility, in accordance with KRS 610.265(2)(b).

(e) A public offender may be accepted for admission and detained after disposition pursuant to a court order specifically requiring detention. A public offender committed to the Department of Juvenile Justice and ordered detained until placed may be housed in the facility for up to thirty-five (35) days after disposition.

(f) A status offender, pursuant to KRS 630.070, shall not be placed in a secure detention facility or a juvenile holding facility as a means or form of punishment except following a finding that the status offender is in contempt of court. A status offender may be admitted to a facility and be securely detained in accordance with KRS 630.080, 630.090, 630.100, and 630.130.

(g) A federal ward or out-of-state runaway may be detained in accordance with KRS 615.010.

(3) Prior to admission, a juvenile shall be screened for injury, chemical and alcohol intoxication, and acute illness. If any questions or concerns regarding the physical or mental condition of the juvenile exist and the admitting officer believes that the juvenile needs to be examined and cleared for admission by a physician [medical clearance], admission shall be refused until medical clearance is obtained by the transporting officer.

RALPH E. KELLY, Ed.D., Commissioner
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505 KAR 2:140. Admission procedures.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [~~to 15A.240~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) The facility shall adopt and enforce written policies and procedures which:

(a) Govern the reception and orientation of newly admitted juveniles;

(b) Provide that juveniles receive orientation in their own language; completion of orientation shall be documented by a statement that shall be signed and dated by the juvenile; and

(c) Require that a written, itemized list is made of all personal property in the possession of a newly admitted juvenile; a copy of this list, which notes all property that will be held until release, shall be given to the juvenile.

(2) Written procedures for admitting new juveniles shall include, but are not limited to:

(a) Verification of legal authority to detain;

(b) Complete search of the juvenile and possessions;

(c) Disposition of clothing and personal possessions;

(d) Medical screening;

(e) Shower and hair care, if necessary;

(f) Issue of clean, laundered clothing, as needed;

(g) Notification of family, custodian or guardian;

(h) Provision of written orientation materials;

(i) Recording of basic personal data and information to be used for mail and visiting lists;

(j) Assistance to juveniles in notifying their families of their admission and procedures for mail and visiting;

(k) Assignment to a housing unit; and

(l) Assignments of a register number.

(3) Newly admitted juveniles shall be permitted a reasonable number of local or collect long distance telephone calls to an attorney of his choice, and to a family member, as soon as practical, generally within one (1) hour after arrival [~~until one (1) call has been completed~~].

RALPH E. KELLY, Ed.D., Commissioner
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505 KAR 2:150. Programs.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [~~to 15A.240~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 requires the Department of Juvenile Justice to promulgate administrative regulations governing the operation of juvenile detention centers and juvenile holding facilities, including programs and services. This administrative regulation governs programs and services at juvenile detention centers and juvenile holding facilities.

Section 1. (1) The facility shall provide or make available the following minimum services and programs consistent with federal law to adjudicated and preadjudicated juveniles:

(a) An education program;

(b) Visitation with parents, guardians or persons exercising similar custodial control or supervision;

(c) Private communication with visitors and staff;

- (d) Counseling;
- (e) Continuous supervision of living units;
- (f) Medical services;
- (g) Food services;
- (h) Recreation and exercise; and
- (i) Reading materials.

(2) Assessment for education programs and services shall be initiated for all juveniles as soon as they are admitted to living units.

(3) Educational opportunities shall be made available to all juveniles within ten (10) days of admission, except if there is substantial evidence to justify otherwise.

(4) Educational programs in detention facilities shall be designed to assist detained juveniles in keeping up with their studies.

(5) Educational supervisors and instructors shall be licensed or approved by the state.

(6) Formal educational programs shall have a minimum of one (1) teacher for every fifteen (15) students per class period.

(7) There shall be an annual evaluation to measure the effectiveness of the educational training programs against stated performance objectives.

(8) The facility shall issue and enforce written policies and procedures that require:

(a) A recreation and leisure-time plan including at least one (1) hour per day of large muscle activity and one (1) hour of structured leisure-time activity;

(b) Adherence to dietary and other requirements of various faiths if approved by the religious authority; and

(c) Staff members to be available to counsel juveniles if requested and on an emergency basis.

(9) The facility shall have a staff member or trained volunteer who coordinates and supervises the recreation program.

(10) A variety of fixed and movable equipment shall be provided for each outdoor recreation area.

(11) Library services shall be available to all detained juveniles.

(12) Written policy shall define the principles, purposes and criteria used in the selection and maintenance of library materials.

(13) There shall be a volunteer staff or a contractual social services program that makes available a range of resources to meet the needs of juveniles, including individual and family counseling and community services, as required.

(14) Detained juveniles shall be afforded access to religious, mental health counseling and crisis intervention services in accordance with their needs.

(15) A staff member shall coordinate the facility's religious programs.

(16) There shall be a system for juveniles and staff to communicate with one another at all times.

(17) Work assignments shall not conflict with education programs.

(18) Juveniles shall not be permitted to perform any work prohibited by state and federal child labor laws.

RALPH E. KELLY, Ed.D., Commissioner

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505 KAR 2:160. Communication: mail, visiting and telephone.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) The volume of mail sent or received by a juvenile shall not be limited unless it would be detrimental to the

juvenile's wellbeing or if there is evidence of criminal conduct relating to the communications. If a facility provides postage to residents, it may place a limit on the number of stamps provided to each resident. [There shall be no limit on the volume of mail a juvenile may send or receive, except when the facility provides postage or when there is substantial evidence to justify such limitations.] Resident mail from incarcerated individuals at other facilities or correctional institutions may be delivered, returned, or placed in the youth's possessions.

(2) The facility shall adopt and enforce written policies and procedures which:

(a) Provide that juvenile letters, both incoming and outgoing, shall not be read, unless the letter could be detrimental to the juvenile's wellbeing or there is evidence of criminal conduct relating to the letters. [except where there is substantial evidence to justify such actions:] If correspondence is read, the youth shall be informed in advance and shall be present when the letter is opened, and the action shall be documented;

(b) Govern inspection of juvenile letters or packages for money or contraband;

(c) Require that all cash received through the mail is held for the juvenile in accordance with the procedures approved by the governing authority;

(d) Require that incoming and outgoing mail shall be held for no more than twenty-four (24) hours, and packages for no more than forty-eight (48) hours, excluding weekends and holidays;

(e) Specify that juveniles are permitted to send sealed letters to a specified class of persons and organizations, including, but not limited to: courts, counsel, officials of the confining authority, administrators of grievance systems and members of the releasing authority;

(f) Allow the facility to provide postage for the mailing of two (2) letters per week for each juvenile, if requested, excluding legal correspondence;

(g) Govern visiting and are reviewed annually and updated if needed;

(h) Provide that juvenile visitation facilities permit informal communication, including opportunity for physical contact, if possible;

(i) Specify that visitors register upon entry into the facility and the circumstances under which visitors are searched;

(j) Govern special visits;

(k) Provide for juvenile access to the telephone to make and receive personal calls, within the limits of the orderly operation of the facility;

(l) Provide for the forwarding of first-class letters and packages after transfer or release; and

(m) Govern juvenile access to publications.

RALPH E. KELLY, Ed.D., Commissioner

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505 KAR 2:170. Release preparation and transfer programs.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. The facility shall adopt and enforce written procedures for releasing juveniles which shall include the following [but not be limited to]:

(1) Verification of identity;

(2) Verification of release papers;

(3) Completion of release arrangements, including the person or agency to whom the juvenile is to be released;

- (4) Return of personal effects;
- (5) Completion of grievances, claims for damages or lost possessions, or other pending actions; [any pending action, such as grievances, claims for damages or lost possessions;]
- (6) Medical screening and arrangements for community follow-up when needed;
- (7) Transportation arrangements; and
- (8) Instructions on forwarding of mail.

RALPH E. KELLY, Ed.D., Commissioner

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505 KAR 2:180. Citizen and volunteer involvement.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [~~to 15A.240~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) The facility shall establish and enforce written policies and procedures which:

(a) Provide for securing citizen involvement in programs, including roles as advisors and interpreters between the program and the public, direct services and cooperative endeavors with juveniles under supervision;

(b) Specify the lines of authority, responsibility and accountability for the volunteer services program;

(c) Provide for the screening and selection of volunteers, allowing for recruitment from all cultural and socioeconomic segments of the community;

(d) Provide a system for identification of volunteers while they are in the facility; and

(e) Provide that the administrator curtails, postpones or discontinues the services of a volunteer or volunteer organization when there are substantial reasons for doing so.

(2) A staff member shall be responsible for coordinating the volunteer services program.

(3) Prior to assignment, each volunteer shall complete an orientation and training program appropriate to the nature of the assignment.

(4) Volunteers shall agree in writing to abide by all facility policies, particularly those relating to security and confidentiality of information.

(5) Written policy shall specify that volunteers perform professional services only when certified or licensed to do so.

(6) There shall be provisions for volunteers to participate in the establishment of policy and procedure for the volunteer services program.

RALPH E. KELLY, Ed.D., Commissioner

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505 KAR 2:190. Waiver of compliance.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [~~to 15A.240~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 requires the Department of Juvenile Justice to promulgate adminis-

trative regulations governing the operation of juvenile detention centers and juvenile holding facilities. This administrative regulation establishes a waiver process for compliance with rated capacity limits at juvenile detention centers and juvenile holding facilities.

Section 1. (1) The Department of Juvenile Justice may grant a waiver of the rated capacity for an existing facility if it determines:

(a) That strict compliance may cause unreasonable difficulties in securing housing for juvenile offenders; and

(b) That a waiver does not seriously affect the security, supervision of juveniles, programs, or the safe, healthful, or efficient operation of the facility.

(2) If a waiver from this standard is desired, the responsible local authority shall submit a written request to the Department of Juvenile Justice. The written request shall include:

(a) Identification and description of the specific problems involved in meeting the capacity requirement.

(b) A description of the needed capacity change, including identification of the proposed usage of sleeping and program areas.

(c) A description of the classification to be used, additional staffing alternatives and programming.

(d) Sufficient documentation demonstrating that the waiver, if granted, does not jeopardize the security, supervision of juveniles, programs, or the safe, healthful, or efficient operation of the facility.

(3) A waiver, if granted by the Department of Juvenile Justice, shall apply only to the petitioner for the period of time specified and may include conditions imposed by the department. A waiver shall not be granted for longer than twelve (12) months. A waiver granted for a twelve (12) month period shall be reviewed at the end of the period for reapproval.

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505 KAR 2:200. Physical plant.

RELATES TO: KRS 15A.210 to 15A.240, 28 CFR 31.303

STATUTORY AUTHORITY: KRS 15A.210(5) [~~to 15A.240~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 requires the Department of Juvenile Justice to promulgate administrative regulations governing the operation of juvenile detention centers and juvenile holding facilities, including the physical plant. This administrative regulation governs the physical plants at juvenile detention centers and juvenile holding facilities.

Section 1. (1) The facility shall conform to all applicable zoning ordinances or, through legal means, attempt to comply with or change the [such] laws, codes or zoning ordinances.

(2) The facility shall conform to all applicable state building codes.

(3) If the facility is on the grounds of any other type of corrections facility, federal and state regulations requiring sight and sound separation from adults shall be maintained.

(4) A juvenile detention facility shall be primarily designed for single cell sleeping areas; multiple-occupancy dorms or double-occupancy cells shall not exceed twenty (20) percent of the bed capacity of the facility.

(5) If the population of a county-operated facility exceeds the rated capacity, the chief district judge, the district judge with jurisdiction for the juvenile matters, the county judge executive and the Department of Juvenile Justice shall be notified by the facility administrator.

(6) The facility shall be utilized so that juveniles can be grouped in accordance with a classification plan.

(7) If seriously ill, mentally disordered, injured or nonambulatory juveniles are held in the facility, there shall be at least one (1) single-occupancy cell or room for them that provides for continuing staff

observation.

(8) The facility shall have exits that are properly positioned, clear, and distinctly and permanently marked in order to ensure the timely evacuation of juveniles and staff in the event of fire or other emergency. All housing areas, and places of assembly for fifty (50) or more persons, shall have two (2) exits.

(9) The facility perimeter shall be secured in a way that juveniles remain within the perimeter and that access by the general public is denied without proper authorization.

(10) Facilities in operation before July 1, 1987 shall be operated with day rooms of no more than twenty-five (25) juveniles each.

(11) The facility shall have living units of no more than twenty-five (25) juveniles.

(12) All housing areas shall provide for, at a minimum:

(a) Lighting as determined by the tasks to be performed;

(b) Toilets at a minimum ratio of one (1) for every twelve (12) juveniles in male facilities and one (1) for every eight (8) juveniles in female facilities. Urinals may be substituted for up to one-half (1/2) of the toilets in male facilities. Wash basins shall be provided at a minimum ratio of one (1) basin for every twelve (12) occupants;

(c) Showers accessible to juveniles;

(d) A heating and ventilation and acoustical system to ensure healthful and comfortable living and working conditions for juveniles and staff; and

(e) Access to a drinking fountain.

(13) If the facility houses male and female juveniles, space shall be provided for cocorrectional activities.

(14) Space shall be provided for the secure storage of chemical agents, restraining devices and related security equipment, and the equipment shall be located in an area that is readily accessible to authorized persons.

(15) Water for showers shall be temperature-controlled.

(16) Single sleeping rooms shall have at least seventy (70) square feet of floor space and juveniles shall be provided activities and services outside their rooms at least twelve (12) hours a day.

(17) All sleeping rooms in detention facilities shall have, at a minimum:

(a) Access to the following approved penal sanitation facilities:

1. Toilet above floor level which is available for use without staff assistance twenty-four (24) hours a day;

2. Wash basin and drinking water;

3. Hot and cold running water;

(b) An approved penal bed above floor level and storage space; and

(c) Natural light. Facilities existing and operating on July 1, 1987 shall be exempt from the requirement that each sleeping room have natural light.

(18) At least thirty-five (35) square feet of floor space per juvenile shall be provided in the day room on each living unit.

(19) Male and female juveniles shall not occupy the same sleeping room.

(20) Ventilation shall be available in the event of a power failure.

(21) The total indoor activity areas outside the sleeping area shall provide space of at least 100 square feet per juvenile.

(22) There shall be at least fifteen (15) square feet of floor space per person for those occupying the dining room or dining area. Meals may be served outside the cells or sleeping areas.

(23) If the facility provides food service, the kitchen shall have at least [test] 200 square feet of floor space.

(24) School classrooms shall be designed in conformity with local or state educational requirements except that all juvenile detention facilities shall be exempt from the requirement to have operable windows for rescue and ventilation.

(25) There shall be a visiting area that allows for privacy during visits.

(26) There shall be a well-drained outdoor recreation area for all new, renovated and existing facilities.

(27) Space shall be available for religious services.

(28) The facility shall have a central medical room with medical examination facilities.

(29) If there is a confinement room separate from the living unit, it shall be equipped with plumbing and security furniture.

(30) There shall be interview space available in or near the living unit.

(31) The office in each housing unit shall have a telephone and enable supervision of the general living area; it shall be used for communications, staff conferences and storage of unit records.

(32) There shall be secure storage space provided for storage of juveniles' property and personal belongings.

(33) There shall be storage rooms for clothing, bedding and facility supplies.

(34) Closets for storage of cleaning supplies and equipment shall be located in each principal area and shall be well ventilated.

(35) Separate and adequate space shall be provided for mechanical equipment

(36) There shall be a written plan for preventive maintenance of the physical plant with provisions for emergency repairs or replacement of equipment. This plan shall be reviewed annually and updated if needed.

(37) There shall be documentation by an independent, qualified source that the interior finishing material in juvenile areas, exit areas and places of public assembly are in accordance with recognized national fire safety codes.

(38) The facility shall issue and enforce written policy and procedure providing that a new detention facility shall be built or the existing facility expanded after a needs evaluation study has been prepared by the agency in conjunction with the juvenile court and the Department of Juvenile Justice.

(39) Prior to plans development for newly-planned facilities, a written program philosophy shall be developed for the facility, which includes:

(a) Statement of general goals and purposes of the facility;

(b) Description of the facility, including statutory authority and services to be provided.

(c) Analysis of projected workload, staffing, programs and operating and capital budgets;

(d) Assessment of the impact of the facility on overall operation of the parent agency;

(e) Justification for the facility;

(f) Analysis of alternative means for achieving the same goals;

(g) Description of space requirements;

(h) Outline of budget and time restrictions; and

(i) Study of alternate ways of satisfying space requirements, including leasing, renovation and new construction.

(40) Each living unit shall be designed so that individual rooms, day rooms and program staff offices are in close proximity to juveniles for purposes of communication and interaction.

(41) Disabled juveniles shall be housed in a manner that provides for their safety and security. Cells or housing units used by them shall be designed for their use, and provide the maximum possible integration with the general population. Appropriate institution programs and activities shall be accessible to disabled juveniles confined in the facility.

(42) All parts of the facility that are accessible to the public shall be accessible to and usable by disabled staff and visitors.

(43) There shall be a day room for each housing unit or detention room cluster. The room shall have a minimum of thirty-five (35) square feet of floor space per juvenile for the maximum number using the day room at one (1) time and shall be separate and distinct from the sleeping area, which is immediately adjacent and accessible.

RALPH E. KELLY, Ed.D., Commissioner

MICHAEL KEITH HORN, Office of General Counsel

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JUSTICE CABINET

Department of Juvenile Justice

(As Amended at ARRS, January 13, 2000)

505 KAR 2:210. Application for construction, expansion or renovation.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210

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mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. Purpose. The purpose of this administrative regulation is to provide minimum standards for the construction, expansion or renovation of juvenile detention facilities and for measuring compliance of existing juvenile detention facilities in accordance with 505 KAR 2:010 through 505 KAR 2:200.

Section 2. Consultation. The Department of Juvenile Justice may upon request provide for any county government which wishes to remodel an existing juvenile detention facility or construct a new juvenile detention facility, a consultant knowledgeable in the design, utilization, and operation of juvenile detention facilities. The consultant shall meet with the appropriate officials of that county and advise them in matters including the following [but not limited to]:

- (1) Site selection;
- (2) Probable need as it relates to capacity and types of juveniles to be housed;
- (3) Sources of financing for construction;
- (4) Laws and administrative regulations relating to facilities for juveniles;
- (5) Sources of revenue for operations of the juvenile detention facility;
- (6) Probable cost for operation of the juvenile detention facility; and
- (7) Potential for shared facilities with adjoining counties.

Section 3. Approval. A ~~[No]~~ juvenile detention facility shall not be built without prior approval by the Department of Juvenile Justice. The criteria considered in the approval process shall include the following [but not be limited to]:

- (1) Size;
- (2) Proximity to courts;
- (3) Proximity to community resources;
- (4) Availability of public transportation;
- (5) Environmental health;
- (6) Adequate parking;
- (7) Provisions for future expansion; and
- (8) Department of Juvenile Justice initiatives.

Section 4. Construction Documents. Prior to the construction, expansion, or renovation of any juvenile detention facility, plans and specifications shall be submitted to the Department of Juvenile Justice for review and approval as follows:

- (1) Programming phase. This submission shall show:
 - (a) Statement of general goals and purposes of the facility including a written program philosophy;
 - (b) Description of services to be provided;
 - (c) Evaluation of any existing facility;
 - (d) Assessment of the impact of facility on overall operation of parent agency;
 - (e) Population analysis;
 - (f) Space requirements based on population analysis and standards for the facility and site outlined in 505 KAR 2:010 through 505 KAR 2:200;
 - (g) Alternate means of satisfying space requirements;
 - (h) Needs assessment to determine bed space;
 - (i) Needs assessment to determine services and programming;
 - (j) Workload analysis;
 - (k) Programs analysis;
 - (l) Staffing analysis;
 - (m) Proposed governing authority and administration;
 - (n) Cost analysis;
 - (o) Financing alternatives;
 - (p) Outline of time restrictions; and
 - (q) Summary and recommendations.
- (2) Schematic phase.
 - (a) Scale drawings of each floor plan with all proposed rooms and areas one-eighth (1/8) inch minimum;
 - (b) Scale drawings of the site, locating the building, parking and other facilities - one (1) inch equals fifth (50) feet; and
 - (c) Documentation of site as to criteria in Section 3 of this ad-

ministrative regulation;

(d) Sections through the proposed structure indicating ceiling heights of room, mechanical spaces, roof slopes and other related information;

(e) Scale elevation drawings of all exterior walls; and

(f) Schematic cost estimate.

(3) Design development phase.

(a) Scale drawings on each floor plan with all proposed rooms and areas with their dimensions one-eighth (1/8) inch minimum;

(b) All necessary construction drawings including construction details;

(c) Specifications for all materials and workmanship;

(d) A proposed contract with general and special conditions;

(e) Engineering calculations for the foundations, structure, heating ventilating, air conditioning, lighting, and plumbing; and

(f) Detailed estimates of cost of land, site development, construction, financing, professional services, equipment and furnishings.

(4) Construction document phase.

(a) Revised design development construction drawings following review by all applicable agencies.

(b) Signed by an architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Department of Juvenile Justice.

(c) Revised design development specifications of material and workmanship following review by all applicable agencies.

(5) Contract administration.

(a) Signed copies of all contracts for construction financing and bonding;

(b) Signed copies of all construction permits;

(c) Documentation of review by all other applicable state agencies; and

(d) All change orders shall be submitted to the Department of Juvenile Justice for review and approval.

(6) An on-site inspection schedule shall be submitted for inspection by governing authority, contractors, and the Department of Juvenile Justice.

(7) The Department of Juvenile Justice shall review all submissions within thirty (30) days of receipt and issue a letter of approval, acceptance with required changes, or rejection with reasons. ~~[No]~~ Construction shall not be started until the construction document phase as required in subsection (4) of this section has been approved.

(8) Depending on the site of the proposed construction, renovation or addition, the Department of Juvenile Justice may combine two (2) or more phases as outlined above for review and approval.

(9) All changes prior to the approval of final construction documents shall require appropriate modifications to the final construction documents including redrawing of plans and rewriting of specifications. All changes after the approval of final construction documents shall require adequate documentation which fully describes and illustrates the changes which may include written and graphic addenda, field orders and change orders. In addition, a set of accurate as built drawings will be submitted to the Department of Juvenile Justice within sixty (60) days of occupancy of the facility.

Section 5. Fee. A one (1) time processing fee of \$250 shall accompany each application filed with the Department of Juvenile Justice pursuant to this administrative regulation.

RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
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JUSTICE CABINET
Department of Juvenile Justice
(As Amended at ARRS, January 13, 2000)

505 KAR 2:220. Registration.

RELATES TO: KRS 15A. 210 to 15A.240
STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. ~~[Each juvenile detention facility that is in operation shall file register with the Department of Juvenile Justice on an annual basis:~~

Section 2. The following information, as defined, shall be included in the registration:

- (1) "Agency administrator" means the person responsible for the day-to-day operation of the facility.
- (2) "Agency director" means the person who oversees the operation of the facility and reports to the governing authority.
- (3) "Bed capacity" means the total number of beds and their allotment as requested in 505 KAR 2:210, Section 4.
- (4) "Client information" means the type of youth served and average length of detention for each type. Types include, but are not limited to, the following:
 - (a) Public offenders;
 - (b) Status offenders;
 - (c) Nonoffenders (dependent, neglected, abused);
 - (d) Preadjudicative; and
 - (e) Postadjudicative.
- (5) "Contact person" means the agency administrator or the person designated by the agency administrator as liaison with the Department of Juvenile Justice.
- (6) "Facility identifier" means the name of the juvenile detention facility.
- (7) "Fiscal" means those agencies and organization that allot funds for operation of the facility.
- (8) "Governing authority" means the organization ultimately responsible for ownership of the facility. This may be the county fiscal court, the city council or board of directors or trustees.
- (9) "Physical plant" means the floor plans or a copy of the floor plans if any changes have been made after prior filing with the Department of Juvenile Justice.
- (10) "Programming" means the listing of all services and programming of the facility such as medical or education.

Section 2. Each juvenile facility that is in operation shall register with the Department of Juvenile Justice on an annual basis.

Section 3. A one (1) time processing fee of fifty (50) dollars shall accompany each registration filed with the Department of Juvenile Justice pursuant to this administrative regulation.

RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
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**JUSTICE CABINET
Department of Juvenile Justice
(As Amended at ARRS, January 13, 2000)**

505 KAR 2:230. Additional standards for juvenile holding facilities.

RELATES TO: KRS 15A.210 to 15A.240
STATUTORY AUTHORITY: KRS 15A.210 [to 15A.240]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 mandates that the Department of Juvenile Justice issue administrative regulations governing juvenile detention centers and juvenile holding facilities.

Section 1. (1) The facility shall maintain separation between juveniles and adults so that there is no sustained sight or sound contact between juveniles and incarcerated adults in the facility. Separation shall be achieved architecturally in residential areas, and may be achieved through time-phasing in [common-use nonresiden-

tial areas such as] indoor recreation, outdoor recreation, education and dining areas, **and other nonresidential areas.**

(2) Adult inmates shall not be permitted in any juvenile residential areas under any circumstances.

(3) Adult inmates shall not, under any circumstances, be permitted in any common use nonresidential areas when juveniles are present in such areas.

(4) If juveniles share programming space with adult inmates, or must travel through the adult area of the facility to access any juvenile area, the facility shall have a written policy and corresponding procedures outlining the process that shall be used to ensure that juveniles remain sight and sound separated from adults when moving to and from activities in common areas or facilities shared with the adult inmates, and while participating in activities in **these** [such] areas.

(5) The facility shall have completely separate juvenile and adult programs. The facility shall adopt written policies and procedures that are completely separate from those developed for the adult portion of the facility.

(6) The jailer shall appoint an individual to serve as the supervisor of the juvenile holding facility. Except for the jailer, who is responsible for the entire jail operation, all management, security, and direct care staff for the juvenile holding facility shall be completely separate from that for the adult facility. Staff providing [specialized services such as] medical care, food service, laundry, maintenance, **engineering, and other specialized services,** [and engineering] may serve both the adult and juvenile populations.

RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
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**EDUCATION, ARTS, AND HUMANITIES CABINET
Education Professional Standards Board
(As Amended at ARRS, January 13, 2000)**

704 KAR 20:690. Kentucky Teacher Internship Program.

RELATES TO: KRS 161.030
STATUTORY AUTHORITY: KRS 161.028(1)(a), 161.030
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.030(5) requires that all new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. This administrative regulation **establishes the requirements for the Kentucky Teacher Internship Program** [serves to implement the statutory provisions for the beginning teacher internship by establishing the uniform statewide procedures and processes necessary to carry out the intent of the legislation].

Section 1. **Definitions. (1) "Half-time basis" means teaching five (5) days a week for at least three (3) hours each day.**

(2) "Instructional day" means a day that:

(a) School is in session;

(b) [and] The teacher intern is performing regular teaching responsibilities in an instructional setting, or is completing professional development;

(c) Does not [-An instructional day shall not] include annual leave, sick leave, or other authorized or unauthorized leave time.

[(2) "Half-time basis" means teaching five (5) days a week for at least three (3) hours each day.]

Section 2. **Basis for Professional Judgment by the Teacher Intern Committee. (1) A teacher intern and the beginning teacher committee shall follow the requirements established in this administrative regulation and in "Guiding and Assessing Teacher Effectiveness: A Handbook for Kentucky Teacher Internship Program Participants".**

(2) In arriving at its professional judgment, the beginning teacher committee shall take into consideration the progress of the teacher intern throughout the school year and, particularly, the level of performance that has been achieved near the end of the intern period.

The beginning teacher committee shall determine the progress and improvement of the teacher intern, pursuant to KRS 161.030, by:

- (a) A systematic observation of classroom performance;
- (b) A review of portfolio materials that shall be developed by the teacher intern; and
- (c) A review of the response of the teacher intern to the suggestions and recommendations made by the beginning teacher committee during its meetings with the teacher intern throughout the period of internship.

(3) [(2)] As a significant part of the process, the beginning teacher committee shall utilize the New Teacher Standards for Preparation and Certification **established** [adopted] by the Education Professional Standards Board [and specified] in 704 KAR 20:730 [20:730].

Section 3. [2:] Committee Membership Appointment. (1) School districts shall recruit a pool of resource teachers to complete the Kentucky Teacher Intern Program training in order to establish eligibility for appointment to teacher intern committees.

(2) Principal members and resource teachers shall be recommended by the employing school district for appointments by the Office of Teacher Education and Certification to teacher intern committees.

(3) **If** [When] the internship is established at a nationally or regionally accredited nonpublic school in which a certified principal is not employed, the guidelines of the accrediting organization for designating the school head or school leader shall be used by the employing school in making the recommendation for appointment of the principal member. If no guidelines exist, a written rationale for appointment of the person to serve as the principal member shall be sent to the Office of Teacher Education and Certification for approval.

(4) The Office of Teacher Education and Certification shall consult with representatives of the teacher training institutions with respect to the school districts and the geographical area to be served by teacher educator members on teacher intern committees.

Section 4. [3:] Requirements for Time in the Internship and Classroom Assignment. (1) The one (1) year internship **shall** [may] be completed during one (1) of the following:

(a) No less than 140 instructional days of employment in a certified position for which the teacher intern receives compensation during one (1) school year; or

(b) Two (2) semesters of no less than seventy (70) instructional days each of employment in a certified position for which the teacher intern receives compensation in more than one (1) school year.

(2) The internship shall be established for each teacher intern whose initial employment begins at any time during the school term except **if** [when] the date of employment does not allow for completion of at least seventy (70) instructional days of employment during the school year. **If** [in such instances, where] the period of employment is less than seventy (70) instructional days in a school year, the local school district **shall** [may] declare an emergency as provided in KRS 161.100, authorizing the superintendent to request an emergency teaching certificate. The employing school district shall be responsible for providing assistance and supervision to the new teacher during **the** [such] period of employment under an emergency certificate.

(3)(a) The school district shall **complete** and submit the confirmation of employment form for each teacher intern to the Office of Teacher Education and Certification:

1. On or before October 15 for a **teacher** [an] intern participating in the internship for the fall semester; or

2. On or before March 15 for a **teacher** [an] intern participating in the internship for the spring semester.

(b) If the district fails to report verification of enrollment in the internship by the applicable date established in paragraph (a) of this subsection [these dates], the district shall declare an emergency as provided in KRS 161.100 [and referenced in Section 4(2) of this administrative regulation], and the teacher intern shall enroll in the internship in the next semester of employment when seventy (70) instructional days are available.

(4) A teacher intern may [shall be allowed to] participate in the internship if he is teaching on **at least** a half-time basis [as defined in this administrative regulation]. A school district offering employment to a new teacher for part-time services which do not conform to the definition of half-time basis **shall** [as defined in this adminis-

trative regulation may] request a waiver from the Education Professional Standards Board for the new teacher to participate in the Kentucky Teacher Internship Program. The waiver request shall detail how the part-time employment offered by the district is commensurate with the half-time basis requirement of this administrative regulation.

(5) Termination or resignation of the internship shall be prohibited unless a written request of **the** [such] action is approved by the Education Professional Standards Board. A teacher intern who terminates or resigns the internship without the approval of the Education Professional Standards Board shall be recorded as unsuccessfully completing the internship for that school year.

(6) The internship shall be established in a classroom which corresponds to the certificate of the teacher intern.

Section 5. [4:] Designation and Duties of Chair, Responsibilities of Resource Teacher, Responsibilities of Teacher Intern, and Requirements for Timing and Content of Intern Committee Meetings. (1) The principal member of the three (3) person intern committee shall serve as chair and shall be responsible for convening the committee and coordinating its efforts by scheduling observations and committee meetings. The chair shall be responsible for collecting and filing reports of the intern committee as required by this administrative regulation.

(2) The resource teacher shall be a mentor to the teacher intern and assess the teacher intern's progress in the internship. **Pursuant to the resource teacher requirements established in KRS 161.030(7), a** [shall complete at least twenty (20) hours of observation of the teacher intern in an instructional setting. The] resource teacher shall complete fifty (50) additional hours of out-of-class time identified in KRS 161.030 in consultation with the intern to:

(a) Assist the teacher intern in the development of his professional growth plan;

(b) Assist the teacher intern in areas identified in the professional growth plan;

(c) Assist the teacher intern with instructional activities such as planning, management techniques, assessment, and parent conferences;

(d) Arrange activities such as attendance at seminars, conferences, or lectures offering educational assistance commensurate with the teacher intern's professional growth plan or the New Teacher Standards. [It shall not be appropriate for] The resource teacher **shall not** [to] spend this required consultation time with the teacher intern at regular school extracurricular activities, unless these activities are part of the teacher intern's teaching responsibilities and the resource teacher relates the time spent to the teacher intern's professional growth plan or the New Teacher Standards; and

(e) Continually assess the intern's progress in the internship in relation to each of the New Teacher Standards [established in 704 KAR 20:730].

(3) The teacher intern shall:

(a) Complete all requirements of the Kentucky Teacher Internship Program as established in KRS 161.030 and this administrative regulation, **including compliance with the New Teacher Standards;**

(b) Attend all intern committee meetings;

(c) Participate with the resource teacher in the fifty (50) hours of consultation time to be spent outside of an instructional setting;

(d) Cooperate with the resource teacher in completing the twenty (20) hours of instructional observation; **and**

(e) Complete a professional growth plan (PGP); **and**

(f) **Complete other requirements in accordance with the New Teacher Standards and this administrative regulation.**

(4) The chair shall establish a schedule that provides the following sequence of meetings **of the beginning teacher committee** for full-year assignments. [This schedule shall be observed except in those circumstances which warrant change and in which the change is agreed to by all parties:]

(a) The orientation meeting shall be held prior to the conduct of any formal classroom observations of the teacher intern;

(b) The second meeting shall be held **between one (1) and** [within] sixty (60) instructional days following the orientation meeting and shall have been preceded by classroom observations by all committee

members;

(c) The third meeting shall be held between sixty-one (61) and 110 [within 120] instructional days following the orientation meeting and shall have been preceded by a second set of classroom observations by all committee members; and

(d) The fourth meeting shall be held between 111 and [within] 140 instructional days following the orientation meeting and shall have been preceded by a third set of classroom observations by all committee members.

(5) [(3)] The resource teacher, upon appointment, shall begin to render assistance to the intern.

(6) [(4) ~~Second semester~~] Committees formed during the spring semester shall establish a meeting schedule that observes the time sequences established in subsection (4) of this section [identified above] for the full-year teacher interns but which shall span the spring and fall semesters of two (2) school years.

(7)(a) [(5)] Classroom observations conducted by committee members shall be:

1. Of at least one (1) hour or one (1) class period in duration; and
2. In the classroom or at the work station of the teacher intern.

(b) Additional classroom observations may be conducted at the option of the committee.

(c) All classroom observations shall be scheduled in advance in order to provide adequate time for preparation by the teacher intern.

(8) [(6)] All members of the committee shall attend all four (4) meetings of the committee.

(9) [(7)] At the orientation meeting of the beginning teacher [intern] committee, the following items shall be addressed:

(a) [~~Establishment of~~] Expectations on the part of the teacher intern and each committee member;

(b) [~~Review of the~~] Procedures and materials for classroom observations;

(c) [~~Explanation of the~~] Use of classroom observation data in designing the teacher intern's professional growth [development] plan;

(d) [~~Explanation of~~] Requirements for the intern portfolio [to be developed by the teacher intern];

(e) [~~Identification of a~~] General schedule for the events to take place during the internship program; and

(f) [~~Discussion of suggestions for the~~] Work of the resource teacher with the teacher intern.

(10)(a) [(8)] The primary purpose of the second and third committee meetings shall be to provide the teacher intern with information based on classroom observations, review of the portfolio, and reports of the resource teacher that shall support the growth of the teacher intern.

(b) The committee shall provide the teacher intern at the second, third, and fourth meetings with a consensus assessment of the teacher intern's progress in the internship in a relation to each of the New Teacher Standards.

(11) [(9)] The professional growth [development] plan (PGP [PDP]) shall be initiated at the second committee meeting. [The PDP shall reflect the intern's views and the committee's suggestions from classroom observations, portfolio review, and informal data.]

(12) [(10)] The third meeting shall include a review [restatement] of expectations for the performance of the teacher intern, [restatement of suggestions by the committee members for the assistance by the resource teacher,] taking into account the reflections of the intern and the committee members, and incorporating [incorporation of] these expectations and reflections [suggestions for assistance] into the PGP [a modified PDP].

(13) [(11)] The fourth meeting shall include a professional judgment by the committee members on the satisfactory completion of the one (1) year internship. This judgment shall be based upon the teacher intern's ability to meet the requirements of all New Teacher Standards.

Section 6. [5:] Decision by the Beginning Teacher [Intern] Committee, Reporting, and Certification Actions. (1) The decision of the beginning teacher [intern] committee as to satisfactory completion of the internship for all full-year interns shall be reported by the chair to the local school superintendent or other employer and to the Office of Teacher Education and Certification by May 1 [April 15] or no later than two (2) weeks following the final committee meeting, whichever occurs first. The final report shall be accompanied by the resource

teacher time sheets.

(2) If a teacher intern's performance is judged by the intern committee to be unsatisfactory, the intern shall have the opportunity to repeat the internship during one (1) additional year contingent upon employment within the period of validity of the statement of eligibility for internship. [However,] If the teacher does not successfully complete the internship during the period of validity of the statement of eligibility, the teacher shall requalify for admission to the remaining one (1) year of internship by meeting the requirements in effect at the time of reapplication for certification.

(3) If the teacher intern is initially employed during the second semester of a school year, an interim [a progress] report based upon the orientation meeting and at least one (1) set of classroom observations and report of subsequent committee meeting shall be sent by the committee chairperson to the local school superintendent or other employer and to the Office of Teacher Education and Certification no later than May 15. The teacher intern may continue the internship with employment for a semester during a subsequent school year if employed in a [any] public or nonpublic accredited school.

Section 7. [6:] Payments to Committee Members. (1) Within the provisions of the budgetary act, the Office of Teacher Education and Certification shall contract with the local school district, or make other appropriate arrangements, for:

(a) The direct service of a resource teacher to each teacher intern;

(b) Participation in classroom observations and committee meetings; and

(c) The employment of substitute teachers to provide at least twenty (20) clock hours of released time for the resource teacher to observe and assist the teacher intern during normal working hours.

(2) A resource teacher shall:

(a) Not work with more than one (1) intern concurrently; and

(b) Be paid a stipend in accordance with subsection (3) of this section.

(3)(a) Except as provided by paragraphs (b) and (c) of this subsection, the stipend shall be:

1. \$1,000 for a year of service; and

2. Disbursed in accordance with KRS 161.030(6)(f) on a biannual basis corresponding to the semester in which the mentoring occurred.

(b) If the school or school district where the internship takes place fails to submit the time sheets by the date stipulated in Section 6(1) of this administrative regulation, the Education Professional Standards Board shall refuse payment of the stipend.

(c) The stipend shall be prorated if the required number of hours are not performed and documented in legitimate and appropriate pursuit of successful completion of the internship pursuant to the requirements of Section 5(2) of this administrative regulation. [Within the provisions of the budgetary act, the Office of Teacher Education and Certification shall contract with the local school district, or make other appropriate arrangements, for the direct service of a resource teacher to each teacher intern and for participation in classroom observations and committee meetings. A resource teacher shall not work with more than one (1) intern concurrently. A resource teacher shall be paid a stipend not to exceed \$1,000 for a year of service. This stipend shall be disbursed to the school district or nonpublic school employing the resource teacher on a biannual basis corresponding to the semester in which mentoring occurred. If the school or school district where the internship takes place fails to submit time sheets by the date stipulated in Section (6)(1) of this administrative regulation, the Education Professional Standards Board reserves the right to refuse payment of the stipend. The stipend may be prorated if the required number of hours are not performed and documented in legitimate and appropriate pursuit of successful completion of the internship pursuant to the requirements of Section (5)(2) of this administrative regulation. [In recognition of service outside the normal working hours, a stipend not to exceed \$1,000 for a year of service shall be paid to the resource teacher. Any services for less than one (1) year or for less than the required number of hours outside the normal working hours shall be reimbursed on a pro-rata basis for the actual services performed.] The contract with

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local school districts shall also provide for the employment of substitute teachers to provide at least twenty (20) clock hours of released time for the resource teacher to observe and assist the intern teacher during normal working hours.]

Section 8. Appeals. (1) Appeals [7-Complaints-(1) Complaints] by teacher interns shall be reviewed by a committee of four (4) persons named on an annual basis by the Education Professional Standards Board. The appeals [review] committee shall include one (1) teacher, one (1) principal, one (1) teacher educator, and be facilitated by the Executive Secretary of the Education Professional Standards Board, or his designee [one (1) employee of the Office of Teacher Education and Certification]. An [No] appeals committee member shall not take part in a [any] decision in which the member has an interest or is biased.

(2) The teacher intern shall file the appeal within thirty (30) calendar days of written notice of failure of the internship.

(3)(a) The appeals committee shall review the written appeal [complaint] by the teacher intern, all beginning teacher [intern] committee reports and additional documentation, and other written information requested by the appeals committee.

(b) The appeals committee may request verbal testimony from the teacher intern [appellee], or his designee, and a member of the beginning teacher [intern] committee, or its designee.

(c) To the extent necessary for the full disclosure of all relevant facts and issues, the appeals committee shall afford all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence. Its decision shall be based upon demonstration [limited to written information] of compliance with the following [procedural] requirements:

1. [(a)] Evidence of the teacher intern's ability to meet the requirements of the New Teacher Standards;

2. [(b)] Appropriate documentation of at least twenty (20) hours in the instructional setting and fifty (50) hours outside normal working hours spent by the resource teacher in assisting the teacher intern;

3. [(c)] [(b)] Assignment of intern committee members in accordance with legal requirements;

4. [(d)] [(c)-Compliance with] Specified procedures for the timing, content, reporting, and signing of classroom observation forms, intern committee meeting forms, and time forms; and

5. [(e)] [(d)-Substantial] Agreement between classroom observation reports, professional growth [development] plans, intern committee meeting reports, and the final decision of the committee [on satisfactory completion of the internship, with particular emphasis on correlations between the third and fourth meetings of the intern committee].

(4) [(3)] At least three (3) members of the appeals committee shall be present, or have reviewed all materials and provided a written opinion on the appeal [complaint], in order for a decision to be made.

(5) [(4)] The committee shall make a recommendation to the Education Professional Standards Board [decision] on the appeal [complaint] within sixty (60) days following the receipt of the [such] appeal [complaint], unless good cause exists for additional time. The Education Professional Standards Board shall issue a final decision in each appeal reviewed by the appeals committee. The Education Professional Standards Board may consider the appeals committee recommendation and the records reviewed by the appeals committee in issuing its decision.

(6) [(5)] If the decision of ["unsuccessful" by] the beginning teacher [an intern] committee is not upheld, the Office of Teacher Education and Certification shall issue the appropriate certificate to the teacher intern.

(7) [(6)] If the decision of ["unsuccessful" by] the beginning teacher [an intern] committee is upheld, the Office of Teacher Education and Certification shall issue the statement of eligibility for Internship, unless the teacher intern has exhausted the two (2) year provision for participation in the Kentucky Teacher Internship Program or the period of validity of the statement of eligibility has expired.

(8) A decision entered under this section of this administrative regulation shall be a final order of the Education Professional Standards Board. An appeal from a final order [of the Education Professional Standards Board issued under this section of this administrative regulation] shall be filed in Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 9. A teacher intern who has not successfully completed the internship and has exhausted the two (2) year provision for participation in the Kentucky Teacher Internship Program shall not be eligible for a Kentucky teaching certificate under this administrative regulation.

Section 10. [8:] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Guiding and Assessing Teacher Effectiveness: A Handbook for Kentucky Teacher Internship Program Participants," June 2000 [1998] edition; and

(b) Statement of Eligibility/Confirmation of Employment form, reviewed June 1999 [is incorporated by reference].

(2) This material [Copies of the Handbook] may be inspected, copied, or obtained at the Division of Testing and Internship, Office of Teacher Education and Certification, Kentucky Department of Education, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

TIM DEDMAN, Chair

ALLISON C. WEBER, Division of Legal Services

APPROVED BY AGENCY: October 15, 1999

FILED WITH LRC: October 15, 1999 at noon

PUBLIC PROTECTION AND REGULATION CABINET Department of Financial Institutions (As Amended at ARRS, January 13, 2000)

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

RELATES TO: KRS 292.410(1)(q) [(i)], 292.420(3), 17 CFR 230.501

STATUTORY AUTHORITY: KRS 292.410(1)(q), 292.500(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the commissioner to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.410(1)(q) authorizes the commissioner to grant exemptions for any transaction which the commissioner by rule or order finds registration is not necessary or appropriate in the public interest or for the protection of investors. [KRS 292.410(1)(i)5 authorizes the commissioner to deny or expand the exemption created for a limited offering made exclusively to an accredited investor.] This administrative regulation establishes the [additional] requirements for claiming the registration exemption for a limited offering made exclusively to an accredited investor [and prohibits certain issues from relying on the exemption. The administrative regulation is intended to facilitate the communication of offering information to an accredited investor over electronic media such as the Internet].

Section 1. Definition. [Definitions:] "Accredited investor" is defined in 17 CFR 230.501(a) [which is adopted without change in Section 3 of this administrative regulation].

Section 2. An offer or sale of a security by an issuer in a transaction that meets the requirements established in [KRS 292.410(1)(i) and] this administrative regulation shall be exempt from KRS 292.340 through 292.390.

(1) To qualify for this exemption, the sale of a security shall be made exclusively to a person who is an accredited investor. [:

(a) ~~is an accredited investor pursuant to KRS 292.410(1)(i)3b and 17 CFR 230.501(a); or~~

(b) ~~is reasonably believed by the issuer to be an accredited investor pursuant to KRS 292.410(1)(i)3b and 17 CFR 230.501(a);]~~

(2) The exemption shall not be available to an issuer that:

(a) Issues interests in an oil, gas, or mineral enterprise; or

(b) 1. Is in the development stage; and

2.a. Has no specific business plan or purpose; or

b. Has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

(3) The issuer shall reasonably believe that each purchaser is purchasing for investment and not with a view to or for sale in connec-

tion with a distribution of the security.

(a) A resale of a security sold in reliance on this exemption within twelve (12) months of sale, except a resale to an accredited investor or pursuant to a registration statement effective under KRS 292.340 through 292.390, shall be presumed to be with a view to distribution and not for investment.

(b) If resold, a security issued under this exemption shall be resold pursuant to registration or an exemption under KRS Chapter 292.

(4)(a) Except as provided in paragraph (b) of this subsection, this exemption shall not be available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of ten (10) percent or more of any class of its equity securities, any of the issuer's promoters, promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director or officer of the underwriter:

1. Within the last five (5) years, has filed a registration statement which is the subject of a currently effective registration stop order entered by a state securities administrator or the United States Securities and Exchange Commission;

2. Within the last five (5) years, has been convicted of a criminal offense in connection with the offer, purchase or sale of a security, or involving fraud or deceit;

3. Is currently subject to a state or federal administrative enforcement order or judgment, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of a security; or

4. Is currently subject to an order, judgment or decree of a court of competent jurisdiction, entered within the last five years, temporarily, preliminarily or permanently restraining or enjoining the party from engaging in or continuing to engage in a conduct or practice involving fraud or deceit in connection with the purchase or sale of a security.

(b) Paragraph (a) of this subsection shall not apply if:

1. The party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment or decree creating the disqualification was entered against the party; or

2. Before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification.

(5)(a) The issuer may make a general announcement of the proposed offering through the use of electronic media or other means of communication [by any means].

(b) The general announcement shall [may] state only the following information, unless the commissioner determines that additional information is in the public interest: [A general announcement of the proposed offering may:

(a) Be made in a manner selected by the issuer; and

(b) State the following information unless the commissioner determines that additional information is in the public interest:]

1. The name, address and telephone number of the issuer of the securities;

2. The name, a brief description and price (if known) of the security to be issued;

3. A brief description of the business of the issuer in twenty-five (25) words or less;

4. The type, number and aggregate amount of securities being offered;

5. The name, address and telephone number of the person to contact for additional information; and

6. A statement that:

a. A sale shall exclusively be made to an accredited investor;

b. Money or other consideration shall not be solicited or accepted; and

c. The security:

(i) Has not been registered with or approved by a state securities agency or the United States Securities and Exchange Commission; and

(ii) Is being offered and sold pursuant to an exemption from registration.

(6) The issuer, in connection with an offer, may provide information in addition to the general announcement under subsection (5) of this section, if the information:

(a) Is delivered through an electronic database that is restricted to persons who have been prequalified as accredited investors; or

(b) Is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.

(7) A telephone solicitation shall not be made unless prior to placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.

(8) Dissemination of the general announcement of the proposed offering to a person who is not an accredited investor shall not disqualify the issuer from claiming the exemption under this administrative regulation.

(9) Within fifteen (15) days after the first sale in this state, the issuer shall file with the commissioner:

(a) A notice transaction;

(b) A consent to service of process;

(c) A copy of the general announcement; and

(d) A fee in the amount of \$250 as required by KRS 292.420(3).

Section 3. Adoption Without Change. 17 CFR 230.501(a), as effective April 19, 1989, is adopted without change.

(2) This federal regulation may be inspected, copied, or obtained from the Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [(April 25, 1996).]

RONALD MCCLOUD, Secretary

ELLA D. ROBINSON, Deputy Commissioner

COLLEEN KEEFE, Attorney

APPROVED BY AGENCY: October 11, 1999

FILED WITH LRC: October 21, 1999 at 8 a.m.

CABINET FOR HEALTH SERVICES

Department for Public Health

Division of Adult and Child Health

(As Amended at ARRS, January 13, 2000)

902 KAR 55:020. Schedule II substances.

RELATES TO: KRS 218A.010 to 218A.030, 218A.060 to 218A.070, 21 CFR 1308.12

STATUTORY AUTHORITY: KRS ~~[194A.030, 194A.050;]~~ ~~[194.050;]~~ ~~[211.090, 218A.020;]~~ 218A.060 ~~[-218A.250]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.020 authorizes the Cabinet for Health Services [Human Resources] to add, [substances to or] delete, or reschedule substances enumerated in KRS Chapter 218A. [After considering the criteria set forth in KRS 218A.020 and 218A.060;] This administrative regulation [The Cabinet for Health Services] [Human Resources] designates [the substances set forth in this administrative regulation as] Schedule II controlled substances.

Section 1. Depressants. (1) Except as provided in subsection (2) [(5)] of this section, the Cabinet for Health Services [Human Resources] designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070, a [any] material, compound, mixture, or preparation which contains a [any] quantity of the following substances:

(a) [(1)] Amobarbital;

(b) [(2)] Glutethimide;

(c) [(3)] Pentobarbital; and

(d) [(4)] Secobarbital.

(2) A [(5)-Any] suppository dosage form containing amobarbital, secobarbital, or [and] pentobarbital or any of their salts, which has been approved by the United States Food and Drug Administration for marketing only as a suppository, shall be in ["]Schedule III.["]

Section 2. Immediate Precursors. The Cabinet for Health Services [Human Resources] designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070, a [any] material, compound, mixture, or preparation which contains a [any] quantity of the following substances:

(1) Immediate precursors to amphetamine and methamphetamine and substances:

(a) Phenyl-2-propanone;

(b) P2P;

- (c) **Benzyl methyl ketone; and**
 (d) **Methyl benzyl ketone; and** [1-Phenylcyclohexylamine, immediate precursor to Phencyclidine;]
 (2) **Immediate precursors to phencyclidine:**
 (a) **1-phenylcyclohexylamine; and**
 (b) **1-piperidinocyclohexanecarbonitrile, also known as PCC.** [Phenylacetone (some trade or other names include: phenyl-2-propanone, P2P, benzyl methyl ketone, and methyl benzyl ketone; immediate precursors to amphetamine and methamphetamine); and
 (3) **1-Piperidinocyclohexanecarbonitrile, immediate precursor to Phencyclidine.]**

Section 3. Hallucinogenic Substances. The Cabinet for Health Services [Human Resources] designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070, a [any] [and] material, compound, mixture, or preparation which contains a [any] quantity of the following substances: [(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product. (Some other names for dronabinol: (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo-[b, d]-pyran-1-one or (-)-delta-9-(trans)-tetrahydrocannabinol.)

(2) Nabilone, also known as [-(Another name for nabilone:)] (plus or minus) - trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one[]].

Section 4. Opium and Derivatives. The Cabinet for Health Services [Human Resources] designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070, [any of the following] opium and opiates, and a [any] salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmeferene, naloxone, and naltrexone, and their respective salts, but including the following:

- (1) Raw opium;
- (2) Opium extracts;
- (3) Opium fluid;
- (4) Powdered opium;
- (5) Granulated opium;
- (6) Tincture of opium;
- (7) Codeine;
- (8) Ethylmorphine;
- (9) Etorphine hydrochloride;
- (10) Hydrocodone;
- (11) Hydromorphone;
- (12) Metopon;
- (13) Morphine;
- (14) Oxycodone;
- (15) Oxymorphone; and
- (16) Thebaine.

Section 5. Opiates. The Cabinet for Health Services [Human Resources] designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070, [any of] the following opiates, including their [its] isomers, esters, ethers, salts and salts of isomers, esters, and ethers if [whenever] the existence of such isomers, esters, ethers, or [and] salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

- (1) Alfentanil;
- (2) Bulk dextropropoxyphene, in [{}nondosage forms{}];
- (3) Carfentanil;
- (4) Levo-alphaacetylmethadol (LAAM); and
- (5) Remifentanil; and
- (6) Sufentanil.

RICE C. LEACH, M.D., Commissioner
 JOHN H. WALKER, Attorney
 JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: November 1, 1999
 FILED WITH LRC: November 12, 1999 at 10 a.m.

CABINET FOR HEALTH SERVICES
 Department for Public Health
 Division of Adult and Child Health
 (As Amended at ARRS, January 13, 2000)

902 KAR 55:025. Schedule III substances.

RELATES TO: KRS 218A.010 to 218A.030, 218A.080 to 218A.090, 21 CFR 1308.13

STATUTORY AUTHORITY: KRS [194A.030, 194A.050, 194A.050, 211.090,] 218A.020, 218A.080, 218A.250]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.020 authorizes the Cabinet for Health Services [Human Resources] to add, [substances to or] delete, or reschedule substances enumerated in KRS Chapter 218A. [After considering the criteria set forth in KRS 218A.020 and 218A.080,] This administrative regulation [The Cabinet for Health Services] [Human Resources] designates [the substances set forth in this administrative regulation as] Schedule III controlled substances.

Section 1. Amphetamine and Methamphetamine Combination Products. The Cabinet for Health Services [Human Resources] designates the following amphetamine and methamphetamine combination products as ["]Schedule III Controlled Substances["]:

- (1) A [Mediatric;] tablet or capsule containing:
 (a) Methamphetamine hydrochloride 1 mg.;
 (b) Conjugated estrogens-equine 0.25 mg.; and
 (c) Methyl testosterone 2.5 mg; and
 (2) A liquid containing, in each 15 cc:
 (a) [Mediatric Liquid; Solution (15 cc.);] Methamphetamine hydrochloride 1 mg.;
 (b) Conjugated estrogens-equine 0.25 mg.; and
 (c) Methyl testosterone 2.5 mg.

Section 2. Stimulants. The Cabinet for Health Services [Human Resources] designates as ["]Schedule III["] controlled substances a [any] material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers (whether optical position or geometric), and salts of those [such] isomers if the existence of the [such] salts, isomers or [and] salts of isomers is possible within the specific chemical designation:

- (1) Benzphetamine;
- (2) Chlorphentermine;
- (3) Chlortermine; and
- (4) Phendimetrazine.

Section 3. Depressants. The Cabinet for Health Services [Human Resources] designates as ["]Schedule III["] controlled substances the following:

(1) A [Any] material, compound, mixture, or preparation containing amobarbital, secobarbital, or pentobarbital, or any of their salts, and at least one (1) [or more] other active medicinal ingredient [ingredients] which is not a controlled substance;

(2) A [Any] suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any of their salts, which has been approved by the United States Food and Drug Administration for marketing only as a suppository;

(3) Ketamine, its salts, isomers, and salts of isomers. Ketamine is also known as [Some other names for ketamine:] (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone; and

(4) Tiletamine and zolazepam or any of their salts.

(a) Tiletamine is also known as [Trade or other names for tiletamine:] 2-(ethylamino)-2-(2-thienyl)-cyclohexanone.

(b) [Trade or other names for] Zolazepam is also known as 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e) (1,4)-dizepin-7(1H)one, flupyzapon.

Section 4. Pentazocine Drug Products. The Cabinet for Health Services [Human Resources] designates, in addition to the parenteral or injectable form of Pentazocine which is designated as a ["]Schedule III["] controlled substance by KRS 218A.090(3), a [any] material, compound, mixture, or preparation which contains a [any] quantity of Pentazocine, including its salts.

Section 5. Anabolic Steroids. The Cabinet for Health Services [Human Resources] designates as ["]Schedule III Controlled Substances["], in addition to those listed in KRS 218.090(5), a [any] material, compound, mixture, or preparation which contains a [any] quantity of the following substances, including its salts, isomers, and salts of isomers, if the existence of [such] salts of isomers is possible within the specific chemical designation:

- (1) Chlorotestosterone;
- (2) Dihydrotestosterone; and
- (3) Methandranone.

Section 6. Hallucinogenic Substances. The Cabinet for Health Services designates as Schedule III controlled substances, in addition to those listed in KRS 218A.090, a [any] material, compound, mixture, or preparation which contains a [any] quantity of [the following substances:] dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved product. Dronabinol is also known as:

- (a) [Some other names for dronabinol:] (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo [b, d] pyran-1-ol; or
- (b) (-)-delta-9-(trans)-tetrahydrocannabinol.

RICE C. LEACH, M.D., Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: November 1, 1999

FILED WITH LRC: November 12, 1999 at 10 a.m.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(As Amended at ARRS, January 13, 2000)

907 KAR 1:011. Technical eligibility requirements.

RELATES TO: KRS 205.520, 341.360, 42 CFR 435, 403, 45 CFR 233.100, 8 USC 1101, 1153(a)(7), 1157, 1158, 1182(d)(5), 1231(b)(3), 1253(h), 1522, 1612, 1613, 1622, 1641, 38 USC 101, 107, 1101, 1301, 1304, 5303A, 42 USC 402, 416, 423, 1382c, 1383c, 1395i, 1396a

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520, 205.6481-205.6497, 42 USC 1397aa [1998-Ky-Acts-ch. 426, sec. 4(9)]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the technical eligibility requirements of the Medicaid Program.

Section 1. Definitions. (1) "Child" means a [dependent] person who:

- a. 1.a. Is under the age of eighteen (18); or
- b. 2. Is under age nineteen (19) if the person is:
 - (i) [a:] A full-time student in a secondary school or the equivalent level of vocational or technical training; and
 - (ii) [b:] Expected to complete the program before age nineteen (19);
2. [(b)] Is not self-supporting;
3. [(c)] Is not a member of the Armed Forces of the United States; and
4. [(d)] If previously emancipated by marriage, has returned to the home of his parents, or to the home of another relative; or
- (b) [(e)] Has not attained nineteen (19) years of age as specified in 42 USC 1396(l)(1).

(2) "Kentucky Transitional Assistance Program (K-TAP)" means Kentucky's version of the federal block grant program of Temporary Assistance for Needy Families (TANF) [Program], a money payment program for children who are deprived of parental support or care due to:

- (a) Death;
- (b) Continued voluntary or involuntary absence;
- (c) Physical or mental incapacity of one (1) parent or step-parent if two (2) parents are in the home; or
- (d) Unemployment of one (1) parent if both parents are in the home.
- (3) "Minor teenage parent" means an individual who:
 - (a) Has not attained eighteen (18) years of age;
 - (b) Is not married; and
 - (c) Has a minor child in his care.
- (4) "Qualified alien" means an alien who, at the time the alien applies for or receives Medicaid, meets the requirements established in Section 5(12) of this administrative regulation. [is:
 - (a) Lawfully admitted for permanent residence pursuant to 8 USC 1101;
 - (b) Granted asylum pursuant to 8 USC 1158;
 - (c) A refugee admitted to the United States pursuant to 8 USC 1157;
 - (d) Paroled into the United States pursuant to 8 USC 1182(d)(5) for a period of at least one (1) year;
 - (e) An alien whose deportation is being withheld pursuant to:
 1. 8 USC 1253(h), as in effect prior to April 1, 1997; or
 2. 8 USC 1231(b)(3);
 - (f) Granted conditional entry pursuant to 8 USC 1153(a)(7) as in effect prior to April 1, 1980;
 - (g) An alien who is granted status as a Cuban and Haitian entrant pursuant to 8 USC 1522;
 - (h) A battered alien pursuant to 8 USC 1641(c);
 - (i) A veteran pursuant to 38 USC 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;
 - (j) On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements established in 38 USC 5303A(d);
 - (k) The spouse or unmarried dependent child of an individual described in subsection (4)(i) or (j) of this section or the unmarried surviving spouse of an individual described in subsection (4)(i) or (j) of this section if the marriage fulfills the requirements established in 38 USC 1304; or
 - (l) An Amerasian immigrant pursuant to 8 USC 1101.] [is defined in 8 USC 1641(a) through (c).]
- (5) "Veteran" is defined in [by] 38 USC 101(2).

Section 2. The Categorically Needy. An individual receiving Title IV-E benefits, Supplemental Security Income, Optional or Mandatory State Supplementation shall be eligible for Medicaid as a categorically needy individual. In addition, the following classifications of needy persons shall be included in the program as categorically needy and thus eligible for Medicaid participation.

- (1) A child in a foster family care or private nonprofit child caring institution dependent in whole or in part on a governmental or private agency;
- (2) A child in a psychiatric hospital, psychiatric residential treatment facility, or medical institution for the mentally retarded;
- (3) A pregnant woman;
- (4) A child of unemployed parents;
- (5) A child in a subsidized adoption dependent in whole or in part on a governmental agency;
- (6) A family which correctly received Medicaid for three (3) of the last six (6) calendar months and would have been terminated from receipt of AFDC using AFDC methodologies in effect on July 16, 1996 as a result of new or increased collection of child or spousal support shall be eligible for extended Medicaid coverage for four (4) consecutive calendar months beginning with the first month the family would have been ineligible for AFDC;
- (7) A family which would have been terminated from AFDC assistance using the AFDC methodologies in effect on July 16, 1996 because of increased earnings, hours of employment or loss of earnings disregards;
 - (8) A child (but not his parents) who:
 - (a) Would have been financially eligible for Aid to Families with Dependent Children benefits using the AFDC methodologies in effect on July 16, 1996; and
 - (b) Meets the definition of Section 1(1) of this administrative regu-

lation;

(9) A child born to a woman eligible for and receiving Medicaid shall be eligible for Medicaid as of the date of his birth if:

(a) The child:

1. Has not reached his first birthday; and
2. Resides in the household of the woman; and

(b) The woman remains (or would remain if pregnant) eligible for the assistance;

(10)(a) Except as provided in paragraph (c) of this subsection, an individual in an institution meeting appropriate patient status criteria who (if not institutionalized) would not be eligible for supplemental security income (SSI) or optional state supplementation benefits due to income shall be eligible under a special income level which is set at 300 percent of the SSI benefit amount payable for an individual with no income.

(b) Except as provided in paragraph (c) of this subsection, eligibility for a similar hospice participant or similar participant in a waiver project of home and community based services for the mentally retarded or the aged, blind or disabled shall be determined using the method established in paragraph (a) of this subsection.

(c) Eligibility of an institutionalized individual meeting appropriate patient status criteria whose gross income exceeds 300 percent of the [previously specified] SSI benefit amount shall [not] be determined by comparing the cost of the individual's care to the individual's income [in accordance with this subsection];

(11) A qualified severely impaired individual as specified in 42 USC 1396a(a)(10)(A)(i)(II) and 1396d (to the extent the coverage is mandatory in this state);

(12) An individual who loses SSI eligibility but would be eligible for SSI benefits except for entitlement to or an increase in child's insurance benefits based on disability as specified in 42 USC 1383c;

(13) An individual specified in 42 USC 1383c who:

(a) Loses SSI or state supplementation payments as a result of receipt of benefits pursuant to [under] 42 USC 402(e) or (f);

(b) Would be eligible for SSI or SSP except for these benefits; and

(c) Is not entitled to hospital insurance benefits under the Medicare program;

(14) A woman during pregnancy (and as though pregnant through the end of the month containing the 60th day of a period beginning on the last day of pregnancy) or a child under six (6) years of age, as specified in 42 USC 1396a(l)(1), shall [be required to] meet the income requirements for this eligibility group as specified in 907 KAR 1:640;

(15) If an eligible child is receiving covered inpatient services on a birthday which will make him ineligible due to age, the child shall remain eligible until the end of the stay for which the covered inpatient services are furnished if the child remains otherwise eligible except for age;

(16) Applicable with regard to a determination of eligibility for a period beginning on or after July 1, 1991, a child born after September 30, 1983, who has attained six (6) years of age but has not attained nineteen (19) years of age as specified in 42 USC 1396a(l)(1) shall meet income requirements established in 907 KAR 1:640, Section 2(2)(c);

(17) Applicable with regard to a determination of eligibility for a period beginning on or after July 1, 1998, if federal Medicaid matching funds are available to cover the costs of the program, a child born on or before September 30, 1983 who has not attained the age of nineteen (19) years as specified in 42 USC 1396a(l)(1) shall meet the income requirements established in 907 KAR 1:640, Section 2(2)(f);

(18) Applicable with regard to a determination of eligibility for a period beginning on or after July 1, 1999, if federal Medicaid matching funds are available to cover the costs of the program, an optional targeted low-income child as established in 907 KAR 4:020, Section 2(1) who has not attained the age of nineteen (19) years as specified in 42 USC 1396a(l)(1) shall meet the income requirements established in 907 KAR 1:640, Section 2(2)(g);

(19) Applicable with regard to a determination of eligibility for a period beginning on or after January 1, 1991, a disabled widow, widower or disabled surviving divorced spouse, who would be eligible for SSI except for entitlement to an old-age, survivors, or disability insurance (OASDI) benefit resulting from a change in the definition of disability;

(20) ~~[(19)]~~ A child who:

(a) Was receiving supplemental security income on August 22,

1996; and

(b) Except for the change in definition of childhood disability would continue to receive supplemental security income; or

~~(21) [(20)] A person with hemophilia who would be eligible for supplemental security income except he received a settlement in a class action lawsuit entitled "Factor VIII or IX Concentrate Blood Products Litigation".~~

Section 3. The Medically Needy. (1) An individual ~~[(including a child pursuant to Section 2(8) of this administrative regulation)]~~ or a pregnant woman who has sufficient income to meet his basic maintenance needs may apply for Medicaid with need determined in accordance with the income and resource standards established in 907 KAR 1:640 through 907 KAR 1:665 if he meets:

(a) ~~[meeting]~~ The income and resource standards of the medically needy program established in 907 KAR 1:640 and 907 KAR 1:645; and

~~(b) The [meeting] technical requirements of the appropriate [comparable to the] categorically needy group identified in Section 2 of this administrative regulation, [who has sufficient income to meet his basic maintenance needs may apply for Medicaid with need determined in accordance with the income and resource standards established in 907 KAR 1:640 through 907 KAR 1:665.]~~

(2) The medically needy eligible groups shall include:

(a) ~~[(1)]~~ A pregnant woman during the course of her pregnancy; and

~~(b) [(2)]~~ A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance, shall continue to be eligible as though she were pregnant until the end of the month containing the 60th day of a period beginning on the last day of her pregnancy (i.e., the day on which her child is born or the pregnancy is otherwise terminated).

Section 4. Qualified Medicare Beneficiaries, Qualified Disabled Working Individuals, Specified Low-Income Medicare Beneficiaries and Medicare Qualified Individuals (QI). (1) Coverage shall be extended to a qualified Medicare beneficiary as specified in 42 USC 1396a(a)(10)(E), subject to the income as shown in 907 KAR 1:640, and resource limitations shown in 907 KAR 1:645, and for the scope of benefits specified in 907 KAR 1:006. A qualified Medicare beneficiary shall:

(a) Be eligible for and receiving Medicare Part A benefits;

(b) Be determined eligible for benefits as a qualified Medicare beneficiary eligible individual effective for the month after the month in which the determination is made; and

(c) Not be eligible for benefits as a qualified Medicare beneficiary eligible individual:

1. Retroactively; or

2. For the month in which the determination was made.

(2) A qualified disabled working individual as defined in 42 USC 1396d(s) shall be eligible under Medicaid for payment of his Medicare Part A premiums as established [shown] in 907 KAR 1:006.

(3) A specified low-income Medicare beneficiary as defined in 42 USC 1396a(a)(10)(E)(iii) shall be eligible under Medicaid for payment of the Medicare Part B premiums.

(4) A Medicare qualified individual group 1 (QI-1) as established in 42 USC 1396a(a)(10)(E)(iv)(I) shall be eligible for payment of all of the Medicare Part B premium.

(5) A Medicare qualified individual group 2 (QI-2) as established in 42 USC 1396a(a)(10)(e)(iv)(II) shall be eligible for payment of that portion of the Medicare Part B premium attributable to home health costs.

Section 5. Technical Eligibility Requirements. The technical eligibility factors for a family or individual included as categorically needy under Section 2 of this administrative regulation or as medically needy under Section 3 of this administrative regulation shall be:

(1) A child in foster care, a private institution, psychiatric hospital, psychiatric residential treatment facility, or mental retardation institution shall meet the definition in ~~[of]~~ Section 1(1) of this administrative regulation;

(2) Except as provided by Section 2 of this administrative regulation, a pregnant woman shall be eligible upon medical proof of pregnancy;

(3) At the time of application unemployment relating to eligibility of both parents and children shall be determined using the following criteria [include]:

(a) 1. Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if:

a. [1:] The work is intermittent; and

b. [2:] The excess is of a temporary nature as evidenced by the fact that the individual:

(i) [a:] Was under the 100 hour standard for the prior two (2) months; and

(ii) [b:] Is expected to be under the standard during the next month; [or]

2. [(b)] [The individual:

1. Has prior labor market attachment consisting of earned income of at least fifty (50) dollars during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application; or

2.] Within twelve (12) months prior to application a parent received unemployment compensation; or

3. [(c)] A parent [The individual] is [currently] receiving or has been found ineligible for unemployment compensation; and

(b) [(d)] A [The individual is currently registered for employment at the state employment office, and available for full-time employment;

(e) The unemployed parent shall not have refused suitable employment without good cause as determined in accordance with 45 CFR 233.100(a)(3)(ii);

(4) Subsection (3)(a) of this section shall not apply if [when] a change is made in a Medicaid case or if [when] a case is recertified; [Pursuant to subsection (3) of this section, a parent shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work if it is anticipated he shall return to work within thirty (30) days;

(b) On strike, or unemployed as a result of involvement in a labor dispute if the involvement would disqualify the individual from eligibility for unemployment insurance in accordance with KRS 341.360;

(c) Unemployed because he voluntarily quit his most recent work for the purpose of attending school;

(d) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(e) Self-employed and not available for full-time employment.;

(5) An aged individual shall be at least sixty-five (65) years of age;

(6) A blind individual shall meet the definition of blindness as contained in 42 USC 416 and 42 USC 1382c relating to retirement, survivors, and disability insurance (RSDI) or supplemental security income (SSI);

(7) A disabled individual shall meet the definition of permanent and total disability as contained in 42 USC 423(d) and 42 USC 1382c(a)(3) relating to RSDI and SSI;

(8) Using AFDC methodologies in effect on July 16, 1996, a family who loses Medicaid eligibility solely because of increased earnings or hours of employment of the caretaker relative or loss of earnings disregards may receive up to twelve (12) months of extended medical assistance for family members included in the medical assistance unit prior to losing Medicaid eligibility. The extended medical assistance shall be divided into two (2) transitional six (6) month benefit periods. The family shall meet the eligibility and reporting requirements for each transitional benefit period established in this subsection.

(a) The first transitional six (6) month benefit period begins [shall begin] with the month the family would have become ineligible for AFDC using AFDC methodologies in effect on July 16, 1996.

1. To be eligible for this transitional benefit period, the family shall:

a. Have correctly received Medicaid assistance in three (3) of the six (6) months immediately preceding the month the family would have become ineligible for AFDC using AFDC methodologies in effect on July 16, 1996;

b. Have a dependent child living in the home; and

c. Meet the reporting requirements relating to earnings and child care costs no later than the 21st day of the fourth month.

2. If the family no longer has a dependent child living in the home, medical assistance shall be terminated the last day of the month the family no longer includes a dependent child.

3. If the reporting requirements are not met, the Medicaid benefits

shall be denied for the second transitional six (6) month benefit period.

(b) 1. To continue to receive Medicaid for the optional second transitional six (6) month benefit period, the family shall meet the following conditions:

a. Received medical assistance for the entire first transitional six (6) month period and met the reporting requirements;

b. Have a dependent child living in the home;

c. Gross income minus child care cost shall be less than 185 percent of the federal poverty income level;

d. The reporting requirements shall have been met no later than the 21st day of the fourth month, the seventh month, and the tenth month; and

e. During the immediately preceding three (3) months, the caretaker relative shall have been:

(i) Employed; or

(ii) If unemployed in one (1) or more months, unemployed due to involuntary loss of employment, illness or other good cause established to the satisfaction of the Medicaid program.

2. If a family no longer has a dependent child living in the home, Medicaid shall be terminated the last day of the month the family no longer includes a dependent child.

3. If the family's income exceeds the income standard or the family does not meet the reporting requirements, except for good cause established to the satisfaction of the Medicaid program, the medical assistance shall be terminated the last day of the appropriate reporting month.

(c) Good cause shall exist under the following circumstances:

1. The specified relative was out-of-town for the reporting month;

2. An immediate family member living in the home was institutionalized or died during the reporting month;

3. The assistance group was the victim of a natural disaster including a flood, storm, earthquake or serious fire; or

4. The assistance group moved and reported the move timely, but the move resulted in a delay in receiving or failure to receive the transitional medical assistance report form;

(9) A parent, including a natural or adoptive parent, may be included for assistance in the case of a family with a child.

(a) If a parent is not included in the case, one (1) other caretaker relative may be included to the same extent he would have been eligible in the Aid to Families with Dependent Children Program using the AFDC methodology in effect on July 16, 1996.

(b) A caretaker relative shall include:

1. Grandfather;

2. Grandmother;

3. Brother;

4. Sister;

5. Uncle;

6. Aunt;

7. Nephew;

8. Niece;

9. First cousin;

10. First cousin once removed;

11. A relative of the half-blood;

12. A preceding generation denoted by a prefix of:

a. Grand;

b. Great;

c. Great-great; [or]

d. Great-great-great; or

13. A stepfather, stepmother, stepbrother, stepsister; stepgrandmother, or stepgrandfather;

(10) An applicant who is deceased shall have eligibility determined in the same manner as if he were alive, in order to pay medical bills during the terminal illness;

(11) Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member. If a family member is pregnant, the unborn child shall be considered as a family member for budgeting purposes;

(12) The following citizenship and residency requirements shall be applicable:

(a) To be eligible for Medicaid, an applicant or recipient shall be:

1.a. A citizen of the United States; [or]

b. Except as provided in paragraph (b) of this subsection, a qualified alien [as defined in Section 1(4) of this administrative regulation]

who entered the United States before August 22, 1996 and is:

(i) Lawfully admitted for permanent residence pursuant to 8 USC 1101;

(ii) Granted asylum pursuant to 8 USC 1158;

(iii) A refugee admitted to the United States pursuant to 8 USC 1157;

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

(v) An alien whose deportation is being withheld pursuant to 8 USC 1253(h), as in effect prior to April 1, 1997, or 8 USC 1231(b)(3);

(vi) Granted conditional entry pursuant to 8 USC 1153(a)(7), as in effect prior to April 1, 1980;

(vii) An alien who is granted status as a Cuban and Haitian entrant pursuant to 8 USC 1522;

(viii) A battered alien pursuant to 8 USC 1641(c);

(ix) A veteran pursuant to 38 USC 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;

(x) On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements established in 38 USC 5303A(d);

(xi) The spouse or unmarried dependent child of an individual described in subclause (ix) or (x) of this clause or the unremarried surviving spouse of an individual described in subclause (ix) or (x) of this clause if the marriage fulfills the requirements established in 38 USC 1304; or

(xii) An Amerasian immigrant pursuant to 8 USC 1612(a)(2)(A)(v); or

c. A qualified alien who entered the United States on or after August 22, 1996 and is:

(i) Granted asylum pursuant to 8 USC 1158;

(ii) A refugee admitted to the United States pursuant to 8 USC 1157;

(iii) An alien whose deportation is being withheld pursuant to 8 USC 1253(h) as in effect prior to April 1, 1997 or 8 USC 1231(b)(3);

(iv) An alien who is granted status as a Cuban and Haitian entrant pursuant to 8 USC 1522;

(v) A veteran pursuant to 38 USC 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;

(vi) On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements established in 38 USC 5303A(d);

(vii) The spouse or unmarried dependent child of an individual described in subclause (v) or (vi) of this clause or the unremarried surviving spouse of an individual described in subclause (v) or (vi) of this clause if the marriage fulfills the requirements established in 38 USC 1304;

(viii) An Amerasian immigrant pursuant to 8 USC 1612(a)(2)(A)(v) [1101]; or

(ix) An individual lawfully admitted for permanent residence pursuant to 8 USC 1101 who has earned forty (40) quarters of Social Security coverage [admitted for permanent residence]; and

2. A resident of Kentucky meeting the conditions for determining state residency under 42 CFR 435.403.

(b) A qualified or nonqualified alien shall be eligible for medical assistance under the following circumstances and conditions:

1. The alien shall [Except as provided in subparagraph 2 of this paragraph, an alien shall meet all requirements for receipt of Medicaid.

2. An alien who does not receive a K-TAP or federal supplemental security income (SSI) cash payment shall:

a. be qualified as a categorically needy recipient; and

2. The alien shall [b.] meet the income, resource and categorical requirements of the Medicaid [applicable cash assistance] Program;

3. The alien shall have (or have had within at least one (1) of the three (3) months prior to the month of application) an emergency medical condition not related to an organ transplant procedure, **which shall be [defined as] a medical condition (including severe pain) in which the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part;**

4. Approval of eligibility shall be for a time limited period, with that period to include the month in which the medical emergency began and the next following month, with the added provision that the eligibility period shall be extended for an appropriate period of time upon presentation to the department of written documentation from the medical provider that the medical emergency will exist for a more extended period of time than is allowed for in the time limited eligibility period; and

5. The Medicaid benefits to which the alien shall be entitled is limited to the medical care and services (including limited follow-up) necessary for the treatment of the emergency medical condition of the alien;

(13) An individual shall be determined eligible for Medicaid for up to three (3) months prior to the month of application if all conditions of eligibility are met and the applicant is not participating in a managed care partnership.

(a) Except as provided in paragraphs (b) and [.] (c) [~~and (d)~~] of this subsection, the effective date of Medicaid shall be the first day of the month of eligibility.

(b) [~~For an individual eligible on the basis of unemployment, eligibility shall:~~

1. ~~Not exist for the thirty (30) day period following the starting date of the unemployment; and~~

2. ~~Be the first day following the end of the thirty (30) day period if all other conditions of eligibility are met.~~

(c) For an individual eligible on the basis of desertion, a period of desertion shall have existed for thirty (30) days, and the effective date of eligibility shall not precede the first day of the month of application [in which the thirty (30) day period ends].

(c) [(d)] For an individual eligible on the basis of utilizing his excess income for incurred medical expenses, the effective date of eligibility shall be the day the spend-down liability is met;

(14) Benefits shall be denied to a family for a month in which a parent with whom the child is living is, on the last day of the month, participating in a strike, and the individual's needs shall not be considered in determining eligibility for Medicaid for the family if, on the last day of the month, the individual is participating in a strike. A strike shall include a [strike or other] concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees;

(15) A caretaker relative (but not a child) removed from a family related Medicaid only case due to failure to meet a technical eligibility requirement shall not be eligible for Medicaid as a medically needy individual unless the individual is separately eligible for medical assistance without regard to eligibility as a member of the group from which the individual has been removed.

Section 6. Institutional Status. An individual shall not be eligible for Medicaid if the individual is a:

(1) Resident or inmate of a nonmedical public institution;

(2) Patient in a state tuberculosis hospital unless he has reached age sixty-five (65);

(3) Patient in a mental hospital or psychiatric facility unless the individual is:

(a) Under age twenty-one (21);

(b) Under age twenty-two (22) if he was receiving inpatient services on his 21st birthday;

(c) Sixty-five (65) years of age or over; or

(d) Participating in Kentucky Medicaid's managed behavioral health care organization; or

(4) Patient in a nursing facility classified by the Medicaid program as an institution for mental diseases, unless the individual:

(a) Has reached age sixty-five (65); or

(b) Is participating in Kentucky Medicaid's managed behavioral healthcare organization.

Section 7. Emergency Shelters. An individual [for family group] who is in an emergency shelter for a temporary period of time shall be eligible for medical assistance even though the shelter is considered a public institution under certain conditions. These conditions shall be as follows:

(1) The individual or family group shall:

(a) Be a resident of an emergency shelter no more than six (6)

months in any nine (9) month period; and

(b) Not be in the facility serving a sentence imposed by the court, or awaiting trial; and

(2) Eligibility for Medicaid shall have existed immediately prior to admittance to the shelter, or it shall exist immediately after leaving the shelter.

Section 8. Application for Other Benefits. (1) As a condition of eligibility for Medicaid, an applicant or recipient shall apply for each annuity, pension, retirement and disability benefit to which he is entitled, unless he can show good cause for not doing so.

(a) Good cause shall be considered to exist if other [the] benefits have previously been denied with no change of circumstances, or the individual does not meet all eligibility conditions.

(b) Annuities, pensions, retirement and disability benefits shall include:

1. Veterans' compensations and pensions;
2. Retirement and survivors disability insurance benefits;
3. Railroad retirement benefits; and
4. Unemployment compensation.

(2) An applicant or recipient shall not be required to apply for federal benefits if:

(a) The federal law governing that benefit specifies that the benefit is optional; and

(b) A potential applicant or recipient is not required to apply for the benefit if the applicant or recipient believes that applying for the benefit would be to his disadvantage.

(3) An individual who would be eligible for supplemental security income (SSI) but has not made application shall not be eligible for Medicaid.

Section 9. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient shall be deemed to have made an assignment to the Cabinet for Health Services of any medical support owed for the child not to exceed the amount of Medicaid payments made on behalf of the recipient.

Section 10. Third Party Liability as a Condition of Eligibility. (1) Except as provided in subsection (3) of this section, an individual applying for or receiving Medicaid shall be required as a condition of eligibility to cooperate with the Cabinet for Health Services in identifying, and providing information to assist the cabinet in pursuing, any third party who may be liable to pay for care or services available under the Medicaid Program unless the individual has good cause for refusing to cooperate as determined by the cabinet taking into consideration the best interests of the individuals involved.

(2) A failure of the individual to cooperate without good cause shall result in ineligibility of the individual.

(3) A pregnant woman eligible under poverty level standards shall not be required to cooperate in establishing paternity or securing support for her unborn child.

Section 11. Provision of Social Security Numbers. (1) Except as provided in subsections (2) and (3) of this section, an [each] applicant [for] or recipient of Medicaid shall provide a social security number as a condition of eligibility.

(2) An individual shall not be denied eligibility or discontinued from eligibility due to a delay in receipt of a social security number from the Social Security Administration if appropriate application for the number has been made.

(3) If the parent or caretaker relative refuses to cooperate with obtaining a social security number for the newborn child or other dependent child, the parent or caretaker relative shall be ineligible due to failure to meet technical requirements. The newborn child or other dependent child shall be eligible for Medicaid if financial eligibility requirements are met.

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: November 8, 1999

FILED WITH LRC: November 12, 1999 at 10 a.m.

CABINET FOR HEALTH SERVICES

Department for Medicaid Services

Division of Long Term Care

(As Amended at ARRS, January 13, 2000)

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

RELATES TO: 42 CFR 440.70, 447.325, 42 USC 1396a-d [KRS 205.520]

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520 [194.050, 42 CFR 440.70, 447.325, 42 USC 1396a-d]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, [Human Resources] has responsibility to administer the Kentucky Medicaid Program [of Medical Assistance]. 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 Medicaid Program [cabinet] for home health agency services that are provided to Kentucky's Medicaid eligible recipients.

Section 1. Definitions. (1) "Allowable cost" means that portion of the home health agency's cost that shall be allowed by the department in establishing reimbursement.

(2) "Cost report" means the Annual Medicaid Home Health/HCB Cost Report.

(3) "Cost report instructions" means the Annual Medicaid Home Health/HCB Cost Report Instructions.

(4) "Department" means the Department for Medicaid Services or its designee.

(5) "Home health agency" or "HHA" [(HHA)] means an agency defined pursuant to 42 CFR 440.70(d).

(6) "Interim rate" means a rate set for a provider for tentative reimbursement, based on reasonable allowable cost of providing a covered service, which may result in reimbursement adjustments after an audit or review determines the actual allowable cost during an accounting period.

(7) "Medicaid upper limit" means the maximum amount the Medicaid Program shall reimburse, on a facility-by-facility basis, for a unit of service.

(8) "Medicare upper limit" means the maximum reimbursement amount allowed by Medicare specific to:

(a) Each Medicare participating provider;

(b) Each category of service; and

(c) A unit of service.

(9) "Necessary function" means that if an owner of an agency had not provided the services pertinent to the operation of an HHA, a facility would have had to employ another person to perform the service.

(10) "Owner" means a person and a related family member with a cumulative ownership interest of five (5) percent or more.

(11) "Projected cost report" means an Annual Medicaid Home Health/HCB Cost Report that reflects costs that can reasonably be expected to be incurred by a provider for a specific period of time ending in the future.

(12) "Public agency" means an agency operated by a federal, state, county, city or other local governmental agency or instrumentality.

(13) "Rate year" means a twelve (12) month period beginning July 1 and ending the following June 30.

(14) "Related family member" means:

(a) Husband or wife;

(b) Natural or adoptive parent, child, or sibling;

(c) Stepparent, stepchild, stepbrother, stepsister;

(d) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(e) Grandparent or grandchild;

(f) Spouse of grandparent or grandchild;

(g) Aunt or uncle; or

(h) Spouse of aunt or uncle.

(15) "Settled" or "settlement" means an amount by which a provider's interim Medicaid payment for a specified period of time

is adjusted based on an audited or desk reviewed cost report for that same period of time.

(16) "Uniform desk review (UDR)" means an analysis of the provider's Annual Medicaid Home Health/HCB Cost Report to determine if data is adequate, complete, accurate, and reasonable.

(17) "Usual and customary charge" means the uniform amount which a medical provider charges in the majority of cases for a specific procedure or service.

Section 2. Payment to an In-state HHA. (1) The department shall reimburse a Medicaid participating in-state HHA on the basis of an interim rate established pursuant to subsection (2) of this section for the following services:

- (a) Speech therapy;
- (b) Physical therapy;
- (c) Occupational therapy;
- (d) Medical social services;
- (e) Home health aide services; and
- (f) Skilled nursing services.

(2) The interim rate for a service pursuant to subsection (1) of this section shall be determined for each individual HHA provider as follows:

(a) The department shall use cost data for each category of service from an HHA's most recent available Annual Medicaid Home Health/HCB Cost Report, incorporated by reference, as of May 31 immediately preceding the rate year to set the interim rate:

1. Medicaid specific data for units of service shall be adjusted using the Medicaid paid claims data.

2. Total cost data shall be increased for inflation using the most recent available HHA Market Basket National Forecast, as published by Standard and Poor's, by:

a. Trending the total cost data to the beginning of a rate year; and

b. Indexing cost data established pursuant to clause a of this subparagraph for inflationary cost increases projected to occur during the rate year.

(b) An average unit cost for a category of service shall be established by dividing the indexed cost established pursuant to paragraph (a)2b of this subsection by the total number of units of service that are reflected in the cost report pursuant to paragraph (a) of this subsection.

(c) If a nonpublicly-operated HHA provider is eligible to receive a cost containment incentive payment pursuant to Section 4 of this administrative regulation, the department shall determine the "average unit cost plus incentive" by adding the "incentive payment per visit amount" pursuant to Section 4(1) of this administrative regulation to the average unit cost established pursuant to paragraph (b) of this subsection.

(d) The interim rate for a publicly-operated HHA shall be the lesser of:

1. The average unit cost pursuant to paragraph (b) of this subsection; or

2. The Medicare upper limit as issued to the provider through a Medicare letter.

(e) The interim rate for a nonpublicly-operated HHA shall be the lesser of the:

1. Maximum average unit cost as established pursuant to paragraph (b) or (c) of this subsection that the provider is eligible to receive;

2. Medicaid upper limit pursuant to Section 6 of this administrative regulation; or

3. Medicare upper limits.

(3) The department shall establish an interim payment not to exceed the allowable billed charge for an item pursuant to paragraphs (a) and (b) of this subsection by multiplying the provider's total cost to charge ratio for the items as reflected in the provider's most recent available cost report as of May 31 immediately preceding the rate year by the provider's billed charge for:

- (a) Disposable medical supplies; and
- (b) Enteral nutritional products.

(4) Within eighteen (18) months following the end of a facility's fiscal year, payments made pursuant to subsections (2) and

(3) of this section shall be:

(a) Settled to the lesser of the:

1. Allowable Medicaid cost, as established in an HHA provider's cost report that the department has;

a. Audited; or

b. Desk reviewed; or

2. Allowable billed charge reported by the Medicaid Management Information System (MMIS), except that:

3. A publicly-operated HHA furnishing services free of charge or at a nominal charge pursuant to 42 CFR 413.13(f) shall be settled pursuant to paragraph (a)1 of this subsection; and

(b) Settled utilizing aggregation of costs in accordance with the Annual Medicaid Home Health/HCB Cost Report Instructions, incorporated by reference.

(5) If the settlement pursuant to subsection (4) of this section indicates that the department has:

(a) Overpaid a provider, the excess payment to the provider shall be recovered pursuant to 907 KAR 1:671, Section 2; or

(b) Underpaid a provider, a payout shall be issued to the provider through the MMIS during the next cycle following the discovery of the underpayment.

Section 3. Payment to a New In-state HHA Provider. (1) An HHA that undergoes a change of ownership during the rate year shall continue to be reimbursed at the rate established for the previous owner for the remainder of the rate year.

(2) An HHA pursuant to subsection (1) of this section shall be reimbursed pursuant to Section 2 of this administrative regulation after the provider submits a cost report pursuant to Section 7 of this administrative regulation.

(3) An HHA that had not previously participated in the Medicaid Program under the current ownership or a previous ownership during the rate year shall be:

(a) Considered a new HHA; and

(b) Reimbursed at the interim rate equal to the lesser of:

1. Seventy (70) percent of the current Medicaid upper limit as established pursuant to Section 6(2)(e) of this administrative regulation; or

2. The current Medicare upper limits.

(4) A new HHA shall be reimbursed pursuant to subsection (3) of this section until a cost report is:

(a) Submitted pursuant to Section 7 of this administrative regulation; and

(b) [Is] Received by the department by May 31 preceding the rate year.

(5) If during the initial period, a provider pursuant to subsection (3) of this section requests a rate adjustment, the department may grant a rate change if the provider:

(a) Submits documentation indicating that the cost of providing services is significantly higher than the reimbursement rate that the provider is receiving; and

(b) Submits a projected cost report.

(6) When a new HHA provider's first cost report is received, interim payments for the cost report period shall be adjusted pursuant to Section 2(4) of this administrative regulation.

Section 4. Incentive Payment. (1) If a nonpublicly-operated HHA's nonaggregated base year costs are below the Medicaid upper limits pursuant to Section 6 of this administrative regulation for the corresponding period of time, the HHA shall receive a cost containment incentive payment, pursuant to Section 2(2)(c) of this administrative regulation, in accordance with the following payment schedule:

INCENTIVE PAYMENT SCHEDULE	
PERCENTAGE OF PER UNIT COST TO UPPER LIMIT	INCENTIVE PAYMENT PER VISIT AMOUNT
95.01% - 100%	--
90.01% - 95%	\$1.00
85.01% - 90%	\$1.50
80.01% - 85%	\$2.00
80% and below	\$2.50

(2) The incentive payment shall:

(a) Be subject to verification of visits;

(b) Bear an inverse relationship to the current year basic per visit cost; and

(c) Be adjusted each July 1 during the interim rate setting process pursuant to Section 2 of this administrative regulation for the rate year.

(3) The portion of the interim rate equal to the "incentive payment per visit amount" shall not be subject to retrospective settlement pursuant to Section 2(4) of this administrative regulation.

Section 5. Payment to an Out-of-state HHA. (1) An out-of-state HHA that provides a covered service inside the Commonwealth of Kentucky to an eligible Kentucky Medicaid recipient shall be paid pursuant to Section 2 of this administrative regulation.

(2) Except as provided for in subsection (3) of this section, an out-of-state HHA that provides a covered service to an eligible Kentucky Medicaid recipient while the recipient is outside the Commonwealth of Kentucky shall be reimbursed the lesser of the [an] agency's:

- (a) Usual and customary billed charge;
- (b) Medicare upper limit; or
- (c) Medicaid upper limit.

(3) If an out-of-state HHA provides the following items to an eligible Kentucky Medicaid recipient while a recipient is outside the Commonwealth of Kentucky, reimbursement shall be paid at eighty (80) percent of the HHA's usual and customary actual billed charges for:

- (a) Disposable medical supplies; and
- (b) Enteral nutritional products.

Section 6. Establishment of Medicaid Upper Limits. (1) Medicaid upper limits for the services pursuant to Section 2(1)(a) through (e) of this administrative regulation shall be established each year to be effective on July 1 for a nonpublicly-operated HHA.

(2) Medicaid upper limits shall be determined by the department as follows:

(a) Based on the Standard Metropolitan Statistical Area (SMDA) designation, a nonpublicly-operated HHA shall be classified as:

- 1. Urban; or
- 2. Rural.

(b) Two (2) sets of arrays pursuant to paragraph (a) of this subsection shall be established for each category of service pursuant to subsection (1) of this section.

(c) Each HHA's average unit cost per service as established pursuant to Section 2(2)(b) of this administrative regulation shall be:

- 1. Grouped pursuant to paragraph (b) of this subsection; and
- 2. Arrayed from lowest to highest.

(d) Median per unit cost for each of the ten (10) arrays pursuant to paragraph (c) of this subsection shall be based on the median number of Medicaid units pursuant to Section 2(2)(a)1[a] of this administrative regulation.

(e) Medicaid upper limits for a nonpublicly-operated HHA shall be set at 105 percent of the median per unit cost as established pursuant to paragraph (d) of this subsection.

(3) The following HHA providers shall be exempt from the Medicaid upper limits, but shall be subject to the Medicare upper limits:

- (a) A publicly-operated HHA; and
- (b) A new HHA provider who does not have two (2) full years of operation. [- and]

(4) Medicaid upper limit for skilled nursing services shall be the Medicare upper limit for skilled nursing services.

Section 7. Financial Data and Cost Reporting Requirements. (1) Except for a provider identified in Section 5(2) of this administrative regulation, an HHA shall submit a completed cost report:

(a) That includes workpapers utilized to prepare the cost report including:

- 1. Detail of how a reclassification and an adjustment was calculated;

2. A working trial balance; and

3. Schedules tying the trial balance to the cost report.

(b) On an annual basis, within five (5) months after the close of the HHA's fiscal year;

(c) Prepared in accordance with the Annual Medicaid Home Health/HCB Cost Report Instructions, incorporated by reference; and

(d) Pursuant to 42 CFR 413.24(a), (b), (c), and (e).

(2) A thirty (30) day extension of time for submitting the cost report pursuant to subsection (1) of this section may be granted by the Director of the Division of Long Term Care or his designee if:

(a) A provider's operations are significantly adversely affected due to extraordinary circumstances over which the provider has no control;

(b) The provider submits a request for the extension in writing; and

(c) The request is received by the department within five (5) months after the close of the HHA's fiscal year.

(3) An HHA's payment shall be suspended if:

(a)1. Time for submitting a cost report pursuant to subsection (1) or (2) of this section has lapsed; and

2. [(b)] A cost report has not been submitted to the department;

(b) [(e)] The department determines that a provider does not maintain or no longer maintains records pursuant to subsection (4) of this section; or

(c) [(d)] The provider fails to provide the department with access to records pursuant to:

- 1. 907 KAR 1:672, Section 2(6); and
- 2. Subsection (4) of this section.

(4) For a period of five (5) years from the date that the department issues a letter to an HHA detailing the Medicaid final settlement of a cost report, an HHA shall retain and make available to the department:

(a) Records and documents pursuant to 42 CFR 413.20(a), (c), and (d);

(b) Documentation of work or services performed if compensation is claimed by the:

- 1. Owner; or
- 2. A related family member of the:
 - a. Owner; or
 - b. Administrator.

(5) If during a twelve (12) month period an HHA provider contracts with a subcontractor for the provision of goods and services established pursuant to 907 KAR 1:030 costing or valued at \$10,000 or more, an HHA provider shall include a clause in a contract that requires a subcontractor to[:

(a)] make available to the department records and documents related to the provision of services consistent with the requirements pursuant to subsection (4) of this section[-; and

(b) Include a clause in their contract with a subcontractor or related organization who provides a service pursuant to 907 KAR 1:030 consistent with the requirements of subsection (4) of this section].

(6) If the department is denied access to the subcontractor's records pursuant to subsection (4) of this section, the cost of goods or services furnished by the subcontractor shall become a nonallowable cost reported on a cost report.

(7) If an HHA provider has been voluntarily or involuntarily terminated from the Medicaid Program, reimbursement payments shall be withheld until:

(a) A cost report is received from an HHA provider for the period of time a provider participated in the Medicaid Program:

- 1. Beginning with the first day of the provider's fiscal year immediately preceding the provider's termination date; and
- 2. Ending on the date of termination of its provider agreement with the Medicaid Program; and

(b) A final settlement pursuant to Section 2(4) of this administrative regulation is completed by the department.

Section 8. Allowable HHA Cost. (1) Except as limited pursuant to Section 9 of this administrative regulation, cost pursuant to subsection (2) of this section shall be allowable and eligible for

reimbursement pursuant to this administrative regulation if costs are:

(a) Reflective of a provider's actual expenses of providing a service; and

(b) Related to Medicaid patient care pursuant to 42 CFR 413.9.

(2) Except as limited by Section 9 of this administrative regulation, and subsection (1) of this section, the following cost shall be allowable:

(a) Allowable cost to related organizations pursuant to 42 CFR 413.17;

(b) Costs of educational activities pursuant to 42 CFR 413.85;

(c) Research costs pursuant to 42 CFR 413.90;

(d) Value of services of nonpaid workers pursuant to 42 CFR 413.94;

(e) Purchase discounts and allowances, and refunds of expenses pursuant to 42 CFR 413.98;

(f) Therapy and other services pursuant to 42 CFR 412.106.

Section 9. Limitations on Allowable HHA Cost. (1) Board of directors' fees.

(a) The cost of board of director's fees shall be limited annually to:

1. a. Five (5) meetings for a single-facility organization; or

b. [2-] Twelve (12) meetings for a multiple-facility organization; and

2. [3-] \$200 for each director of the board attending each meeting, including the cost of attending the meeting.

(b) The cost associated with a private club membership shall not be an allowable cost.

(2) Motor vehicles.

(a) An allowable motor vehicle cost shall be:

1. Limited to cost related to patient care; and

2. Documented sufficiently to support business use.

(b) An allowable cost associated with HHA facility-owned vehicles and mileage allowances shall be limited to the mileage allowance for federal income tax purposes.

(c) The costs associated with personal use of a facility-owned motor vehicle shall not be an allowable cost unless the value of the personal use of the vehicle is:

1. Included in the employee's W-2 statement; or

2. Reported on a Form 1099 in accordance with Internal Revenue Service regulations.

(d) An allowable cost pursuant to paragraph (c) of this subsection shall be considered compensation to the extent that:

1. Compensation to an owner does not exceed owner's compensation limits pursuant to Section 10 of this administrative regulation; and

2. The total compensation package to a nonowner is reasonable pursuant to 42 CFR 413.9(b).

(3) The cost associated with political contributions shall not be allowable.

(4) Legal fees.

(a) An allowable cost associated with legal fees shall exclude cost:

1. Associated with unsuccessful lawsuits against the Cabinet for Health Services or the department;

2. Incurred by the provider in an attempt to block the approval of a certificate of need for another provider;

3. Associated with the acquisition of another HHA;

4. Resulting from the commission of an illegal act by an:

a. HHA;

b. HHA's owner; or

c. HHA's agent; or

5. Unrelated to patient care.

(b) Legal fees associated with successful lawsuits against the cabinet shall be limited to inclusion as allowable cost in the period:

1. In which a suit is settled after a final decision has been issued that the lawsuit is successful;

2. Agreed to by involved parties; or

3. As ordered by the court.

(5) Travel expenses. [(a)] The cost of travel expenses shall be limited to:

(a) [1-] Activities related to the educational needs of the:

1. [a-] Agency owners;

2. [b-] Directors; or

3. [c-] Staff; [and]

(b) [2-] Reasonable and necessary cost pursuant to 42 CFR 413.9(b) as determined in evaluating the:

1. [a-] Number of trips taken;

2. [b-] Expense associated with each trip;

3. [c-] Number of persons attending each function; and

4. [d-] Appropriateness of a training; and

(c) [3-] Trips taken within the forty-eight (48) contiguous United States.

Section 10. Owner's Compensation Limits. (1) Compensation to an owner who is not an administrator shall:

(a) Be considered an allowable cost pursuant to 42 CFR 413.102; and [but:]

(b) Exclude:

1. Board of directors' fees; and

2. Fringe benefits routinely provided to all employees.

(2) Compensation of a part-time owner-employee performing managerial functions shall not exceed the percent of time worked times eighty (80) percent of the applicable compensation limits for an owner administrator.

(3) A full-time owner-administrator and full-time owner-employee who performs nonmanagerial functions in an HHA other than the HHA with which he is primarily associated with shall be limited to:

(a) Reasonable compensation from the nonprimary agency for not more than fourteen (14) hours per week supported by:

1. The owner's proof of performance of a necessary function; and

2. Documentation of time claimed for compensation; and

(b) A salary from the agency with which they are primarily associated.

(4) Managerial functions performed in a nonprimary agency by a full-time owner-administrator or a full-time owner-employee of another agency shall not be considered an allowable cost.

(5) Compensation to an owner-administrator of a rural or urban HHA shall be:

(a) Limited to \$ 60,579 beginning July 1, 1999;

(b) Increased on July 1 of each year by the inflation factor index for wages and salaries of the Home Health Agency Market Basket of Operating Cost as indicated by the National Forecasts supplied by Standard and Poor's, Inc.; and

(c) Published annually through a notification to all providers to advise of the revised limits for owner's compensation to be effective July 1 of each year.

Section 11. Audit Functions. (1) All HHA provider cost applicable to a Medicaid beneficiary shall be [is] subject to:

(a) Review or audit by the department; and

(b) A final retroactive settlement based upon an adjustment to an HHA provider's costs reported in a cost report for any reporting period under review or audit.

(2) The department shall perform a uniform desk review (UDR).

(3) A summary of the UDR shall be used:

(a) [Used] To settle the cost report without audit; or

(b) To determine the extent to which audit verification is required.

(4) If indicated by the uniform desk review (UDR), an audit shall be conducted in accordance with the "Government Auditing Standards", incorporated by reference.

Section 12. Reimbursement Review and Appeal. A participating HHA may request an appeal of a departmental decision pursuant to 907 KAR 1:671.

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

(a) The "Annual Medicaid Home Health/HCB Cost Report", Department for Medicaid Services, October 1999 edition;

(b) "The Annual Medicaid Home Health/HCB Cost Report

Instructions", Department for Medicaid Services, October 1999 edition; and

(c) The "Government Auditing Standards", 1994 edition, as issued by the Comptroller General of the United States.

(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. [Payments to Home Health Agencies. (1) The cabinet shall reimburse participating home health agencies on the basis of interim rates set by the cabinet using available Medicare data and methodology as applied to Medicaid-covered services (effective July 1, 1992 using cost data submitted by the home health agency provider on the annual Medicaid home health agency cost report), taking into consideration the upper limit shown in Section 2 of this administrative regulation and the various policies and guidelines specified in the Cabinet for Human Resources Title XIX Home Health Reimbursement Manual.

(a) A home health agency (but not including a publicly-operated agency) whose nonaggregated base year costs (as shown in the cost report used to set the agency's interim rate) are below the prospective upper limit for the agency shall receive a cost containment incentive payment in accordance with the incentive payment schedule shown in the reimbursement manual.

(b) The cost containment incentive payment shall not be subject to retrospective settlement.

(2) Payments made at the interim rate (except for incentive payments) shall be settled back to actual allowable cost at the end of the facilities' fiscal year, with actual allowable costs not to exceed the amounts that would be allowable taking into consideration the upper limit specified in Section 2 of this administrative regulation. The Medicaid final rates (except for incentive payments) shall not exceed federally established upper limits for Medicare.

(3) The Cabinet for Human Resources Title XIX Home Health Reimbursement Manual, revised July 1, 1993, is incorporated by reference.

(a) The Home Health Reimbursement Manual is available for inspection and copying during regular working hours (8 a.m. to 4:30 p.m. eastern time) in the office of the Commissioner, Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621.

(b) A fee shall be charged for the Home Health Reimbursement Manual not to exceed the approximate cost of copying and materials.

(4) Provider taxes shall be considered allowable costs. For the rate period beginning on July 1, 1993 and ending on June 30, 1994, the cost of the provider tax shall be added to the rate as an add-on without offset or application of upper limits. For subsequent rate periods, the provider tax cost shall be shown in the appropriate cost report used for rate setting.

Section 2. Application of Upper Limits. (1) Publicly-operated home health agencies (except new facilities as shown in Section 5 of this administrative regulation) shall be reimbursed at full allowable cost but shall be subject to the Medicare upper limits.

(2) Payments for agencies other than publicly-operated home health agencies (except payments for disposable medical supplies, as shown in Section 4 of this administrative regulation), incentive payments as shown in Section 1 of this administrative regulation, and rate add-ons to recognize provider taxes as shown in Section 1 of this administrative regulation, shall not exceed a prospective upper limit which shall be set at 105 percent of the weighted median of the array of allowable per visit costs of those agencies that are subject to the upper limits.

(3) Facilities shall be placed in an urban or rural array based on the facility location for the following cost centers or disciplines: speech pathology, physical therapy, occupational therapy, medical social services, and home health aid services.

(a) The upper limit for the skilled nursing cost center shall be the Medicare upper limit. A determination as to whether a county is urban or rural shall be made taking into account usual standard metropolitan statistical areas.

(b) Arrays shall be based on annual cost report data with costs trended through June 30 and indexed for the rate year; the

rate year shall begin on July 1 and end on June 30; and the upper limit shall be subject to an annual adjustment to be effective on July 1 of each rate year. Aggregation of costs (i.e., shifting of allowable costs from one cost center to another if the limit is exceeded in one cost center but not in another) shall be permitted.

(c) For rate years beginning July 1, 1986 and thereafter, the array shall be based on the latest available cost report as of May 31 preceding the rate year.

Section 3. Payments for Durable Medical Equipment. Effective with regard to services provided on or after July 1, 1989, home health agencies shall not be reimbursed for durable medical equipment unless enrolled as a participating durable medical equipment provider.

Section 4. Disposal medical supplies shall be reimbursed on an interim basis at a percent of allowable billed charges with a settlement to actual costs at the end of the agency's fiscal year.

Section 5. New home health agencies shall be paid seventy (70) percent of the Medicaid maximum rate not to exceed Medicare upper limits, until a fiscal year end cost report is available. During this initial period, the rate may be adjusted if the provider documents the justification for a rate change by the submittal of a projected cost report.

Section 6. Owners' compensation shall be limited as shown in the Home Health Reimbursement Manual.

Section 7. Payments to Out-of-state Home Health Agencies Effective with Regard to Services Provided on or after July 1, 1990. (1) The cabinet shall reimburse participating out-of-state home health agencies at the lower of the Medicare maximum payment rate, the Medicaid maximum payment rate, or the agency's actual usual and customary billed charge.

(2) Disposable medical supplies shall be reimbursed at a rate of eighty (80) percent of the actual usual and customary billed charge.

Section 8. Requests for Reconsideration and Appeals. Participating home health agencies are provided the following mechanism for a review of program decisions relating to the application of the policies and procedures governing home health agency payments.

(1) Request for reconsideration. A home health agency operator may request reconsideration of a program decision by writing to the Director, Division of Reimbursement Operations.

(a) A request for reconsideration shall be received within forty-five (45) days following transmittal of the audited cost report to the agency or the notification of the agency's prospective rate. A request for workpapers pertaining to audit adjustments to the home health agency's cost report shall not extend the forty-five (45) day time limit.

(b) If the home health agency operator fails to request reconsideration of the audited cost report within the forty-five (45) days, the audited cost report shall be final and shall not be reopened unless the cabinet determines that there is suspected fraud or misrepresentation.

(c) A request for reconsideration shall indicate which adjustments the home health agency wishes reconsidered. A blanket request for reconsideration of the cost report shall not be accepted.

(d) Program/vendor conference. Upon receipt of the request for reconsideration, the division shall determine the need for a program/vendor conference and shall contact the home health agency to arrange a conference.

1. If a program/vendor conference is needed, the conference shall be held within sixty (60) days of receipt of the home health agency's request for review unless delayed due to extenuating circumstances.

2. Regardless of the program decision, the provider shall be afforded the opportunity for a conference if he so wishes for a full explanation of the factors involved in the decision.

(e) Following reconsideration of the matter, the Director of the

Division of Reimbursement Operations shall notify the home health agency in writing of the action to be taken by the division within twenty (20) days of receipt of the request for reconsideration or the date of the program/vendor conference, whichever is later.

(f) The twenty (20) day period for notification in paragraph (e) of this subsection may be extended by the program when necessary to secure additional information for resolution of the issue.

(2) Appeal to the reimbursement review panel. If the Director of Reimbursement Operations' decision is unsatisfactory, the home health agency may appeal the question to a reimbursement review panel established by the Commissioner of the Department for Medicaid Services:

(a) The reimbursement review panel shall include one (1) member of the Division of Reimbursement Operations, a representative of the Kentucky Association of Home Health Agencies, and a member of the Department for Medicaid Services (but not within the Division of Reimbursement Operations) as designated by the commissioner, with the designated member to serve as chairperson.

(b) A request for review by the reimbursement review panel shall be postmarked within twenty (20) days following the notification of the initial decision by the Director, Division of Reimbursement Operations.

(c) A date for the reimbursement review panel to convene shall be established within twenty (20) days after receipt of a written request for the appeal. The question shall be heard by the panel.

(d) The review panel shall issue a binding decision on the issue within thirty (30) days of the hearing unless the review panel determines that additional time is needed to secure further information or clarification pertinent to the resolution of the issue.

(e) The review panel may consider extenuating circumstances to provide equitable treatment and reimbursement of the provider.

Section 9. Audits may be performed by either the Medicare or Medicaid program; if audited by both, the Medicaid audit shall take precedence over the Medicare audit.

Section 10. Implementation Date. The amendments to this administrative regulation shall be effective with regard to services provided on or after July 1, 1993.]

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

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 Long Term Care
(As Amended at ARRS, January 13, 2000)**

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

RELATES TO: KRS 205.520, 42 CFR 435.530, 435.531, 435.540, 435.541, 435.914, 435.916, 42 USC 416, 1382[e], 1396a, b, d

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520(3), 42 USC 1396a[-1998 Ky. Acts ch. 426, sec. 4(3)]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes provisions relating to determining initial and continuing eligibility for assistance under the Medicaid Program.

Section 1. Definition. (1) "Department" means the Department

for Medicaid Services or its designee.

(2) "First month of SSI payment" means the first month for which an SSI-related Medicaid recipient is determined to be eligible for SSI payments.

(3) "Partnership" means an entity that meets the criteria as established in 907 KAR 1:705, Section 5, and under contract with the department in accordance with KRS Chapter 45A, agrees to provide, or arrange for the provision of, health services to members on the basis of prepaid capitation payments. [is defined in 907 KAR 1:705.]

Section 2. Eligibility Determination Process. (1) Except as provided in subsection (3) or (5) of this section, eligibility shall be determined prospectively. To receive or continue to receive assistance, a household shall meet technical and financial eligibility criteria pursuant to this section and Section 3 of this administrative regulation and as established in 907 KAR 1:011, 907 KAR 1:640 and 907 KAR 1:645 for the appropriate month of coverage.

(2) A [Each] decision regarding eligibility or ineligibility for Medicaid shall be supported by facts recorded in the case record.

(a) The applicant or recipient shall be the primary source of information and shall:

1. Furnish verification of financial and technical eligibility as required by 907 KAR 1:011, 907 KAR 1:640, and 907 KAR 1:645; and

2. Give written consent to those contacts necessary to verify or clarify a factor pertinent to the decision of eligibility.

(b) The department may schedule an appointment with an applicant or recipient to receive specified information as proof of eligibility. Failure to appear for the scheduled appointment or to furnish the requested information shall be considered a failure to present adequate proof of eligibility if the applicant or recipient was informed in writing of the scheduled appointment and the required information.

(3) Retroactive eligibility for Medicaid not related to the receipt of SSI shall be effective no earlier [later] than the third month prior to the month of application if:

(a) A Medicaid service was received;

(b) Technical and financial eligibility requirements were met as established in 907 KAR 1:011, 907 KAR 1:640 and 907 KAR 1:645; and

(c)1. The applicant resides in a nonpartnership county; or

2. The applicant resides in a county served by a partnership and meets one (1) of the excluded categories as established in 907 KAR 1:705.

(4) Eligibility for qualified Medicare beneficiary (QMB) coverage shall be effective the month after the month of case approval if technical and financial eligibility requirements were met as established in 907 KAR 1:011, 907 KAR 1:640 and 907 KAR 1:645.

(5) Retroactive eligibility for specified low-income Medicare beneficiary (SLMB) benefits, Medicare qualified individuals (QI) benefits or qualified disabled working individuals shall be effective no earlier [later] than the third month prior to the month of application if an individual meets technical and financial eligibility requirements as established in 907 KAR 1:011, 907 KAR 1:640 and 907 KAR 1:645. Retroactive eligibility for a qualified individual shall not include months of a prior year.

(6) An SSI-related recipient, in accordance with HCFA Program Issuance Transmittal Notice, Region IV, May 7, 1997, MCD-014-97, shall be eligible for Medicaid benefits effective the month prior to the first month of SSI payment if [provided that] he:

(a) Resides in a partnership county; and

(b) Meets Medicaid eligibility requirements for that month.

(7) An SSI-related recipient, in accordance with HCFA Program Issuance Transmittal Notice, Region IV, May 7, 1997, MCD-014-97, shall be retroactively eligible for Medicaid benefits effective no earlier than the third month prior to the first month of SSI payment if [provided] he:

(a)1. Resides in a nonpartnership county; and

2. Meets Medicaid eligibility requirements for these months;

or

(b)1. Resides in a partnership county; and

2. Meets the requirements for one (1) of the excluded categories established in 907 KAR 1:705.

Section 3. Continuing Eligibility. (1) The recipient shall be responsible for reporting within ten (10) days a change in circumstances which may affect eligibility. In addition, eligibility shall be redetermined:

- (a) Every twelve (12) months; or
- (b) If a report is received or information is obtained about a change in circumstances.

(2) Pursuant to the waiver granted by the Secretary, United States Department of Health and Human Services, and promulgated as 907 KAR 1:705, a recipient shall have a one (1) time guarantee of six (6) months of eligibility regardless of a loss of technical eligibility for Medicaid during that six (6) month time period if the recipient:

- (a) Resides in a county included in a partnership;
- (b) Did not meet one (1) of the excluded categories established in 907 KAR 1:705;
- (c) Did not receive Medicaid in any of the twelve (12) months preceding participation in a partnership;
- (d) Participated in a partnership for less than six (6) months;
- (e) Continued to reside in a partnership region during the guaranteed six (6) month eligibility period; and
- (f) Is not an:
 - 1. Incarcerated recipient;
 - 2. Alien who is eligible for emergency Medicaid; or
 - 3. A recipient requesting discontinuance of Medicaid.

Section 4. Determination of Incapacity or Permanent and Total Disability. (1) Except as provided in subsections (2) and (3) of this section, a determination that a parent with whom the needy child lives is incapacitated, or that the individual requesting Medicaid due to disability is both permanently and totally disabled, shall be made by the medical review team following review of both medical and social reports.

(2) A parent shall be considered incapacitated without a determination from the medical review team if:

- (a) The parent declares physical inability to work;
 - (b) The worker observes some physical or mental limitation;
- and

- (c) The parent:
 - 1. Is receiving supplemental security income (SSI);
 - 2. Is age sixty-five (65) or over;
 - 3. Has been determined to meet the definition of blindness or permanent and total disability as contained in 42 USC 1382(e) or 416 by either the Social Security Administration or the medical review team;
 - 4. Has previously been determined to be incapacitated or permanently and totally disabled by the medical review team, hearing officer, appeal board, or court of proper jurisdiction without a reexamination requested and there is no visible improvement in condition;
 - 5. Is receiving retirement, survivors, and disability insurance (RSDI) benefits, federal black lung benefits, or railroad retirement benefits based on disability as evidenced by an award letter;
 - 6. Is receiving Veterans Administration (VA) benefits based on 100 percent disability, as verified by an award letter; or
 - 7. Is currently hospitalized and a statement from the attending physician indicates that incapacity will continue for at least thirty (30) days. If application was made prior to the admission, the physician shall indicate if incapacity existed as of the application date.

(3) An individual shall be considered permanently and totally disabled without a determination from the medical review team if the individual:

- (a) Receives RSDI or railroad retirement benefits based on disability;
- (b) Received SSI based on disability during a portion of the twelve (12) months preceding the application month and discontinuance was due to income or resources, not to improvement in physical condition;
- (c) Has been determined to meet the definition of blindness or permanent and total disability as contained in 42 USC 416 or 1382(e) by the Social Security Administration; or
- (d) Has previously been determined to be permanently and totally disabled by the medical review team, hearing officer, ap-

peal board, or court of proper jurisdiction without a reexamination requested and there is no visible improvement in condition.

(4)(a) A child who was receiving supplemental security income benefits on August 22, 1996 and who, but for the change in definition of childhood disability established by 42 USC 1396a(a)(10) would continue to receive SSI, shall continue to meet the Medicaid definition of disability.

(b) If a redetermination is necessary, and in accordance with 921 KAR 5:470 [904 KAR 2:470], the definition of childhood disability effective on August 22, 1996 shall be used.

Section 5. Disqualification. An adult individual shall be disqualified from receiving Medicaid for a specified period of time if the department or a court determines the individual has committed an intentional program violation in accordance with 907 KAR 1:675.

Section 6. Incorporation by Reference. (1) "HCFA Program Issuance Transmittal Notice Region IV", May 7, 1997, MCD-014-97, is incorporated by reference.

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

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

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, January 13, 2000)**

907 KAR 1:640. Income standards for Medicaid.

RELATES TO: KRS 205.520, 42 USC 1396jj(b), 1397aa
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 42 CFR 435, 42 USC 1396a, b, d, 1397aa [1998-Ky-Acts-ch. 426, sec. 4(3)]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program in accordance with 42 USC 1396 through 1396v. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the income standards by which eligibility is determined.

Section 1. Definitions. (1) "ABD" means an individual who is aged, blind, or disabled.

(2) "AFDC" means the Aid to Families with Dependent Children Program as it existed on July 16, 1996.

(3) "[Dependent] Child" means a person [child] who [is]:

(a) 1.a. Is [Deprived of parental support due to death, incapacity, or absence of a parent; and

(b)] under the age of:

1.; eighteen (18); or

b. [2.] Is under the age of nineteen (19) if the person [child] is:

(i) [a.] In high school or the same level of vocational or training school; and

(ii) [b.] Expected to graduate before or during the month of his 19th birthday.

2. [(b)] Is not self-supporting;

3. [(e)] Is not a member of the Armed Forces of the United States; and

4. [(d)] If previously emancipated by marriage, has returned to the home of his parents or to the home of another relative; or

(b) [(e)] Has not attained nineteen (19) years of age as specified in 42 USC 1396a(l)(1).

(4) "Family alternatives diversion payment" means a lump sum payment made to a K-TAP applicant to meet short-term emergency

needs.

(5) [(4)] "Incapacity" means a [any] condition of mind or body making a parent physically or mentally unable to provide the necessities of life for a child.

(6) [(5)] "Income" means money received from statutory benefits (including Social Security, Veteran's Administration pension, black lung benefits, or railroad retirement benefits), pension plans, rental property, investments, or wages for labor or services.

(7) [(6)] "Lump sum income" means money received at one (1) time which is normally considered as income, including accumulated back payments from Social Security, unemployment insurance or workman's compensation, back pay from employment, money received from an insurance settlement, gift, inheritance, lottery winning, noncontinuing proceeds from a bankruptcy proceeding, money withdrawn from an IRA, KEOGH plan, deferred compensation, tax deferred retirement plan, or other tax deferred asset.

(8) [(7)] "Minor parent" means a parent under the age of twenty-one (21).

(9) [(8)] "Official poverty income guidelines" means the poverty income guidelines which are:

(a) Updated annually in the Federal Register by the United States Department of Health and Human Services, under authority of 42 USC 9902(2); and

(b) The latest poverty guidelines available as of March 1 of the particular state fiscal year.

(10) [(9)] "SSI" means supplemental security income program.

Section 2. Income Limitations. (1) For the medically needy as described in 907 KAR 1:011, income shall be determined by comparing adjusted income as required by Section 3 of this administrative regulation, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	\$ 2,600	\$ 217
2	3,200	267
3	3,700	308
4	4,600	383
5	5,400	450
6	6,100	508
7	6,800	567

For each additional member, \$720 annually or sixty (60) dollars monthly shall be added to the scale.

(2) The following special factors shall be applicable for a pregnant woman or child eligible pursuant to 42 USC 1396a(e):

(a) A pregnant woman or a child under age one (1) shall have family income not exceeding 185 percent of the official poverty income guidelines;

(b) A child age one (1) or over but under age six (6) shall have family income not exceeding 133 percent of the official poverty income guidelines;

(c) A child born after September 30, 1983, who has attained six (6) years of age but has not attained nineteen (19) years of age shall have family income not exceeding 100 percent of the official poverty income guidelines;

(d) A pregnant woman or child who would be eligible under provisions of 42 USC 1396a(l) or 1397jj(b) [of the Social Security Act] except for income in excess of the allowable standard shall not become eligible by spending down [(pursuant to Section 9 of this administrative regulation)] to the official poverty guidelines as described in Section 9 of this administrative regulation;

(e) A change of income that occurs after the determination of eligibility of a pregnant woman shall not affect the pregnant woman's eligibility through the remainder of the pregnancy including the postpartum period which ends at the end of the month containing the 60th day of a period beginning on the last day of her pregnancy;

(f) A child as specified in 907 KAR 1:011, Section 2(17), shall have family income not exceeding 100 percent of the official poverty income guidelines;

(g) A targeted low-income child as specified in 907 KAR 1:011, Section 2(18), shall have family income not exceeding 150 percent of the official poverty income guidelines.

(3) The following special income limits and provisions shall be

applicable for a determination of eligibility of a qualified Medicare beneficiary, specified low-income Medicare beneficiary, qualified disabled working individual, or Medicare qualified individual.

(a) A qualified Medicare beneficiary shall have income not exceeding 100 percent of the official poverty income guidelines.

(b) A specified low-income Medicare beneficiary shall have income greater than 100 percent of the official poverty income guidelines but not to exceed 120 percent of the official poverty income guidelines.

(c) Medicare qualified individuals shall be divided into two (2) groups:

1. Group one (1) shall have income greater than 120 percent of the official poverty income guidelines but less than or equal to 135 percent of the official poverty income guidelines.

2. Group two (2) shall have income greater than 135 percent of the official poverty income guidelines but less than or equal to 175 percent of the official poverty income guidelines.

(d) A qualified disabled working individual shall have income not exceeding 200 percent of the official poverty income guidelines.

(4) Income shall be limited to the allowable amounts for the SSI Program for:

(a) A child who lost eligibility for supplemental security income benefits due to the change in the definition of childhood disability as established in 42 USC 1396a(a)(10); or

(b) A person with hemophilia who received a class action settlement as established in 42 CFR 435.122.

(5) Income shall be limited to the allowable amounts for the State Supplementation Program for a pass through recipient as established in 42 CFR 435.135.

Section 3. Income Disregards. In comparing income with the scale established in Section 2 of this administrative regulation, gross income shall be adjusted as follows:

(1) In an AFDC or family related Medicaid case, the standard work related expenses of an adult member or out-of-school child shall be deducted from gross earnings. For a person with either full-time or part-time employment the standard work expense deduction shall be ninety (90) dollars per month. [All] Earnings of an individual attending school who is a [in-school] child or parent under age nineteen (19) or a child under age eighteen (18) who is a high school graduate shall be disregarded.

(2) In an AFDC or family related Medicaid case, child care as a work expense shall be allowed for a child who is living in the home of the caretaker and is related to the caretaker in accordance with 907 KAR 1:011, Section 5(9) [(8)] [(9)](b), for full-time and part-time employment.

(a) The dependent child care work expense shall be deducted after all other disregards have been applied.

(b) The child care work expense allowed shall not exceed, per month:

1. \$200 for full-time or part-time employment per child under age two (2); and

2. \$175 for full-time employment or \$150 for part-time employment per:

a. Child age two (2) or above; or
b. Incapacitated adult.

(3) For an AFDC-related Medicaid case, a thirty (30) dollar and one-third (1/3) deduction of earned income shall be allowed in accordance with 921 KAR 2:016.

(4) In an ABD Medicaid case, income disregards shall be those applicable in the federal SSI program established in 42 USC 1382a(b).

Section 4. Income of the Stepparent or Parent of a Minor Parent referred to as a "Grandparent". An incapacitated stepparent's income, or a grandparent's income, shall be considered in the same manner as for a parent if the stepparent or grandparent is included in the family case. If the stepparent or grandparent living in the home is not being included in the family case, the stepparent's gross income shall be considered available to the spouse or the grandparent's gross income shall be considered available to the minor parent in accordance with the requirements established [policies set forth] in this section. The following disregards and exclusions from income shall be applied:

(1) The first ninety (90) dollars of the gross earned income of the stepparent or grandparent who is employed full time or part time;

(2) An amount equal to the appropriate income limitations scale established in Section 2 of this administrative regulation for the appropriate family size, for the support of the stepparent or grandparent and any other individuals (not including the spouse or minor parent) living in the home but whose needs are not taken into consideration in the Medicaid eligibility determination and are claimed by the stepparent or grandparent as dependents for purposes of determining federal personal income tax liability;

(3) Any amount actually paid by the stepparent or grandparent to an individual not living in the home who is claimed by him as a dependent for purposes of determining his personal income tax liability;

(4) A payment by the stepparent or grandparent for alimony or child support with respect to an individual not living in the household;

(5) Income of a stepparent or grandparent receiving SSI; and

(6) Verified medical expenses for the stepparent or grandparent and his dependents in the home.

Section 5. Lump Sum Income. (1) For an AFDC related Medicaid case, lump sum income shall be divided by the medically needy income level and prorated over the resultant number of months. A deduction from the lump sum may be allowed for related or extraordinary expenses.

(2) For an individual eligible under the federal poverty level standards specified in Section 2(2)(a), (b), [and] (c), (f), and (g) of this administrative regulation, lump sum income shall be divided by the appropriate standard for the eligible group and prorated over the resultant number of months. A deduction from the lump sum may be allowed for related or extraordinary expenses.

(3) For an ABD Medicaid case, lump sum income shall be considered as income in the month received.

Section 6. Income Exclusions. (1) Income of a person who is blind or disabled necessary to fulfill an approved plan for achieving self-support (PASS), impairment related work expense (IRWE) deduction, or the blind work expense (BWE) deduction shall be excluded from consideration.

(2) A payment or benefit from a federal statute, other than SSI benefits, shall be excluded from consideration [{as income}] if precluded from consideration in SSI determinations of eligibility by the specific terms of the statute.

(3) A cash payment intended specifically to enable an applicant or recipient to pay for medical or social services shall not be considered as available income in the month of receipt.

(4) A Federal Republic of Germany reparation payment shall not be considered available in the eligibility or posteligibility treatment of income of an individual in a nursing facility or hospital or who is receiving home and community based services under a waiver.

(5) A Social Security cost of living adjustment on January 1 of each year shall not be considered as available income for a qualified Medicare beneficiary, specified low-income Medicare beneficiary, qualified disabled working individual or Medicare qualified individual until after the month following the month in which the official poverty guideline promulgated by the Department of Health and Human Services U.S. Government, is published.

(6) Any amount received from a victims compensation fund established by a state to aid victims of crime shall be excluded as income.

(7) A veteran in a nursing facility who is receiving the reduced ninety (90) dollars Veterans Administration (VA) benefit shall have the ninety (90) dollars:

(a) Excluded as income in the Medicaid eligibility determination; and

(b) Considered as income in the posteligibility determination process.

(8) An Austrian Social Insurance payment based, in whole or in part, on a wage credit granted under Sections 500-506 of the Austrian General Social Insurance Act shall be excluded from income consideration.

(9) An individual retirement account, KEOGH plan or other tax deferred asset shall be excluded as income until withdrawn.

(10) Disaster relief assistance shall be excluded as income.

(11) Income which is exempted from consideration for purposes of computing eligibility for the comparable money payment program (AFDC and SSI) shall be exempted from consideration by the cabinet.

(12) In accordance with 42 CFR 435.122 and Section 4735 of

PL 105-33, a [any] payment made from a fund established by a settlement in the case of Susan Walker v. Bayer Corporation or payment made for release of claims in this action shall be excluded as income.

(13) In accordance with 42 CFR 435.122, any payment received by a person with hemophilia from a class action law suit entitled "Factor VIII or IX Concentrate Blood Products Litigation" shall be excluded as income.

(14) Family alternatives diversion payments shall be excluded as income.

(15) For an AFDC or family-related Medicaid case, a Medicaid recipient shall have the option to receive a one (1) time exclusion of two (2) months of earned income for new employment or increased wages acquired after approval and reported timely.

Section 7. Consideration of State Supplementary Payments. For an individual receiving a state supplementary payment, that portion of the individual's income which is in excess of the basic maintenance standard (established in Section 2(1) of this administrative regulation) shall be applied to the special need which results in the supplementary payment.

Section 8. Pass-through Cases. (1)(a) An increase in a Social Security payment shall be disregarded in determining eligibility for Medicaid benefits if:

1. The increase is a cost of living increase; and

2. The individual would otherwise be eligible for an SSI benefit or state supplementary payment.

(b) An individual who would otherwise be eligible for an SSI benefit or state supplementary payment shall remain eligible for the full scope of program benefits with no spend-down requirements, as established in Section 9 of this administrative regulation.

(2) For an individual who applied by July 1, 1988, the additional amount specified in 42 USC 1383c(b) shall be disregarded, meaning that amount of Social Security benefits to which a specified widow or widower was entitled as a result of the recomputation of benefits effective January 1, 1984, and except for which (and subsequent cost of living increases) an individual would be eligible for federal SSI benefits.

Section 9. Spend-down Provisions. (1) A technically eligible individual or family shall not be required to utilize protected income for medical expenses before qualifying for Medicaid.

(2) An individual with income in excess of the basic maintenance scale established in Section 2(1) of this administrative regulation may qualify for Medicaid in any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

(3) Medical expenses incurred in a period prior to the quarter for which spend-down eligibility is being determined may be used to offset excess income if the medical expenses remain unpaid at the beginning of the quarter and have not previously been used as spend-down expenses.

(4) The incurred costs may be reimbursed under another public program of the state or political subdivision of the state and still be considered incurred costs of the applicant or recipient.

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: November 8, 1999

FILED WITH LRC: November 12, 1999 at 10 a.m.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Long Term Care
(As Amended at ARRS, January 13, 2000)

907 KAR 1:645. Resource standards for Medicaid.

RELATES TO: KRS 205.520, 42 CFR Part 435, 42 USC 1396a, b, d, 1397j(b)

STATUTORY AUTHORITY: KRS 194A.030, 194A.050,

205.520[–EO 96-862, 1998 Ky. Acts ch. 426, sec. 4(3)]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the resource standards for determining eligibility for Medicaid.

Section 1. Definitions. (1) "ABD" means an individual who is aged, blind, or has a disability.

(2) "Department" means the Department for Medicaid Services or its agent.

(3) "Individual development account" means an account containing funds for the purpose of continuing education, purchasing a first home, business capitalization or other purposes allowed by federal regulations or clarifications which meets the criteria established in 921 KAR 2:016.

(4) "K-TAP" means Kentucky's version of the federal block grant program of Temporary Assistance for Needy Families (TANF), a money payment program for children who are deprived of parental support or care due to:

(a) Death;

(b) Continued voluntary or involuntary absence;

(c) Physical or mental incapacity of one (1) parent or step-parent if two (2) parents are in the home; or

(d) Unemployment of one (1) parent if both parents are in the home. [is defined in 907 KAR 1:011.]

(5) [(3)] "Poverty level guidelines" means the poverty income guidelines updated annually in the Federal Register by the United States Department of Health and Human Services, under authority of 42 USC 9902(2).

(6) [(4)] "Real property" means land or an interest in land with an improvement, permanent fixture, mineral, or appurtenance considered to be a permanent part of the land, and a building with an improvement or permanent fixture attached.

(7) [(5)] "Resources" mean cash money and other personal property or real property that an individual:

(a) Owns;

(b) Has the right, authority or power to convert to cash; and

(c) Is not legally restricted for support and maintenance.

(8) [(6)] "SSI" means the Social Security Administration Program called supplemental security income.

Section 2. Resource Limitations. (1) For the medically needy as **established** [defined] in 907 KAR 1:011, the upper limit for resources for a family size of one (1) and for family size of two (2) shall be \$2,000 and \$4,000 respectively, with fifty (50) dollars for each additional member.

(2) For a pregnant woman or a child meeting the following criteria, resources shall be disregarded:

(a) A child under age one (1);

(b) A child who is at least age one (1) but under age six (6);

(c) A child who is at least age six (6) but under age nineteen (19) born after September 30, 1983 who is eligible under federal poverty level guidelines;

(d) A child born on or before September 30, 1983 who has not attained the age of nineteen (19) years as specified in 42 USC 1396a(l) and who is eligible under the Children's Health Insurance Program, 907 KAR Chapter 4; or

(e) A targeted low income child, as defined in 42 USC 1397j(b), from birth to age nineteen (19).

(3) For a qualified Medicare beneficiary, specified low-income Medicare beneficiary, qualified working disabled individual, or a Medicare qualified individual, resources shall be limited to twice the allowable amount for the SSI Program.

(4) For a pass-through recipient as **established** [defined] in 907 KAR 1:640, a person with hemophilia who received a settlement in a class action lawsuit as described in 907 KAR 1:011, or a child who lost supplemental security income eligibility due to the change in definition of childhood disability as established in 907 KAR 1:011, resources shall be limited to the allowable amounts

for the SSI Program.

(5) For an AFDC-related Medicaid case, the resource limit shall be \$1,000.

Section 3. Resource Exclusions. (1) A homestead, occupied or abandoned, household, personal effects, and farm equipment without limitation on value shall be excluded from consideration.

(2) Equity of \$6,000 in income-producing, nonhomestead real property, business or nonbusiness, essential for self-support, shall be excluded from consideration. The value of property (including the tools of a tradesperson or the machinery or livestock of a farmer) that is essential for self-support for the individual or spouse, or family group in the instance of a family with a child, and which is used in a trade or business or by the individual or member of the family group as an employee shall be excluded from consideration as a resource.

(3) For a family related Medicaid case, the value of otherwise countable real property (whether income producing or nonincome producing) shall be excluded from consideration for six (6) months if the individual can demonstrate that he is trying to dispose of the property properly. An additional three (3) months shall be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.

(4) For an ABD Medicaid case, real property or nonreal property shall be excluded from consideration if it can be demonstrated that there was a reasonable effort to sell the property at fair market value within a year of application for Medicaid.

(5) For an AFDC-related Medicaid case, \$1,000 in resources shall be excluded from consideration.

(6) For an AFDC-related Medicaid case, the equity value of one (1) automobile shall be excluded from consideration.

(7)(a) For the adult or family-related Medicaid case, except as provided in paragraph (b) of this subsection, equity of \$4,500 in automobiles [an automobile] shall be excluded from consideration.

(b) For the adult or family-related Medicaid case, if an automobile is used as a home, for employment, to obtain medical treatment of a specific or regular medical problem, or if specially equipped for use by an individual with a disability, the total value of the automobile shall be excluded.

(8) [(6)] A burial reserve of up to \$1,500 per individual, which may be in the form of a burial agreement, prepaid burial or similar arrangement, trust fund, life insurance policy, or other identifiable fund shall be excluded from consideration.

(a) The cash surrender value of life insurance shall be considered if determining the total value of burial reserves.

(b) If a burial fund is commingled with another fund, the applicant shall have thirty (30) days to separately identify the burial reserve amount.

(c) Interest or other appreciation of value of an excluded burial reserve or space shall be excluded as a resource if the amount is left to accumulate as a part of the burial reserve or space.

(9) [(7)] A burial trust, burial space, plot, vault, crypt, mausoleum, urn, casket, or other repository which is customarily and traditionally used for the remains of a deceased person shall be excluded from consideration as a countable resource without regard to value.

(10) [(8)](a) For an ABD Medicaid case, proceeds from the sale of a home shall be excluded from consideration for three (3) months from the date of receipt if used to purchase another home.

(b) For a family related Medicaid case, proceeds from the sale of a home shall be excluded from consideration for six (6) months from the date of receipt if used to purchase another home.

(11) [(9)] Resources of an individual who is blind or has a disability shall be excluded if the resources are included in an approved plan for achieving self-support (PASS).

(12) An individual development account up to a total of \$5,000, excluding interest accruing, shall be excluded from consideration as a resource for an AFDC-related Medicaid case.

(13) [(10)] A payment or benefit from a federal statute, other than an SSI benefit, shall be excluded from consideration as a

resource if precluded from consideration in an SSI determination of eligibility by the specific terms of the statute.

(14) [(11)] Disaster relief assistance shall be excluded from consideration.

(15) [(12)] Cash or in-kind replacement for repair or replacement of an excluded resource shall be excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

(16) [(13)] A life interest that a Medicaid applicant or recipient has in real estate or other property shall be excluded from consideration as an available resource.

(17) [(14)] Real property other than the homestead shall be excluded from consideration if:

(a) The property is jointly owned and its sale would cause loss of housing for the other owner or owners;

(b) Its sale is barred by a legal impediment; or

(c) The owner's reasonable efforts to sell by informing the public of his intention to sell the property at fair market value have been unsuccessful.

(18) [(15)] A cash payment intended specifically to enable an applicant or recipient to pay for a medical or social service shall not be considered as a resource in the month of receipt or for one (1) calendar month following the month of receipt. If the cash is still being held at the beginning of the second month following its receipt, it shall be considered a resource.

(19) [(16)] An amount received which is a result of an underpayment or a retroactive payment of benefits from retirement, survivors, and disability insurance benefits or SSI shall be excluded as a resource for the first six (6) months following the month in which the amount is received.

(20) [(17)] A federal Republic of Germany reparation payment shall not be considered as an available resource.

(21) [(18)] An amount received from a victim's compensation fund established by a state to aid victims of crime shall be:

(a) Completely excluded as a resource if the individual can show that the amount was paid as compensation for expenses incurred or losses suffered as a result of a crime; or

(b) Excluded as a resource for nine (9) months if the individual can show that the amount was paid for pain and suffering.

(22) [(19)] An Austrian social insurance payment based on a wage credit granted under Sections 500-506 of the Austrian General Social Insurance Act shall be excluded from resource consideration.

(23) [(20)] An individual retirement account, Keogh plan or other tax deferred asset shall be excluded as a resource until withdrawn.

(24) [(21)] A payment made from a fund established by a settlement in the case of Susan Walker v. Bayer Corporation or payment made for release of claims in this action shall be excluded from consideration as an available resource.

(25) [(22)] A payment received from a class action law suit entitled "Factor VIII or IX Concentrate Blood Products Litigation" shall be excluded from consideration as an available resource.

Section 4. Resource Exemptions. A resource which is exempted from consideration for purposes of computing eligibility for the SSI Program shall be exempted from consideration by the department.

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: October 28, 1999

FILED WITH LRC: October 28, 1999 at 10 a.m.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
(As Amended at ARRS, January 13, 2000)

922 KAR 2:090. Child care facility licensure.

RELATES TO: KRS [13A.140(1)] 17.165, 199.892- [199.894 to] 199.898, 209.020(4), (7), (8), (15), 209.990, 508.100, 508.110,

508.120, 600.020(1), 620.010, 620.020

STATUTORY AUTHORITY: KRS 194B.050(1) [194.050], 199.896(2), (4), EO 98-731

NECESSITY, FUNCTION, AND CONFORMITY: KRS 199.896(2) grants authority to the Cabinet for Families and Children to promulgate [establish] administrative regulations and establish standards for child day care [of children]. [The function of] This administrative regulation establishes [is to establish] licensure requirements for child day care facilities.

Section 1. Application. (1) An applicant for either a provisional or regular license [licensure] shall submit to the Cabinet for Health Services a completed Application for a License to Operate a Day Care Center, Form L&R-204.

(2) An application shall be considered under the provisions of Section 6 of this administrative regulation.

(3) If the applicant is:

(a) A corporation, the application shall include a current certificate of existence or authorization from the Secretary of State; [or]

(b) A partnership, the application shall include a written statement from the partners that the partnership is current and viable.

(4) If the status of a corporation or partnership changes, the new entity shall submit an application, pursuant to Section 2(8) of this administrative regulation. [Prior to licensure, a complete application shall be submitted to the cabinet. The application for a license to operate a day care center, L&R-204, herein incorporated by reference, may be obtained from the Office of Inspector General, 4th Floor, 275 East Main Street, Frankfort, Kentucky 40621. The application may be denied in accordance with Section 6 of this administrative regulation.]

Section 2. License Issuance. (1) Provisional and regular licenses shall be issued pursuant to KRS 199.896(3), (4), and (6).

(2) Effect of previous denial or revocation.

(a) The Cabinet for Health Services shall not accept an application to operate a child care facility from an entity that has:

1. Within the previous five (5) years, had a certification, license, registration, or permit to operate a human services center denied or revoked for reasons set forth in Section 6(1)(b) or (2)(a) or (b) of this administrative regulation;

2. Within the previous five (5) years, voluntarily forfeited a [his] certification, license, registration, or permit after the cabinet has initiated denial or revocation action; or

3. Within the previous two (2) years, had a [his] certification, license, registration, or permit revoked for a reason set forth in Section 6(1)(a) of this administrative regulation. [An individual, partnership, corporation, or other entity who has had certification, license, registration or permit to operate a human services center denied for reasons set forth in Section 6(1)(b) or (c) of this administrative regulation or revoked or voluntarily forfeits their certification, license, registration or permit after the cabinet has initiated denial or revocation action shall not apply for a license to operate a child care facility for a period of five (5) years from the date of revocation.]

(b) [(a)] After the expiration of the five (5) year period, an entity meeting the criteria of paragraph (a)1 or 2 of this subsection [the person] may apply for a provisional license after establishing that the applicant has:

1. The ability to comply with the provisions of this administrative regulation; and

2. Completed [has demonstrated completion of at least] sixty (60) hours of cabinet-approved training in developmentally appropriate child care practice since the time of the prior denial or revocation.

(c) [(b)] If a provisional license is granted after the five (5) year period, the licensee [provider] shall serve a two (2) year provisional [probationary] period during which the child care facility shall be inspected on at least a quarterly basis. Upon completion of the two (2) year provisional period, a regular license shall be issued if the licensee is in compliance with subsection (4) of this section. [Inspections shall be unannounced.]

(3) [(2)] A provisional or [and] regular license shall specify [be issued for]:

(a) A particular [specified] physical location;

(b) [Operation by] A designated sponsor or owner as operator;

(c) Age category of the children in care [categories];

(d) The [A-specified] maximum number of children to be under

facility supervision ~~[on-premises]~~ at one (1) time, including a child ~~[children]~~ related to the licensee, based upon: ~~[- The number of children for which the facility is licensed shall be determined by:]~~

1. Available space as determined by the State Fire Marshall's Office in conjunction with the Cabinet for Health Services;

2. Adequacy of program;

3. Equipment; and

4. Staff.

(e) Nighttime care, if provided; ~~[and]~~

(f) Transportation, if provided; ~~and~~

(g) A list of ~~[-~~

~~(3) The license shall list the] services to be provided by the facility.~~

(4) To qualify for a provisional and regular license, a child day care facility shall:

(a) Provide written documentation from the zoning commission showing compliance ~~[Comply]~~ with local zoning requirements;

(b) Be approved by the Office of the State Fire Marshal or designee;

(c) Have an approved water and sewage system in accordance with local, county and state laws;

(d) Have adequate equipment, supplies, and staff to serve initial enrollment of children;

(e) Provide written proof of liability insurance coverage ~~[Have liability insurance]~~ in the amount of \$100,000 per occurrence; and

(f) Comply with provisions of this administrative regulation and 922 KAR 2:110 and 922 KAR 2:120. ~~[2:001, 922 KAR 2:110, and 922 KAR 2:120.]~~

(5) Corrective plans.

(a) The Cabinet for Health Services shall perform an on-site facility inspection, pursuant to KRS 199.896(10), in order to ascertain compliance with subsection (4) of this section. A regulatory violation identified during inspection shall be reported to the facility in a written statement of deficiency.

(b) A facility not in compliance shall submit, within ten (10) days of receipt of the statement of deficiency, a written plan for the elimination or correction of a violation. The plan shall detail:

1. Specific action undertaken to correct a violation;

2. The date action was initiated; and

3. Action utilized to assure ongoing compliance.

(c) The Cabinet for Health Services shall review the plan and notify the facility, in writing, of the decision to:

1. Accept the plan;

2. Not accept the plan; or

3. Deny, suspend, or revoke the facility's license, pursuant to Section 6 of this administrative regulation.

(d) A notice of unacceptability shall state the specific reasons the plan is unacceptable.

(e) A facility notified of unacceptability of its plan shall, within ten (10) days of notification:

1. Submit an amended plan; or

2. Have its license revoked or denied. ~~[(a) The facility shall be in compliance with subsection (4) of this section or shall have submitted an acceptable plan of correction.]~~

1. Compliance shall be ascertained through on-site inspections of the facility;

2. Regulatory violations identified during these inspections shall be transmitted in writing to the facility;

(b) The facility shall submit a written plan for the elimination or correction of the regulatory violations to the inspecting agency within ten (10) days of the statement of deficiencies. The plan shall specify the dates by which each of the violations shall be corrected.

(c) Following a review of the plan, the facility shall be notified in writing of the acceptability of the plan:

1. If the plan is unacceptable, the reasons shall be specified.

2. In these cases, the facility shall modify or amend the plan and resubmit within ten (10) days of notice of the plan's unacceptability;

(6) A regular or ~~[and]~~ provisional license shall be issued ~~if [when]~~ the facility has met the requirements contained in this administrative regulation and KRS 199.896(4), (9), (11), (12), (14), and (15).

(7) A regular or provisional license shall not be sold or transferred, ~~[transferable. A change in ownership of a facility shall require a new application and fee. If circumstances covered by the license change, as listed in 922 KAR 2:110, Section 4(4)(b) through (e), notification shall be made in writing to the cabinet. These changes shall not re-~~

~~quire an additional fee.]~~

(8) Change of ownership.

(a) A prospective new owner shall submit:

1. An application, L&R 204;

2. A fee as specified in Section 3 of this administrative regulation; and

3. If the facility increases capacity, proof of approval by the Office of the State Fire Marshal.

(b) The Office of Inspector General, Division of Licensing and Regulation, shall perform on-site facility inspection, pursuant to KRS 199.896(10), in order to ascertain compliance with this administrative regulation, KRS 199.896(12), 922 KAR 2:110, and 922 KAR 2:120.

(c) The effective date of a license granted on an application for change of ownership shall be:

1. For a facility that meets requirements, the date the facility is acquired by the new owner;

2. For a facility that does not meet requirements, the date that compliance is achieved; or

3. For a facility that increases capacity, not before the approval date issued by the State Fire Marshal.

(9) Changes to the facility.

(a) A licensee shall notify the Cabinet for Health Services, in writing, if there is a change to the facility as listed in 922 KAR 2:110, Section 4(4)(b) through (e).

(b) The notification shall be signed by each owner listed on the license application.

(c) A fee shall not be charged.

(d) Notification shall be submitted to the Division of Licensing and Regulation, 275 East Main Street, 4E-A, Frankfort, Kentucky 40621.

(10) The license shall be posted in a conspicuous place in the facility.

(11) ~~[(9)]~~ A facility shall not begin operation without a license to operate from the Cabinet for Health Services ~~[Families and Children]~~.

(12) ~~[(10)]~~ A facility operating without ~~[having]~~ a license shall be subject to legal action.

Section 3. Fees. (1) Licensing fees shall be charged pursuant to KRS 199.896(4), ~~[-~~

~~(a) Eighty (80) dollars for initial licensure for a Type I facility;~~

~~(b) Forty (40) dollars for initial licensure of a Type II facility; or~~

~~(c) Forty (40) dollars for renewal licensure.]~~

(2) A check or money order payable to the Kentucky State Treasurer shall be attached to the ~~[initial and renewal]~~ licensure application.

(3) A fee ~~[initial application fee and renewal fees]~~ shall not be refunded if an inspection ~~[a survey]~~ has been made by the Cabinet for Health Services ~~[Families and Children]~~ or the State Fire Marshall's Office.

Section 4. Inspections. Inspections of licensed day care facilities shall be made pursuant to KRS 199.896(6), (7), and (10) and 199.898(2)(d) and (e). ~~[Representatives of the cabinet shall be trained to apply the administrative regulations and have the authority to make unannounced inspections of facility's:]~~

~~(1) Premises;~~

~~(2) Records required by 922 KAR 2:090, 922 KAR 2:110, and 922 KAR 2:120; and~~

~~(3) Programs.]~~

Section 5. Annual Renewal. A licensee seeking renewal shall submit, one (1) month prior to license expiration, an Application for Renewal of a License to Operate a Day Care Center, Form L&R - 204A, in compliance with the provisions of Section 1(3) and (4) of this administrative regulation. ~~[(1) Licenses shall be renewed annually.]~~

~~(2) The renewal application and fee shall be submitted one (1) month prior to the expiration date of the license.~~

~~(3) The facility shall comply with the requirements of Sections 2 and 4 of this administrative regulation.]~~

Section 6. Basis for Denial, Suspension or Revocation. (1) The Cabinet for Health Services shall deny an application or suspend or revoke a provisional or regular license if the applicant or individual licensee, director, employee, or a person under the supervision of

the licensee:

(a) Fails to meet the requirements of this administrative regulation or those of 922 KAR Chapter 2, except for a violation involving abuse, neglect, or exploitation of a child or adult, or a sexual offense; [or]

(b) Has been convicted:

1. Of a sexual offense designated in KRS 510.040 to 510.140, 510.150, 529.020 to 529.050, 530.020, 530.064, or 531.310 to 531.370;

2. Of a crime of abuse, neglect or exploitation of a child, pursuant to KRS 508.100, 508.110, or 508.120; or

3. As a violent offender, pursuant to KRS 17.165(2);

(c) Has had a human services center or facility registration, certification, permit, or license denied or revoked for a reason set forth in this subsection; or

(d) Has voluntarily forfeited a registration, certification, permit, or provisional or regular license, after Cabinet for Health Services' initiation of a denial or revocation action against him, for a reason set forth in paragraph (a), (b), or (c) of this subsection.

(2) A director of a child day care center shall not:

(a) Have had an allegation of abuse or neglect of a child, pursuant to KRS 600.020(1), substantiated by the Cabinet for Families and Children pursuant to 922 KAR 1:330 and, if appealed, 922 KAR 1:320; or

(b) Be listed on the Nurse's Aid Abuse Registry by the Inspector General's Office.

(3) Emergency action shall be taken pursuant to KRS 199.896(5).

(4) Public information shall be provided pursuant to KRS 199.896(6) and (7) and KRS 199.898(2)(d) and (e). [The Cabinet for Families and Children may deny, suspend or revoke a license or application:

(a) For failure to meet the standards of this administrative regulation;

(b) If the licensee, an adult living in the facility or person under the supervision of the licensee has been convicted of a crime related to abuse, neglect or exploitation of a child or an adult;

(c) If the licensee or an adult living in the facility:

1. Has abused, neglected or exploited a child or an adult; or

2. Is listed on the Nurse's Aid Abuse Registry by the Inspector General's Office.

(2) If the licensee has had a human services center or facility registration, certification, permit or license denied for reasons set forth in subsection (1)(b) or (c) of this section or revoked or voluntarily forfeits their certification, license, registration or permit after the cabinet initiates denial for reasons set forth in subsection (1)(b) or (c) of this section or revocation action.

(3) If one (1) of the grounds for denial, suspension or revocation set forth in this section exists and the condition creates an immediate danger to the children in care, the cabinet may suspend or revoke the license immediately.]

Section 7. Right of Appeal. (1) If an application or license has been denied, suspended, or revoked, the Cabinet for Health Services shall notify the applicant or licensee, in writing, of the right to appeal, pursuant to KRS Chapter 13B.

(2) If, within fifteen (15) days after receiving notice of the Cabinet for Health Service's action, the applicant or licensee requests a hearing, the Cabinet for Health Services shall:

(a) Appoint a hearing officer; and

(b) Proceed pursuant to KRS 13B.050.

(3) Emergency action taken pursuant to Section 6(3) of this administrative regulation shall conform to the requirements of KRS 199.896(5). [If a license or application has been denied, suspended or revoked, the licensee shall be notified in writing of the right to appeal. The request for a hearing shall be made in writing within fifteen (15) days after receiving the notice of the action of the cabinet.

(2) Upon receipt of the request for a hearing:

(a) The cabinet shall notify the licensee in writing within fifteen (15) days of the time and place of the hearing;

(b) The cabinet shall appoint a hearing officer to review the record, take additional evidence, and make recommendations upon the matter appealed.

(c) The hearing officer shall have the authority to issue subpoenas

to compel the attendance of witnesses and the production of documents to be used as evidence in hearings held pursuant to this section.

(3) Based upon the record and upon the information obtained at the hearing, the hearing officer shall affirm or overturn the initial decision of negative action. The decision shall be final. If license denial or revocation is upheld, the cabinet shall specify the date by which the facility shall close and the licensee shall be notified in writing.

(4) If a provider whose license has been suspended or revoked pursuant to Section 6(3) of this administrative regulation requests a hearing, the cabinet shall conduct a hearing within five (5) working days of receipt of the request for a hearing. The hearing may be continued at the request of the provider.

(a) The sole issue of the hearing shall be whether one (1) or more grounds for suspension or revocation create an immediate danger to the children in care.

(b) The cabinet shall render a decision within five (5) working days of the close of the hearing. If a decision is not rendered within five (5) working days of the close of the hearing, the provider shall have its license returned and be allowed to operate pending action on other regulatory violations, if any.

(c) If the hearing officer decides within five (5) working days of the close of the hearing that one (1) or more of the grounds for suspension or revocation create an immediate danger to the children in care, the license of the provider shall be suspended pending action of the cabinet to accept the plan of correction or revoke the license.]

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) L&R-204, "Application for a License to Operate a Day Care Center, August, 1999"; and

(b) L&R-204A, "Application for Renewal of a License to Operate a Day Care Center, August, 1999". [The form necessary for the implementation of the application for license shall be herein incorporated by reference.]

(2) This material [incorporated by reference] may be inspected, [or] copied, or obtained at the Inspector General's Office, 4th Floor, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, [office hours] 8 a.m. - 4:30 p.m.

DIETRA PARIS, Commissioner
CHARLES P. LAWRENCE, Attorney
VIOLA MILLER, Secretary

APPROVED BY AGENCY: November 15, 1999

FILED WITH LRC: November 15, 1999 at 11 a.m.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(As Amended at ARRS, January 13, 2000)

922 KAR 5:090. General adult services.

RELATES TO: KRS 209.020(4), (6), (7), (8), (15), 210.290, 403.720(2)

STATUTORY AUTHORITY: KRS 194B.050(1), 209.035, EO 98-731

NECESSITY, FUNCTION, AND CONFORMITY: KRS 209.035 requires the Cabinet for Families and Children to promulgate administrative regulations to establish criteria for general adult services. This administrative regulation **establishes** [sets forth] the general adult services program [aimed at maintaining adults in the community at their highest level of self-sufficiency and autonomy].

Section 1. Definitions. (1) "Abuse" is defined at [means the definition of "abuse" pursuant to] KRS 209.020(7).

(2) "Adult" is defined at [means the definition of "adult" pursuant to] KRS 209.020(4).

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

(4) "Caretaker" is defined at [means the definition of "caretaker" pursuant to] KRS 209.020(6).

(5) "Exploitation" is defined at [means the definition of "exploitation" pursuant to] KRS 209.020(8).

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(6) "Family member" **is defined at** ~~[means the definition of "family member" pursuant to]~~ KRS 403.720(2).

(7) "General adult services" means a voluntary preventive service aimed at assisting:

(a) An adult to attain and function at his highest level of self-sufficiency and autonomy; and

(b) In maintaining the adult in the community.

(8) "Neglect" **is defined at** ~~[means the definition of "neglect" pursuant to]~~ KRS 209.020(15).

Section 2. Criteria for Intake and Assessment. (1) If a social service worker and **the adult agree** ~~[customer agrees]~~, an individual eighteen (18) years of age or older **shall** ~~[may]~~ be eligible for general adult services:

(a) If he is:

1. Mentally or physically dysfunctional and not in an abuse, neglect or exploitation situation; and

2. Requesting the service or in a situation where service is requested at the direction of an individual through another individual or agency;

(b) If an allegation of abuse, neglect, or exploitation is made and the alleged perpetrator is a:

1. Former spouse;

2. Former cohabiting partner; or

3. Partner with a child in common; **or**

(c) If he requests a transitioning service from out-of-home care within twelve (12) months of release from the cabinet's commitment.

(2) An individual sixty-five (65) years of age or older shall be eligible for general adult services if he is:

(a) Not mentally or physically dysfunctional; and

(b) Allegedly being abused, neglected or exploited by a:

1. Family member;

2. Household member; or

3. Caretaker.

Section 3. Time Frame. **An adult services** ~~[The]~~ assessment shall:

(1) Be initiated within three (3) working days ~~of~~ ~~[upon]~~ receipt of the request for services; and

(2) Include completion of the Adult Narrative/Investigation/Assessment form within forty-five (45) working days of initiation.

Section 4. Tracking information on general adult services shall be maintained by the cabinet for administrative purposes.

Section 5. Appropriate and necessary service provision shall include:

(1) Information and referral;

(2) The assessment; and

(3) Supportive and on-going services that, **if required by the circumstances, [may]** include:

(a) Services focusing on prevention;

(b) Social work counseling; and

(c) Arranging transportation.

Section 6. Incorporation by Reference. (1) The Adult Narrative/Investigation/Assessment Form, edition 11/99, is incorporated by reference.

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

DIETRA PARIS, Commissioner
CHARLES P. LAWRENCE, Attorney
VIOLA MILLER, Secretary

APPROVED BY AGENCY: November 15, 1999

FILED WITH LRC: November 15, 1999 at 11 a.m.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
(Amended After Hearing)

601 KAR 1:018. Special overweight or overdimensional permits.

RELATES TO: KRS 189.270, 189.2715, 189.2717

STATUTORY AUTHORITY: KRS 174.080, 189.274

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.270 allows for certain overweight or overdimensional permits to be issued by the Transportation Cabinet. KRS 189.270 authorizes the Secretary of the Kentucky Transportation Cabinet to issue permits for the movement of motor vehicles with loads exceeding legal weights or dimensions. This administrative regulation establishes the procedures and requirements necessary in the interest of highway safety for the issuance of an overweight or overdimensional permit. It further exempts certain farm implement movements from the requirements of obtaining an overdimensional permit, but retains the associated safety requirements for the movement of these overdimensional vehicles.

Section 1. Definitions. (1) "Boat" means a vehicle used for movement on the water and the trailer on which it is placed for transporting the vehicle on the highway.

(2) "Daylight hours" shall mean the period of a day from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset. However, it shall not include any time when atmospheric conditions such as heavy rain, snow, sleet or fog render visibility lower than is ordinarily the case during that period of the day.

(3) "Divisible load" shall mean a load which when reasonably divided, dismantled, disassembled or rearranged would no longer be overweight or overdimensional.

(4) "Dual-wheel axle" means one (1) axle with two (2) wheels on each side of the axle.

(5) "Farm implement or equipment" means machinery, equipment or vehicle used exclusively in a farm or agriculture operation including those items which are not required by KRS Chapter 186 to be registered.

(6) "Fully-controlled access highway" means a highway which gives preference to through traffic and which shall have access only at selected public roads or streets and which shall have no highway grade crossing or intersection.

(7) "National holiday" means:

- (a) New Year's Day;
- (b) Memorial Day (as observed on the last Monday in May);
- (c) Independence Day;
- (d) Labor Day;
- (e) Thanksgiving Day; and
- (f) Christmas Day.

(8) "Nondivisible load" means a load or vehicle, which if separated into smaller loads would:

- (a) Compromise the intended use of the vehicle, making it unable to perform the function for which it was intended;
- (b) Destroy the value of the load or vehicle, making it unusable for its intended purpose; or
- (c) Require more than eight (8) work hours to dismantle using appropriate equipment.

(9) "Overdimensional" means the motor vehicle exceeds the dimension limits set forth in 603 KAR 5:070.

(10) "Overweight" means the motor vehicle exceeds:

- (a) The gross weight limit established for a highway segment in 603 KAR 5:300;
- (b) The axle weight limit established in 603 KAR 5:066;
- (c) The gross weight limits established by KRS 177.9771 for a motor vehicle transporting coal or coal by-products;
- (d) The bridge weight limit established by 603 KAR 5:066; or
- (e) The gross weight limit posted at a bridge or other structure.

(11) "Permit fee" means the fee set forth in KRS 189.270, 189.2715, or 189.2717 charged for the issuance of an overweight or overdimensional trip or annual permit. The fee covers the cost of processing the permit application, including:

- (a) A qualification check of the applicant;
- (b) A statutory compliance check; and
- (c) An initial bridge and weight analysis.

(12) "Pole trailer" means a vehicle which is designed to be drawn by a motor vehicle and attached to the towing motor vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing motor vehicle. It is used for transporting long or irregularly shaped loads such as poles, pipes, or structural members which generally are capable of sustaining themselves as beams between the supporting connections.

(13) "Single-wheel axle" means a steering axle with one (1) wheel on each side of the axle.

(14) "Toll road" means any project constructed under the provisions of KRS Chapter 175 or KRS 177.390 through 177.570 on which a toll is collected or was in the past collected by the Transportation Cabinet.

(15) "Utility equipment" means the specialized equipment, including earth-moving equipment, necessary for the installation or operation of utility poles or pipes or utility electrical field equipment such as transformers or regulators. It shall not include any equipment necessary for the construction or operation of a power generation station.

Section 2. Permit Application. (1) An application (form TC 95-25, rev. 7/98) for an overweight or overdimensional annual and trip permit may be completed on forms provided by the Kentucky Transportation Cabinet, Department of Vehicle Regulation, Division of Motor Carriers, 501 High Street, Frankfort, Kentucky 40622. The permit application shall contain the following:

- (a) A detailed description of the equipment or load to be moved;
- (b) A description and vehicle identification number of the power unit moving the equipment;
- (c) Registration weight and license plate number of the power unit;
- (d) Equipment operator's name, telephone number and address;
- (e) Routes requested for travel;
- (f) Period of time: Single trip not to exceed ten (10) days; or annual permit shall be 365 days from date of issue.

(2) A single trip permit application or request shall specify the following:

- (a) The year and make of the towing vehicle;
 - (b) The towing vehicle's license plate number;
 - (c) The maximum weight for which the vehicle is registered;
 - (d) The state of registration of the vehicle;
 - (e) Name and address of the owner;
 - (f) The dates of travel;
 - (g) The serial number of the manufactured home or hull identification number of the boat; and
 - (h) The specific routes of travel requested.
- (3) If the towing vehicle for which a single trip permit is being applied is registered in a state other than Kentucky, the vehicle shall be either:

- (a) Apportioned registered to operate in Kentucky; or
 - (b) In compliance with KRS 281.752.
- (4) An annual permit application or request shall in writing specify the following information relating to the motor vehicle:

- (a) Year and make;
- (b) Vehicle identification number;
- (c) License plate number;
- (d) The maximum weight for which it is registered;
- (e) The state of apportioned registration, if not registered in Kentucky;
- (f) Name and address of the motor carrier operating or the owner of the towing vehicle; and
- (g) Whether the motor carrier operating the towing vehicle is a

for-hire or private carrier.

(6) If the towing vehicle issued an annual permit is registered in a state other than Kentucky, the vehicle shall be apportioned registered to operate in Kentucky.

(7) The application for an annual permit shall contain a certification by the applicant that he is aware of the safety requirements in the movement of overweight/overdimensional load and shall at all times comply with them.

(8) Special permits to allow the movement of motor vehicles with gross weights or gross dimensions in excess of the weights and dimensions specified by statutes and administrative regulations shall be issued by the Department of Vehicle Regulation, Division of Motor Carriers when, in the discretion of the department, this movement is necessary to provide transportation for specified cargo in the interest of the health, welfare and economy of the people.

(9) Each trip or annual permit issued shall be limited to designated portions of the state primary road system and stated periods of time.

(10) A separate permit shall be required for each vehicle involved in a movement.

(11) A permit shall not be issued for a divisible load which when reasonably divided, dismantled, disassembled or rearranged would no longer be overweight or overdimensional except for as provided by KRS 189.2715 or 189.2717.

(12) An overweight permit shall not be issued to the following:

(a) A Kentucky licensed vehicle, for a gross weight exceeding that for which the truck is registered, unless registered for 80,000 pounds (36,287.36 kilograms);

(b) A tractor-trailer combination of less than five (5) axles;

(c) A vehicle not registered in Kentucky, which has not met one (1) of the following conditions:

1. Has been apportioned registered by another jurisdiction to operate in Kentucky at 80,000 pounds (36,287.36 kilograms); or
2. Has met the provisions of KRS 281.752;

(d) A vehicle whose axle weight would exceed the product of 700 pounds (317.51 kilograms) times the aggregate width in inches established from the manufacturer's stamped tire measurement for all tires on the axle; or

(e) A towing vehicle whose horsepower or braking capacity is not adequate to safely transport the overdimensional or overweight load.

(13) This administrative regulation shall not prohibit the permit issuing office from further restricting movements or denying a permit for any movement which may cause damage to property or which may be detrimental to public safety and convenience.

(14) An annual permit will not be issued if the vehicle is licensed with a limited or restricted registration such as identified in KRS 186.050(8) and (9) for Kentucky-based vehicles.

Section 3. Height. (1) All vehicles and load with a height in excess of thirteen and one-half (13.5) feet shall obtain a permit prior to movement.

(2) There is no set maximum height limit for the issuance of an overdimensional permit except as determined by underpasses and bridges.

Section 4. Weight. (1) Gross or axle overweight shall not be permitted:

(a) On combination units of less than five (5) axles;

(b) On a single unit except off-road equipment such as scraper, mobile cranes or other self-propelled units.

(2) Kentucky licensed vehicles shall not be permitted weights exceeding that for which licensed unless licensed for the maximum of 80,000 pounds.

(3) The weight on any single axle in any combination shall not exceed the product of 700 pounds times the aggregate width in inches established by the manufacturer's stamped tire measurement of all the tires on the axle, or the following axle or axle group weights, whichever is less:

(a) Single axle - 24,000 pounds;

(b) Tandem axle group if the combination vehicle has only five (5) axles total - 45,000 pounds (minimum of forty-two (42) inches spacing between the center of each of the axles of the tandem axle group);

(c) Tandem axle group if the combination vehicle has six (6) or more axles total - 48,000 pounds (minimum of forty-two (42) inches spacing between the center of each of the axles of the tandem axle group);

(d) Tridem axle group - 60,000 pounds (minimum of forty-two (42) inches spacing between the center of each of the axles of the tridem axle group);

(e) Five (5) axle combination units shall not exceed 96,000 pounds gross weight;

(f) Six (6) axle combination units shall not exceed 120,000 pounds gross weight.

(4) Since bridge capacity is the weight-controlling factor in most instances, these maximum weights shall not be permitted unless all bridges involved have sufficient capacity to accommodate the load.

Section 5. Responsibility of Permit Holder. Any damage to the highway, signs, guardrail or other public or private property caused by the transportation of the specialized equipment shall be the responsibility of the permit holder. The permit holder shall either repair all damage incurred or pay for the repair. A permit holder shall not cut, trim, remove or relocate any tree, shrub, guardrail, highway sign or other object on the highway right-of-way without the written approval of the chief district engineer having jurisdiction over the property involved. The applicant is responsible for providing accurate information and to review the permit prior to travel on Kentucky highways.

Section 6. Permit Availability. (1) The original of the annual permit shall be carried in the overweight or overdimensional vehicle at all times.

(2) It shall be presented, upon request, to any law enforcement officer or authorized personnel of the Department of Vehicle Regulation.

(3) An unauthenticated photocopy of the annual permit shall not be valid.

(4) The original annual or facsimile copy of a single trip permit shall be carried in the overweight or overdimensional vehicle or equipment at all times. It shall be presented, upon request, to any law enforcement officer or authorized personnel of the Department of Vehicle Regulation.

Section 7. Duplicate Permits. A duplicate permit which is needed to replace a lost, stolen or destroyed annual permit or to transfer the permit to another towing vehicle may be obtained from the Division of Motor Carriers by a payment of ten (10) dollars. Only one (1) transfer to another towing vehicle shall be allowed for each annual permit during its effective year. Any additional transfer of the annual permit requested shall be subject to the fees set forth in KRS Chapter 189.270.

Section 8. Travel Restrictions. (1) A single trip permit shall be valid for a period not to exceed ten (10) days. A time extension shall only be granted if the permit holder proves extenuating circumstances. An annual permit shall be valid for 365 days from date of issuance.

(2) The department may further prohibit movements in congested areas within the peak traffic hours. The additional restrictions shall be noted on the permit when issued.

(3) When a utility company is working in an emergency situation to restore utility service to an area otherwise experiencing an outage, the overdimensional restrictions of regulation shall not prohibit travel.

Section 9. Farm Implements. (1) A permit shall not be required to transport overdimensional farm implements, unless the movement occurs on an interstate highway, toll road, or fully controlled access highway in the following instances:

(a) From one (1) farm to another;

(b) From a farm to a repair shop or dealer; or

(c) From a repair shop or dealer to a farm.

(2) The movement of overdimensional farm implements shall comply with the safety requirements set forth in this administrative regulation.

(3) The following movements of farm implements shall only be

made under the authority of an oversized permit:

- (a) Manufacturer to dealer;
- (b) Dealer to manufacturer;
- (c) Dealer to dealer; or
- (d) Moves on an interstate highway, toll road, or fully-controlled access highway.
- (4) On an interstate highway, toll road, or fully-controlled access highway a self-propelled farm implement shall not be:
 - (a) Operated; or
 - (b) Issued a permit for movement.
- (5) If the farm equipment to be transported exceeds twelve (12) feet in width, the farm equipment dealer who holds the annual permit shall, prior to the proposed move, scout the entire route proposed to be used for the movement of the oversized farm equipment.
- (6) If there is any doubt of the adequacy of the highway to safely accommodate the oversized farm equipment, the dealer shall:
 - (a) Select a different route; or
 - (b) Contact the appropriate highway district office for clearance to move the equipment over that specific route.
- (7) If the highway district office does not issue clearance for the use of a particular route, that route shall not be used.

Section 10. Escort Vehicle, Safety and Flag Requirements. (1) Required escort vehicles shall accompany the oversized vehicle at a distance of 300 feet (91.44 meters) on open highways.

(2) This interval shall be shortened in cities or congested areas to protect other traffic.

(3) An escort vehicle's headlights shall be lit at all times.

(4) On a two (2) lane highway, a vehicle and load with a width in excess of ten (10) feet, six (6) inches (three and two-tenths (3.2) meters) but twelve (12) feet (3.66 meters) or less shall have one (1) lead escort.

(5) On a two (2) lane highway, a vehicle and load with a width exceeding twelve (12) feet (3.66 meters) shall have one (1) lead escort and one (1) trail escort.

(6) On a two (2) lane highway, a vehicle and load traveling at speeds below the average driving speed of traffic on its route shall have one (1) trail escort.

(7) On a four (4) lane or wider highway, a vehicle and load shall have one (1) trail escort if:

- (a) Its width exceeds twelve (12) feet (3.66 meters); or
- (b) It does not maintain a speed of forty-five (45) miles per hour (72.42 kilometers per hour).

(8) On a two (2) lane highway, a vehicle and load with a length in excess of seventy-five (75) feet (22.86 meters) but not more than eighty-five (85) feet (25.91 meters) shall have one (1) lead escort. If the vehicle and load exceed eighty-five (85) feet (25.91 meters) on a two (2) lane highway, it shall have one (1) lead and one (1) trail escort.

(9) On a four (4) lane or wider highway, a vehicle and load with a length of 120 feet shall have one (1) trail escort. Over 120 feet shall have a front and rear escort.

(10) Red or orange fluorescent flags which are a minimum of eighteen (18) inches square (11,612.7 millimeters square) shall be displayed on each vehicle and load operating under the auspices of either an overlength or an overwidth permit.

(a) Vehicles operating overwidth shall display two (2) warning flags, one (1) on each side of the vehicle or load at its widest extremities.

(b) Vehicles operating overlength or with a rearend overhang shall display two (2) warning flags at the extreme rear of the vehicle or load. These flags shall be located to indicate maximum width of the rearend.

(11) All vehicles exceeding ten and one-half (10.5) feet three and two-tenths (3.2) meters in width or having front overhang shall display two (2) warning signs. The warning signs shall:

- (a) State in black letters on a yellow background, "OVERSIZE LOAD";
- (b) Not be less than seven (7) feet (2.13 meters) long and eighteen (18) inches (0.46 meters) high;
- (c) Have a brush stroke of one and four-tenths (1.4) inches (35.56 millimeters); and
- (d) Be fastened at the front of the power unit and the rearend of the towed unit or at the rear of the load.

(12) If the utility equipment, pole, or pipe being transported exceeds fifty-five (55) feet (16.76 meters) in length, a front escort vehicle shall accompany the vehicle required to be permitted when transporting utility equipment, poles, or pipe if the front overhang exceeds ten (10) feet (3.05 meters). An amber strobe or flashing light shall be placed on the power unit of the towing vehicle and shall be in use any time the power unit is in operation.

(13)(a) The lighting devices and reflectors set forth in 49 CFR Part 393.11 for pole trailers and projecting loads shall be required.

(b) Each lamp or light shall be used at all times the vehicle is on or beside a highway.

(c) A front overhang shall not be allowed on a combination vehicle.

(14) As a special provision of the permit, the Department of Vehicle Regulation may require additional escort vehicles, lighting or warning flags.

(15) The provisions of this section do not apply if the vehicle or equipment is less than twelve (12) feet wide and the vehicle or equipment is used in part for off-road use, is not required to be registered or licensed, and is not transporting cargo.

Section 11. House or Building Permits. (1) Permits for movement of houses or other buildings shall be issued by the Department of Vehicle Regulation, Division of Motor Carriers.

(2) House moving permits may only be issued for movement during off-peak hours when other traffic will be least affected. The mover shall be required to furnish all escorts and flagmen required in the interest of public safety.

(3) No permits shall be issued for movement of any buildings on either toll roads or interstate highways if the width of the building exceeds twelve (12) feet.

(4) The Division of Motor Carriers shall contact the appropriate Department of Highways' district office for specific routing restrictions or local highway conditions prior to the issuance of the permit. Specific restrictions shall be identified on the permit. Deviation from the restrictions shall void the permit.

Section 12. Route Deviation. Prior approval shall be secured from the Division of Motor Carriers for any vehicle transporting a load under an annual or trip permit which deviates from the routes prescribed in the permit issued for the towing vehicle.

Section 13. Permit Required. Until a special written permit has been issued by the Department of Vehicle Regulation, Division of Motor Carriers under the provisions of this administrative regulation and KRS 189.270:

(1) An overweight/oversized load of a width greater than eight and one-half (8 1/2) feet shall not be towed on any highway listed in 603 KAR 5:070, Section 5(1);

(2) An overweight/oversized load with a width greater than eight (8) feet shall not be towed on any state-maintained highway not listed in 603 KAR 5:070, Section 5(1) except as provided in KRS 189.2225(3); and

(3) A manufactured home with a combined length of manufactured home and towing vehicle greater than 120 feet shall not be towed upon any Kentucky highway. The manufactured home shall not exceed eighty-five (85) feet in length. The manufactured home itself shall not exceed eighty (80) feet long.

Section 14. Annual Permits. (1) A permit shall not be issued for the movement of an overweight/oversized load in excess of sixteen (16) feet in width inclusive of the usual and ordinary overhang. Mirrors on the towing vehicle shall not be considered in making the determination of width.

(2) Prior to a movement of an overweight/oversized load under the provisions of an annual permit, the permit holder shall scout and evaluate the entire route proposed to be used for the movement of the overweight/oversized load. The evaluation shall include, but not be limited to, the following:

- (a) Highway width;
- (b) Shoulder width and surface type;
- (c) Bridge width and posted weights;
- (d) Curves;
- (e) Turns to be negotiated;

- (f) Construction zones;
- (g) Obstructions;
- (h) Access control;
- (i) Traffic volume; and
- (j) Other routes available that might be safer even if not as convenient.

(3) The permit holder shall use the results of the evaluation to determine the safest route available to transport the overweight/overdimensional load. Also the permit holder must determine if there would be any place on the proposed route which would be too narrow, have curves or turns too sharp or have other obstacles which would prevent the route from safely accommodating the move. The route selected by the permit holder shall be the safest available.

(4) If there is any doubt about the adequacy of the highway to safely accommodate the overweight/overdimensional load, the permit holder shall either:

- (a) Select a different route; or
- (b) Contact the appropriate highway district office for clearance to move that overweight/overdimensional load over that specific route.

(5) If the highway district office does not issue clearance for the use of a route whose adequacy is in doubt, that route shall not be used.

(6) An annual permit shall not be issued or used for the movement if the height of the combination load and towing vehicle exceeds thirteen and one-half (13.5) feet.

(7) Acceptance and use of the annual permit is the permit holder's acceptance of the liability associated with the move.

(8) Moves of overweight/overdimensional loads more than twelve (12) feet wide shall be limited to highways of four (4) or more lanes and to the shortest and best two (2) lane route designated by the Department of Vehicle Regulation, Division of Motor Carriers to be used to the unit's ultimate destination. The department shall deny movements on any routes deemed unsuitable for move.

(9) The issuance cost of a single and annual trip permit shall be established by KRS 189.270.

Section 15. Traffic Control. (1) If an overweight/overdimensional load while crossing a bridge would encroach on any other lane of traffic:

- (a) All approaching traffic shall be stopped; and
- (b) All trailing traffic shall be prevented from attempting to pass the overweight/overdimensional load until the load has cleared the bridge and has moved sufficiently to the right to safely allow following traffic to pass.

(2) An overweight/overdimensional load shall slow the movement of other traffic as little as possible. If traffic backs up either behind or in front of the load being moved, the escort vehicles and load shall exit the highway wherever there is sufficient space to do so.

Section 16. Permit Validity. (1) Permits shall be valid during:

- (a) Daylight hours; and
 - (b) From Monday through Saturday.
- (2) Travel shall not be permitted from noon of the day preceding a national holiday until daylight of the next permissible day.
- (3) If the national holiday occurs on Saturday, ~~[Sunday or Monday]~~ the restricted period shall extend from noon of the preceding Friday to daylight of the following Monday ~~[Tuesday]~~.

(4) If the national holiday occurs on Sunday or Monday, the restricted period shall extend from noon of the preceding Friday to daylight of the following Tuesday.

(5) Permits used for the movement of overdimensional load more than fourteen (14) feet in width shall not be valid on Saturday or Sunday.

(6) [(5)] In Jefferson, Fayette, Boone, Kenton and Campbell Counties permits used for the movement of overdimensional load fourteen (14) feet wide or less but more than twelve (12) feet wide shall only be valid between the hours of 9 a.m. and 3 p.m. and from 6 p.m. to one-half (1/2) hour after sundown, local prevailing time.

(7) [(6)] Permits used for the movement of overdimensional load greater than fourteen (14) feet wide shall only be valid Monday through Friday between the hours of 9 a.m. and 3 p.m. and between

6 p.m. and one-half (1/2) hour after sundown local prevailing time.

(8) [(7)] If satisfactory proof of an emergency is furnished the Division of Motor Carriers, moves may be authorized during the restricted hours.

(9) [(8)] A permit shall not be valid if the combined gross weight of the towing vehicle and load exceeds the registered weight of the towing vehicle.

Section 17. Weather Conditions. Moves of overdimensional loads more than twelve (12) feet wide shall not be made on any highway:

- (1) When wind velocity exceeds twenty-five (25) MPH; or
- (2) When adverse weather conditions or road conditions would cause these moves to be dangerous.

Section 18. Brakes. (1) The number, type, size and design of brake assemblies required to assist the towing vehicle in controlling and stopping a manufactured home or boat shall be sufficient to assure that the maximum stopping distance from an initial velocity of twenty (20) miles per hour does not exceed forty (40) feet.

(2) Manufactured homes which are not equipped with brakes on all axles shall certify that the towing unit has sufficient brake assemblies to meet the braking distance specified in this section.

(3) This certification shall be in the form of a manufacturer's statement, documented technical data, or adequate engineering analysis or its equivalent, specifying that the braking distance requirement has been met.

(4) This certificate shall be carried in the towing unit at all times and shall be presented upon request, to any law enforcement officer.

Section 19. Annual Farm Equipment Permits. (1) An annual permit shall not be issued for the movement of the following:

- (a) Self-propelled farm equipment which exceeds thirteen (13) feet eleven (11) inches in width;
- (b) Motor vehicle transporting farm equipment if the vehicle or load exceeds thirteen (13) feet eleven (11) inches in width unless the transporter is a farm equipment dealer transporting farm equipment from his dealership to a farm or from a farm to his dealership;
- (c) A motor vehicle transporting farm equipment which exceeds sixteen (16) feet in width;
- (d) Farm equipment if the length of the trailer and towing unit combined exceeds ninety-five (95) feet in length;
- (e) Farm equipment if the length of the straight truck and load exceeds fifty-five (55) feet in length; or
- (f) A motor vehicle transporting farm equipment if the power unit does not have sufficient horsepower or braking capacity to safely handle the load being transported.

(2) A permit for the movement of farm equipment with a width greater than twelve (12) feet but which does not exceed sixteen (16) feet shall only be:

- (a) Issued to a farm equipment dealer; and
 - (b) Valid when he is transporting the farm equipment from his dealership to a farm or from a farm to his dealership.
- (3) A motor vehicle for which a permit was issued to a farm equipment dealer to transport farm equipment with a width greater than thirteen (13) feet eleven (11) inches shall be:
- (a) Titled, registered and licensed in Kentucky; or
 - (b) Apportioned licensed in another jurisdiction to operate in Kentucky.

Section 21. Denial of Permit Application. (1) The Transportation Cabinet, Division of Motor Carriers shall deny a permit application if the route includes any portion of the interstate highway system **and the load is divisible**. Federal regulation 23 CFR 658.17 forbids the issuance of a permit for the movement on the interstate highway system of an overweight load which **is divisible** ~~[can be readily divided]~~.

(2) The Transportation Cabinet shall have the right to deny or restrict a permit for the use of any route that may be detrimental to public safety or convenience. The Transportation Cabinet shall consider the following when making the determination on the application:

- (a) The strength of all bridges and structures on the route;

- (b) Traffic congestion on the route;
- (c) Horizontal and vertical alignment of the route;
- (d) The availability of alternate routes that afford greater safety;
- (e) Urban development in residential and commercial areas on the route;
- (f) The proximity of schools to the route; and
- (g) Any other condition that would unduly compromise public safety and convenience.

Section 22. Material Incorporated by Reference. (1) The following material is incorporated by reference:

- (a) The Multistate Permit Agreement for Oversize and Overweight Vehicles, March 1999 edition.
 - (b) 23 CFR Part 658.17, Truck Size and Weight, Route Designations - Length, Width and Weight Limitations, revised December 22, 1998.
 - (c) 49 CFR Part 393.11, Lighting Devices, Reflectors, and Electrical Equipment, revised December 7, 1988.
 - (d) Application for Annual Overweight/Overdimensional Permit, TC 95-25, July 1998.
- (2) All material incorporated by reference as a part of this administrative regulation may be obtained, viewed or copied at the Division of Motor Carriers, 3rd Floor State Office Building, 501 High Street, Frankfort, Kentucky 40622. Its telephone number is (502) 564-4540. Its office hours are 8 a.m. to 4:30 p.m. eastern time on weekdays.

ED LOGSDON, Commissioner
JAMES C. CODELL, III, Secretary
TODD SHIPP, Office of General Counsel/Legislative Affairs
APPROVED BY AGENCY: January 4, 2000
FILED WITH LRC: January 5, 2000 at 10 a.m.

REGULATORY IMPACT ANALYSIS

Contact person: Charles Harman

- (1) Type and number of entities affected: All persons who transport overweight or overdimensional vehicles 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: A public comment hearing was not held on the Notice of Intent. No impact is expected on the cost of living and employment.
 - (b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: A public comment hearing was not held on the Notice of Intent. No impact is expected 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: None known.
 - 2. Second and subsequent years: None known.
 - (3) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 - 1. First year: None known.
 - 2. Continuing costs or savings: None known.
 - 3. Additional factors increasing or decreasing costs: None known.
 - (4) Assessment of anticipated effect on state and local revenues: None known.
 - (5) Source of revenue to be used for implementation and enforcement of administrative regulation: Road Fund.
 - (6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administrative regulation, on:
 - (a) Geographical area in which administrative regulation will be implemented: A public comment hearing was not held on the Notice of Intent. No impact is expected on the economy.
 - (b) Kentucky: A public comment hearing was not held on the Notice of Intent. No impact is expected in Kentucky.
 - (7) Assessment of alternative methods; reasons why alternatives were rejected: The cabinet has attempted to simplify this process by combining similar overweight and overdimensional regula-

tions.

(8) Assessment of expected benefits: Continuing highway safety will continue to result in fewer accidents involving overweight/overdimensional vehicles.

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

(b) State whether a detrimental effect on environmental and public health would result if not implemented: None known.

(c) If detrimental effect would result, explain detrimental effect: None known.

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

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

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

(10) Any additional information or comments: No

(11) TIERING: Is tiering applied? Yes. Tiering is applied by requiring increased safety efforts to overweight/overdimensional vehicles.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, JANUARY 14, 2000

UNIVERSITY OF KENTUCKY
Agricultural Experiment Station
Division of Regulatory Services
(Amendment)

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

RELATES TO: KRS 250.366(7), 250.411(1)

STATUTORY AUTHORITY: KRS 250.421

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

Section 1. (1) Until January 1, 2001, bagged tobacco fertilizer [All fertilizers (bag, bulk, liquid, custom mixes, etc.) sold for or represented for use on field crop tobacco, shall [not plant beds, must], in addition to the other guarantees specified by 12 KAR Chapter 4 [administrative regulation], state a maximum chlorine guarantee not to exceed two and five-tenths (2.5) percent in the following format:

Chlorine (Cl), Maximum 2.5%

(2) The maximum chlorine guarantee shall be prominently and conspicuously placed below the Guaranteed Analysis required by 12 KAR 4:090 [administrative regulation and shall be prominently and conspicuously displayed on the invoice or shipping ticket that accompanies bulk sales].

(3) On or after January 1, 2001, the provisions of Section 2 of this administrative regulation shall apply to bagged tobacco fertilizer.

Section 2. (1) Except as provided by Section 1 of this administrative regulation, all fertilizers sold for or represented for use on field crop tobacco, shall, in addition to the other guarantees specified by 12 KAR Chapter 4, state a maximum chlorine guarantee not to exceed fifty (50) pounds chlorine per acre (equivalent to 100 pounds of muriate of potash per acre) in the following format:

Chlorine (Cl), Maximum 50 lb./acre

(2) The maximum chlorine guarantee shall be prominently and conspicuously displayed on the label as required by KRS 250.376.

(3) The invoice, shipping ticket, or bag label shall:

(a) State the rate of application expressed as pounds or tons of the blended fertilizer per acre;

(b) State clearly that the fertilizer is for use on tobacco; and

(c) Give directions for use to include a maximum application rate so that no more than fifty (50) pounds of chlorine is applied per acre.

(4) The provisions of this administrative regulation shall not apply to fertilizers for use on plant beds.

C. ORAN LITTLE, Dean and Director

KATHERINE A. ADAMS, Office of Legal Counsel

APPROVED BY AGENCY: January 14, 2000

FILED WITH LRC: January 14, 2000 at noon

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on February 25, 2000, at 10 a.m. EST, at the Division of Regulatory Services, Room 109, Regulatory Services Building, University of Kentucky, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify the contact person noted below in writing by February 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 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 hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the hearing, you may submit written comments on the proposed administrative regulation to the contact person noted below.

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

REGULATORY IMPACT ANALYSIS

Contact person: Wilbur W. Frye

(1) Type and number of entities affected: About 360 fertilizer manufacturing firms in Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No effects on cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The use of less sulfate of potash will lower the cost of manufacturing tobacco fertilizer; therefore, the cost to the tobacco grower should be less.

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

1. First year following implementation: No appreciable effect on paperwork and reporting (same as administrative regulation being amended), but the required statement of fertilizer rate will slightly increase the cost of compliance by the manufacturer.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Minimal effect; will require an additional step of computerized calculation of chlorine per acre for fertilizer samples testing greater than 2.5% chlorine in the laboratory.

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None expected.

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

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

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

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

(b) Kentucky: A pound of potash (K_2O) costs about \$0.29 from sulfate of potash, and about \$0.136 from muriate of potash. Assuming an average application rate of 300 K_2O per acre for burley tobacco, this administrative regulation has the potential to save burley tobacco growers about \$9 per acre in fertilizer costs. With an estimated 200,000 acres of burley tobacco grown in Kentucky in 2000, growers could save about \$1.8 million in production costs.

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

(8) Assessment of expected benefits:

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

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

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

(10) TIERING: Is tiering applied: Tiering is not applied, except during the first year, when firms who manufacture only bagged tobacco fertilizers are exempted from complying with this administrative regulation but will continue to be required to comply with administrative regulation 12 KAR 4:170 (unamended) until January 1, 2001. At that time, the administrative regulation will apply equally to all tobacco fertilizer manufacturers.

KENTUCKY STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS
(Amendment)

201 KAR 18:040. Fees.

RELATES TO: KRS [322.040,] 322.090, 322.100, 322.110, 322.120[, 322.140, 322.150], 322.160[, 322.420]

STATUTORY AUTHORITY: KRS 322.090, 322.100, 322.110, 322.120 [, 322.140, 322.290, 322.420]

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 322 gives the board certain authority to fix fees. This administrative regulation establishes fees for application, examination, certification, licensure [registration] and renewal fees.

Section 1. Application and Licensure [Registration] Fees. (1)(a) The total fee for licensure [registration] as a professional engineer by examination shall be \$250 [170].

(b) Fifty (50) [Thirty-(30)] dollars of this fee shall accompany the application for examination for licensure.

(c) The fee for examination for licensure as a professional engineer shall be \$200. The fee for examination as a professional engineer in Structural II shall be \$500. [registration.]

(2)[(a)] The fee for licensure [registration] by reciprocity as a professional engineer shall be \$300. This fee shall accompany the application for licensure. [200.]

(b) This fee shall accompany the application for registration.]

(3)(a) The fee for application for examination for licensure [registration] as a professional land surveyor shall be fifty (50) [thirty-(30)] dollars.

(b) The fee for examination for licensure [registration] as a professional land surveyor shall be \$200 [130].

(4)(a) The initial application fee for examination as an engineer in training shall be ten (10) dollars. This fee includes one (1) examination. An applicant who does not pass this examination and applies for a subsequent examination shall pay a fee of \$110.

(b) The initial application fee for examination as a land surveyor in training shall be ten (10) dollars. An applicant who does not pass this examination and applies for a subsequent examination shall pay a fee of \$125.

Section 2. Renewal, Reinstatement, Reissuance, and Verification Fees. (1) Verification of licensure is ten (10) dollars.

(2) Renewal of a license is \$150.

(3) The fee for reinstatement of an expired license shall be calculated as provided by KRS 322.160. If the license has been expired for more than one (1) year, the former licensee must file a new application for reinstatement and pay a fee of \$500.

(4) Reissuance of a license after loss or destruction is twenty-five (25) dollars. [Examination Fees: (1) The fee for an examination required by KRS 322.040(1) shall be \$130.

(2) The fee for an examination required by KRS 322.040(2) shall be \$120.

(3) The application fee for examination as an engineer in training shall be forty (40) dollars.

(4) The application fee for examination as a land surveyor in training shall be sixty (60) dollars.]

Section 3. Fees for Examination and Licensure in Additional Branches. (1) After initial licensure, a licensee may apply for examination in one (1) or more branches of engineering for which he has not been licensed.

(2) For each branch of engineering he shall submit an:

(a) Updated application; and

(b) Examination fee as specified in this administrative regulation.

(3) Upon successful completion of an examination he shall submit ten (10) dollars for each addition of a new discipline. [Renewal, Reinstatement, Reissuance, and Verification Fees: (1) Verification of registration: ten (10) dollars;

(2) Renewal of registration: ninety (90) dollars;

(3) The fee for reinstatement of an expired registration shall be calculated as provided by KRS 322.160.

(4) Reissuance of registration after loss or destruction: ten (10) dollars.]

Section 4. Business Entities. The fee for a permit to practice engineering or land surveying in this state shall be \$100 for either permit. A business entity who applies for a dual permit shall submit \$150. These fees shall accompany the application. The annual renewal fee for an individual permit shall be \$100. The annual renewal fee for a dual permit shall be \$150. [Fees for Examination and Registration in Additional Branches: (1) After initial registration, a registrant may apply for examination in one (1) or more branches of engineering or land surveying for which he has not been registered.

(2) For each branch of engineering or land surveying he shall submit an:

(a) Updated application; and

(b) Examination fee of \$130.

(3) Upon successful completion of an examination, he shall submit ten (10) dollars with each application for registration in a branch of engineering or land surveying.]

Section 5. Payment of Fees. (1) Fees shall be paid by check or money order made payable to "Kentucky [State Registration] Board of Licensure".

(2) An examination fee shall be transmitted in sufficient time to be received by the board at least two (2) weeks prior to the examination.

Section 6. Forms. (1) The following forms are incorporated by reference:

(a) "Application for Licensure (1999) [Registration (1992)]";

(b) "Professional Reference Form (1999 [1992])";

(c) "Employment Verification (1999 [1992])";

(d) "Certification of Applicant for Registration (1992)".

(2) These forms may be obtained, inspected, or copied at the Kentucky Board of Licensure [Registration] for Professional Engineers and Land Surveyors, Kentucky Engineering Center, 160 Democrat Drive, Frankfort, Kentucky 40601, 8 [7] a.m. to 4:30 [5] p.m., Monday through Friday.

JOSEPH F. SISLER, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: December 13, 1999

FILED WITH LRC: January 12, 2000 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on January 27, 2000, at 10 a.m., at the State Board's Office, 160 Democrat Drive, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by 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 9000 licensed professional engineers and 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

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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 applicants and licensees are treated uniformly under the law.

JUSTICE CABINET Department of Corrections Division of Adult Institutions (Amendment)

501 KAR 6:170. Green River Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Green River Correctional Complex.

Section 1. Incorporation by Reference. (1)(a) Green River Correctional Complex Policies and Procedures, January 14, 2000 [November

15], 1999, is incorporated by reference.

(b) It may be inspected, copied, or obtained at the Office of the General Counsel, Department of Corrections, 2439 Lawrenceburg Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(2) Green River Correctional Complex Policies and Procedures include:

GRCC 01-01-01	Establishment of the GRCC Institutional Operations Manual
GRCC 01-01-02	Organization of GRCC Operations Manual
GRCC 01-01-03	Formulation and Revision of GRCC Operating Procedures
GRCC 01-02-01	Organization and Assignment of Responsibility
GRCC 01-03-01	Staff Meetings, Purpose and Requirements [(Added 11/15/99)]
GRCC 01-04-01	Monthly Reports
GRCC 01-05-01	Procedures Officer
GRCC 01-06-01	Inmate Access to and Communication with GRCC Staff
GRCC 01-07-01	Institutional Tours of GRCC [(Added 11/15/99)]
GRCC 01-08-01	GRCC Cooperation with Outside Bodies Including Courts, Governmental, Legislative, Executive and Community Agencies
GRCC 01-09-01	Duty Officer Responsibilities [(Added 11/15/99)]
GRCC 01-10-01	Smoking: GRCC Facility
GRCC 01-11-01	Institutional Planning
GRCC 01-12-01	Public Information and Media Communication [(Added 11/15/99)]
GRCC 02-01-01	Fiscal Management Organization [(Added 11/15/99)]
GRCC 02-01-02	Fiscal Management Accounting Procedures [(Added 11/15/99)]
GRCC 02-01-03	Fiscal Management Agency Funds [(Added 11/15/99)]
GRCC 02-01-04	Fiscal Management Insurance [(Added 11/15/99)]
GRCC 02-02-01	Fiscal Management: Budget [(Added 11/15/99)]
GRCC 02-03-01	Fiscal Management: Audits [(Added 11/15/99)]
GRCC 02-04-01	Purchase and Supply Requisitions [(Added 11/15/99)]
GRCC 02-05-01	Warehouse Operation [(Added 11/15/99)]
GRCC 02-06-01	Inmate Canteen
GRCC 02-06-02	Inmate Canteen Committee [(Added 11/15/99)]
GRCC 02-07-01	Inmate Personal Funds
GRCC 02-08-01	Inventory Control [(Added 11/15/99)]
GRCC 03-01-01	General Guidelines for GRCC Employees [(Added 11/15/99)]
GRCC 03-02-01	Essential Personnel During Inclement Weather or Emergency Conditions [(Added 11/15/99)]
GRCC 03-03-01	Employee Recognition Program [(Added 11/15/99)]
GRCC 03-04-01	Employee Grievance and EEO Complaint Procedure [(Added 11/15/99)]
GRCC 03-05-01	Drug Free Work Place [(Added 11/15/99)]
GRCC 03-06-01	Organization of Payroll and Personnel Records [(Added 11/15/99)]
GRCC 03-07-01	Personnel Staffing Review [(Added 11/15/99)]
GRCC 03-08-01	Personnel Registers [(Added 11/15/99)]
GRCC 03-09-01	Selection and Promotion of Employees [(Added 11/15/99)]
GRCC 03-10-01	Medical Examination for New Employees [(Added 11/15/99)]
GRCC 03-11-01	Kentucky Employee Assistance Program [(Added 11/15/99)]
GRCC 03-12-01	Confidentiality of Information, Roles and Services of Consultants, Contract Personnel and Volunteers [(Added 11/15/99)]
GRCC 03-13-01	Employee Evaluations [(Added 11/15/99)]
GRCC 03-14-01	Student Placement Program [(Added 11/15/99)]
GRCC 03-15-01	Documentation Requirement Guidelines [(Added 11/15/99)]
GRCC 03-16-01	New Employee Orientation [(Added 11/15/99)]
GRCC 03-17-01	Resignation, Transfer or Termination Clearance

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GRCC 04-01-01 Procedure ~~[[Added 11/15/99]]~~
Employee Training and Staff Development
~~[[Added 11/15/99]]~~

GRCC 05-01-01 Information System ~~[[Added 11/15/99]]~~

GRCC 05-02-01 Outside Consultation and Research ~~[[Added 11/15/99]]~~

GRCC 06-01-01 Offender Records ~~[[Added 11/15/99]]~~

GRCC 06-02-01 Storage of Expunged Records ~~[[Added 11/15/99]]~~

GRCC 07-01-01 Maintenance Requests ~~[[Added 11/15/99]]~~

GRCC 07-02-01 Preventive Maintenance Program ~~[[Added 11/15/99]]~~

GRCC 07-03-01 Mechanical Equipment Repair and Control of Hazardous Energy ~~[[Added 11/15/99]]~~

GRCC 08-01-01 Occupational Exposure to Serious and Infectious Diseases (Added 1/14/2000)

GRCC 08-02-01 Fire Safety (Added 1/14/2000)

GRCC 08-04-01 Control of Caustic, Toxic, Flammable, Hazardous and Other Materials (Added 1/14/2000)

GRCC 08-04-02 Hazardous Chemicals and Material Safety Data Sheet (Added 1/14/2000)

GRCC 09-01-01 Inmate Counts (Added 1/14/2000)

GRCC 09-02-01 Drug Abuse Testing (Amended 1/14/2000)

GRCC 09-09-01 Contraband Control: Collection, Preservation and Disposition of Contraband and Identification of Physical Evidence

GRCC 09-13-01 Establishment of Security Posts at GRCC (Added 1/14/2000)

GRCC 09-14-01 Vehicle Usage (Added 1/14/2000)

GRCC 10-01-01 Special Management Unit

GRCC 11-01-01 Food Service Guidelines

GRCC 11-02-01 Food Service: Security

GRCC 11-03-01 Dining Room Guidelines

GRCC 11-04-01 Food Service: Meals

GRCC 11-04-02 Food Service: Menu, Nutrition and Special Diets

GRCC 11-06-01 Health Requirements of Food Handlers

GRCC 11-07-01 Food Service: Inspections and Sanitation

GRCC 12-01-01 Clothing, Bedding, Hygiene Supplies and Barber Services

GRCC 13-01-01 Organization of Medical Services

GRCC 13-02-01 Medical Services: Sick Call, Physician's Clinics and Pill Call

GRCC 13-02-03 Continuing of Care: Health Evaluations, Intra-system Transfer and Individual Treatment Plans

GRCC 13-03-01 Use of Pharmaceutical Products

GRCC 13-04-01 Health Records

GRCC 13-04-02 Psychological and Psychiatric Reports

GRCC 13-05-01 Management of Serious and Infectious Diseases

GRCC 13-06-01 Mental Health Services

GRCC 13-07-01 Medical Restraints

GRCC 13-08-01 Eye Care

GRCC 13-09-01 Dental Care

GRCC 13-10-01 Transfers and Medical Profiles

GRCC 13-11-01 Informed Consent

GRCC 13-12-01 Infirmary Care

GRCC 13-13-01 Inmate Self-administration of Medication

GRCC 13-15-01 Health Education Program and Detoxification

GRCC 14-01-01 Inmate Rights and Responsibilities

GRCC 14-02-01 Legal Services Program

GRCC 15-01-01 GRCC Adjustment Program and Procedures

GRCC 16-01-01 Inmate Visiting

GRCC 16-02-02 Inmate Correspondence and Privileged Mail

GRCC 16-03-01 Inmate Telephone Communications

GRCC 16-04-01 Inmate Packages

GRCC 17-01-01 GRCC Inmate Property Control

GRCC 17-02-01 GRCC Inmate Receiving and Orientation Process

GRCC 17-03-01 Procedure for Sending Televisions to Outside Dealer for Repair

GRCC 18-01-01 Inmate Classification

GRCC 18-02-01 Meritorious Housing

GRCC 18-02-02 Meritorious Visitation Program

GRCC 19-01-01 Inmate Work Programs (Amended 1/14/2000)

GRCC 19-01-02 Unassigned Status

GRCC 20-01-01 Educational Programs

GRCC 21-01-01 Library Services

GRCC 22-01-01 Recreation Programs

GRCC 22-02-01 Inmate Organizations

GRCC 22-04-01 Arts and Crafts Project

GRCC 22-05-01 Inmate Photo Project

GRCC 23-01-01 Religious Programs ~~[[Added 11/15/99]]~~

GRCC 23-02-01 Death or Hospitalization of an Inmate's Family Member and Notification of Inmates

GRCC 24-01-01 Social Services and Counseling Program

GRCC 25-01-01 Prerelease Program

GRCC 25-01-02 Inmate Release Process

GRCC 25-02-01 Parole Hearing Procedure

DOUG SAPP, Commissioner
TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: January 6, 2000

FILED WITH LRC: January 14, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 2000, at 9 a.m., in the Fifth Floor Conference Room of the State Office Building. Individuals interested in being heard at this hearing shall notify this agency in writing by February 14, 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: Jack Damron or Tamela Biggs, Staff Attorneys, Kentucky Department of Corrections, Office of General Counsel, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, Phone (502) 564-2024, FAX (502) 564-6494.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs, Staff Attorney

(1) Type and number of entities affected: 213 employees of the correctional institutions, 614 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: Funds budgeted for this 1998-2000 biennium.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of

the geographical area in which implemented and on Kentucky: None
 (b) State whether a detrimental effect on environment and public health would result if not implemented: None
 (c) If detrimental effect would result, explain detrimental effect: N/A
 (9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
 (a) Necessity of proposed administrative regulation if in conflict: N/A
 (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
 (10) Any additional information or comments: None
 (11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

JUSTICE CABINET
Kentucky Department of Corrections
(Amendment)

501 KAR 6:999. Corrections secured policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439
 STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) The following material is incorporated by reference: "Department of Corrections Secured Policies and Procedures, January 14, 2000 [May-14-1999]."

BCC 09-01-01	Inclement Weather/Emergency Condition Operation
BCC 09-02-01	Restricted Areas
BCC 09-02-02	Inmate Pass System to Restricted Areas
BCC 09-02-03	Regulation of Inmate Movement
BCC 09-04-01	Construction Crew Entry, Exit and Regulations
BCC 09-04-02	Complex Entry and Exit
BCC 09-05-01	Key Control
BCC 09-06-02	Transportation to Courts
BCC 09-07-01	Drug Abuse and Intoxicants Testing
BCC 09-09-01	Population Counts and Count Documentation
BCC 09-15-01	Search Policy and Disposition of Contraband
BCC 09-16-01	Security Activity Logs
BCC 09-17-01	Institutional Supervisor Inspections
BCC 09-20-01	Inmate Death
BCC 09-21-01	Tool Control
BCC 09-22-01	Emergency Communication System
CPP 8.3	Emergency Planning
CPP 8.4	Emergency Preparedness
CPP 8.5	Emergency Squads
CPP 9.1	Use of Force
CPP 9.3	Security Threat Groups [(Added-6/14/99)]
CPP 9.7	Storage, Issue and Use of Weapons Including Chemical Agents
CPP 9.9	Transportation of Inmates
CPP 9.10	Security Inspections
CPP 9.11	Tool Control
FCDC 09-01-02	Institutional Entry and Exit Surveillance and Perimeter Security Procedures

FCDC 09-03-01	Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials
GRCC 08-03-01	Escape Plan (Amended 1/14/2000)
GRCC 08-05-01	Emergency Squad: Selection, Training and Evaluation (Amended 1/14/2000)
GRCC 08-06-01	Response Units
GRCC 08-07-01	Natural Disaster or Earthquake (Added 1/14/2000)
GRCC 09-03-01	Procedure for Operation in Event of Dense Fog, Inclement Weather or Loss of Power (Amended 1/14/2000)
GRCC 09-04-01	Inmate Death (Amended 1/14/2000)
GRCC 09-05-01	Construction Crew Entry and Exit Guidelines (Added 1/14/2000)
GRCC 09-06-01	Entry and Exit Procedures (Amended 1/14/2000)
GRCC 09-07-01	Institutional Inspections (Added 1/14/2000)
GRCC 09-08-01	Issuance of Weapons, Ammunition and Chemical Agents (Added 1/14/2000)
GRCC 09-10-01	Emergency Release from Locked Areas (Added 1/14/2000)
GRCC 09-11-01	Tool and Equipment Control (Added 1/14/2000)
GRCC 09-12-01	Key Control (Added 1/14/2000)
KSP 09-08-01	Searches and Preservation of Evidence
KSR 09-00-04	Horizontal Gates/Box 1 Entrance and Exit Procedure
KSR 09-00-09	Contraband, Dangerous Contraband and Search Policy
KSR 09-00-27	Construction Crew Entry/Exit
RCC 08-08-01	Control and Use of Flammable, Toxic, and Caustic Materials [(Amended-6/14/99)]
RCC 09-06-01	Search Policy/Disposition of Contraband

(2) There will be no public hearing on these policies and procedures as they are secured policies under the provisions of KRS 197.025 which states that such policies shall not be accessible to the public or inmates.

DOUG SAPP, Commissioner

TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: January 6, 2000

FILED WITH LRC: January 14, 2000 at 2 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs, Staff Attorney

(1) Type and number of entities affected: 2,948 employees of the correctional institutions, 8,729 inmates, and all visitors to state correctional institutions.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: None

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Policy revisions.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation is the funds budgeted for this 1998-2000 biennium.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

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

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives

were rejected: None

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed administrative regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the 14th Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

**CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Member and Provider Services
(Amendment)**

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

RELATES TO: KRS 205.520, 42 CFR 441, Subpart G, 42 USC 1396a, b, d, n[~~7~~ EØ 96-862]

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 205.520 [194.050, EØ 96-862]

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, is required [has responsibility] to administer the Medicaid Program. [Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services.] KRS 205.520 authorizes the cabinet[~~7~~ by administrative regulation] to comply with any [a] requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the coverage provisions relating to home and community based waiver services provided to an individual with mental retardation or a developmental disability [disabilities] as an alternative to placement in an intermediate care facility [services] for an individual with mental retardation, [the mentally retarded.]

Section 1. Definitions. (1) "Cost report" means the Support for Community Living Cost Report.

(2) "Department" means the Department for Medicaid Services or its designee.

(3) [Definition:] "Supports for community living (SCL)" means community-based waiver services for an individual with mental retardation or a developmental disability [disabilities].

Section 2. Coverage. (1) The department [cabinet] shall reimburse a participating provider of SCL for a service to a Medicaid recipient who:

(a) Meets patient status criteria for an intermediate care facility for individuals with mental retardation [the mentally retarded]; and

(b) Is authorized for the SCL service by the department.

(2) In order to be covered, a service shall be described, defined, and provided in accordance with the terms and conditions specified in 907 KAR 1:145.

Section 3. Payment Amounts. (1) Except as provided in subsection (7) of this section, a participating in-state SCL provider certified in accordance with 907 KAR 1:145 shall be reimbursed at a prospective

rate per unit of service during the first year of participation that is:

(a) Based on a budgeted Supports for Community Living Cost Report; and [cost report in accordance with the Department for Medicaid Services Supports for Community Living Payment Rate Determination Manual, which is incorporated by reference.]

(b) Completed pursuant to the Instructions for SCL Cost Reporting.

(2) Payment rate setting shall be as follows:

(a) Reimbursement shall be made using a projected rate per unit of service based on the most recent available annual cost report as of June 1 preceding the July 1 rate setting with cost trended and indexed through June 30 of the rate year; and

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

(3) Reimbursement for medical services, dentures, eyeglasses, or hearing aids shall be paid:

(a) At a reasonable cost as [:] determined by the department; [if prescribed for a recipient by a physician as necessary for an individual's habilitation and not otherwise covered by the Medicaid Program. These services shall be paid apart from the services paid through the cost report, but limited to reasonable cost.]

(b) Apart from the services paid through the cost report; and

(c) If the item is:

1. Prescribed for a recipient by a physician as necessary for an individual's habilitation; and

2. Not otherwise covered by Medicaid.

(4) ~~A payment and rate shall be subject to a test of reasonableness through an audit.~~

(5) Utilizing the formula established in 42 CFR 441.303(f)(1) as a guideline and applying accumulated statistical data, the department shall set, effective July 1 each year, an annualized upper limit, which is the aggregate amount reimbursed to the SCL providers not to be exceeded in a twelve (12) month calendar period, to be applied to the total payments for SCL services.

(5) [(6)] The department may reduce established rates or limit new rates by a percentage amount which assures that the total payments to a provider are not in excess of the annualized upper limit. A reduction factor shall be applied in a manner as to ensure an even flow of reimbursement to an SCL provider through the year.

(6) For state fiscal years 2000 and 2001, the payment amount for SCL services shall be established pursuant to Sections 8 and 9 of this administrative regulation.

Section 4. Units of Service. (1) The units of service shall be as follows:

Type of service	Units
SCL coordination services	1 month
Residential care	24 hours
Community living	1 hour
Respite	1 hour
Community habilitation	1 hour
Physical therapy	15 minutes
Occupational therapy	15 minutes
Speech therapy	15 minutes
Behavioral support	15 minutes
Psychological services	15 minutes
Wellness monitoring	1 visit
Supported employment	1 hour
Personal Emergency Response System initial installation.	1 month
Personal Emergency Response System usage.	1 month
Specialized medical equipment and supplies.	1 item

(2) An SCL provider shall:

(a) Not round minutes nor hours up to make a unit of service; and

(b) Bill the department for a unit of service that has been pro-

vided in its entirety.

~~(1) An SCL coordination services unit of service shall be one (1) month;~~

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

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

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

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

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

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

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

~~(9) A Personal Emergency Response System (PERS) unit of service shall be one (1) month of initial installation and one (1) month of usage; and~~

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

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

(a) The cost of room and board; or

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

(2) A payment shall not be made to:

(a) A community living SCL provider who provides community living services for routine care and supervision and which duplicates homemaker and personal care services being provided by a family member; or

(b) A community habilitation provider for supported employment services for individuals not receiving payment according to 29 USC 794, et seq.

(3) A cost shall be allowable and eligible for reimbursement if the cost is:

(a) Reflective of a provider's actual expenses of providing a service; and

(b) Related to Medicaid patient care pursuant to 42 CFR 413.9.

(4) The following costs shall be allowable:

(a) Costs to related organizations pursuant to 42 CFR 413.17;

(b) Costs of educational activities pursuant to 42 CFR 413.85;

(c) Research costs pursuant to 42 CFR 413.90;

(d) Value of services of nonpaid workers pursuant to 42 CFR 413.94;

(e) Purchase discounts and allowances, and refunds of expenses pursuant to 42 CFR 413.98;

(f) Depreciation on buildings and equipment if a cost is:

1. Identifiable and recorded in the provider's accounting records;

2. Based on historical cost of the asset or, if donated, the fair market value; or

3. Prorated over the estimated useful life of the asset using the straight-line method;

(g) Interest on current and capital indebtedness; or

(h) Professional costs of services of full-time or regular part-time employees not to exceed what a prudent buyer would pay for comparable services.

(5) The following are not allowable costs:

(a) The value of services provided by nonpaid members of an organization if there is an agreement with the provider to furnish the services at no cost;

(b) Political contributions;

(c) Legal fees for unsuccessful lawsuits against the Cabinet for Health Services;

(d) Legal fees incurred for judgments granted as a result of unlawful pursuits;

(e) Travel and associated costs outside the Commonwealth of Kentucky to conventions, meetings, assemblies, conference or any related activities that are not related to SCL training or educational purposes;

(f) Motor vehicles used by management personnel in excess of \$20,000 per vehicle, unless the cost is considered salary compensation;

(g) Costs related to lobbying; or

(h) Residential room and board costs for SCL clients.

Section 6. Auditing and Reporting. (1) A participating provider shall:

(a) Maintain fiscal and service records for a period of not less than five (5) years; and

(b) Provide, as requested, reports determined necessary by the department for the effective functioning and administration of the program.

(2) The Supports for Community Living Cost Report and supporting documentation shall be subject to desk review or audit to determine reported expenses as allowable, reasonable and necessary.

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

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

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

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

(d) The General Accounting Office; or

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

Section 7. Appeals Rights. (1) An appeal of a negative action regarding a Medicaid provider shall be in accordance with 907 KAR 1:671.

(2) An appeal of a negative action regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

Section 8. Payment Amounts for State Fiscal Year (SFY) 1999 through 2000. (1) For SFY 1999 through 2000, the rate setting methodology for a participating in-state SCL provider that is certified pursuant to 907 KAR 1:145 shall be as follows:

(a) The payment rate for a unit of service that was in effect for an individual provider of SCL services for the period ending June 30, 1999 shall be indexed for inflation by three and one-half (3.5) percent.

(b) Except for a service meeting the criterion of paragraph (c) of this subsection, the payment rate established in paragraph (a) of this subsection shall be increased by an additional three and one-half (3.5) percent.

(c) If the payment rate that was in effect for the period ending June 30, 1999 for an SCL service pursuant to subparagraphs 1 or 2 of this paragraph was less than the provider's average unit cost that was utilized by the department to establish the payment rate for SFY 1998 through 1999, the payment rate established pursuant to paragraph (a) of this subsection shall be increased by an additional four (4) percent for:

1. A community habilitation; or

2. A staffed residence.

(2) The rate setting methodology for:

(a) A new provider who did not offer SCL services prior to July 1, 1999; and

(b) A current provider who offers an SCL service that was not offered prior to July 1, 1999 shall be as follows:

1. The payment rates that are established pursuant to subsection (1) of this section shall be arrayed to determine the median rate for each service; and

2. Multiplied by 115 percent.

(3) A provider shall be reimbursed for a service specified in and pursuant to the methodology established in Section 3(3) of this administrative regulation.

(4) The reimbursement of a SCL service for SFY 1999 through 2000 shall not be retroactively adjusted to incorporate an adjustment to the annual cost report resulting from an audit or desk review, except for errors identified by the department when computing the rate.

Section 9. Payment Amounts for State Fiscal Year (SFY) 2000 through 2001. (1) For SFY 2000 through 2001, the rate setting methodology for a participating in-state SCL provider that is certified pursuant to 907 KAR 1:145 shall be as follows:

(a) The payment rate for a unit of service that was in effect for

an individual provider of SCL services for the period ending June 30, 2000 shall be indexed for inflation by a minimum of three (3) percent.

(b) Except for a service meeting the criterion of paragraph (c) of this subsection, the payment rate established in paragraph (a) of this subsection shall be increased by an additional minimum of three (3) percent.

(c) If the payment rate that was in effect for the period ending June 30, 2000 for an SCL service pursuant to subparagraphs 1 or 2 of this paragraph was less than the provider's average unit cost that was utilized by the department to establish the payment rate for SFY 1999 through 2000, the payment rate established pursuant to paragraph (a) of this subsection shall be increased by an additional four (4) percent for:

1. A community habilitation; or
2. A staffed residence.

(2) The rate setting methodology for:

(a) A new provider who did not offer SCL services prior to July 1, 2000; and

(b) A current provider who offers an SCL service that was not offered prior to July 1, 2000 shall be as follows:

1. The payment rates that are established pursuant to subsection (1) of this section shall be arrayed to determine the median rate for each service; and

2. Multiplied by 115 percent.

(3) A provider shall be reimbursed for services specified in and pursuant to the methodology established in Section 3(3) of this administrative regulation.

(4) The reimbursement payment of a SCL service for SFY 2000 through 2001 shall not be retroactively adjusted to incorporate an adjustment to the annual cost report resulting from an audit or desk review, except for errors identified by the department when computing the rate.

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

(a) "Supports For Community Living Cost Report", Department for Medicaid Services, December 1999 edition; and

(b) "Instructions For SCL Cost Reporting", Department for Medicaid Services, December 1999 edition. [The Supports for Community Living Payment Rate Determination Manual, Department for Medicaid Services, March 1998 Edition, is incorporated by reference.]

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

DENNIS BOYD, Commissioner
JOHN H. WALKER, Attorney
JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: December 29, 1999

FILED WITH LRC: December 29, 1999 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 2000 at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 15, 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. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Kevin Devlin, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Neville Wise

(1) Type and number of entities affected: Approximately 55 SCL

providers.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments were received as a result of the public hearing on the Notice Of Intent.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments were received as a result of the public hearing on the Notice Of Intent.

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

1. First year following implementation: None
2. Second and subsequent years: None
- (3) Effects on the promulgating administrative body:

(a) Direct and indirect costs:

1. First year: \$2,800,000
2. Continuing costs: \$2,925,000

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Federal and state matching funds. *Federal matching funds of 70.55% equaling \$1,975,400 for the first year and \$2,063,587.50 for the second year, with state matching funds of 29.45% equaling \$824,600 for the first year and \$861,412.50 for the second year. State revenues will come from Medicaid 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: To be implemented statewide.

(b) Kentucky: No comments were received as a result of the public hearing on the Notice Of Intent.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: It will allow individuals, who would otherwise be in an ICF-MR, to remain within the community and attain their highest possible level of functioning. It will also allow the family to remain or become caregivers.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: May pose an imminent threat to the public health, safety, or welfare of Medicaid recipients.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation does not set minimum or uniform standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation does not set stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

NEW ADMINISTRATIVE REGULATIONS RECEIVED AS OF NOON, JANUARY 14, 2000

JUSTICE CABINET
(New Administrative Regulation)

500 KAR 6:011. Repeal of 500 KAR 6:010, 6:020, 6:030, 6:040, 6:050, 6:060, 6:070, 6:080, 6:090, 6:100, 6:110, 6:120, 6:130, 6:140, 6:150, 6:160, 6:170, 6:180, 6:190, 6:200, 6:210, and 6:220, Juvenile detention facilities.

RELATES TO: KRS 15A.210 to 15A.240

STATUTORY AUTHORITY: KRS 15A.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.210 transferred the authority to regulate juvenile detention facilities to the Department of Juvenile Justice. This administrative regulation repeals the administrative regulations promulgated by the Justice Cabinet in order to permit the Department of Juvenile Justice to promulgate its own administrative regulations for the management of juvenile detention facilities.

Section 1. The following administrative regulations are hereby repealed:

- (1) 500 KAR 6:010, Definitions;
- (2) 500 KAR 6:020, Administration, organization and management;
- (3) 500 KAR 6:030, Personnel;
- (4) 500 KAR 6:040, Juvenile records;
- (5) 500 KAR 6:050, Safety and emergency procedures;
- (6) 500 KAR 6:060, Security and control;
- (7) 500 KAR 6:070, Food service;
- (8) 500 KAR 6:080, Sanitation and hygiene;
- (9) 500 KAR 6:090, Juvenile rights;
- (10) 500 KAR 6:100, Training and staff development;
- (11) 500 KAR 6:110, Medical and health care services;
- (12) 500 KAR 6:120, Rules and discipline;
- (13) 500 KAR 6:130, Intake;
- (14) 500 KAR 6:140, Admission procedures;
- (15) 500 KAR 6:150, Programs;
- (16) 500 KAR 6:160, Communication: mail, visiting and telephone;
- (17) 500 KAR 6:170, Release preparation and transfer programs;
- (18) 500 KAR 6:180, Citizen and volunteer involvement;
- (19) 500 KAR 6:190, Waiver of compliance;
- (20) 500 KAR 6:200, Physical plant;
- (21) 500 KAR 6:210, Application for construction, expansion, or renovation; and
- (22) 500 KAR 6:220, Registration.

ROBERT F. STEPHENS, Secretary
MICHAEL KEITH HORN, Office of General Counsel
APPROVED BY AGENCY: January 7, 2000

FILED WITH LRC: January 10, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on February 22, 2000, at 9 a.m. in the conference room at the Department of Juvenile Justice, 1025 Capital Center Drive, Building #3, Third Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by February 15, 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 this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request is made for a transcript. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Michael Keith Horn, Office of General Counsel, Department of Juvenile Justice, Capital Complex East, 1025 Capital Center Drive, Building #3, Third Floor, Frankfort, Kentucky 40601, (502) 573-2738, FAX: (502) 573-4308.

REGULATORY IMPACT ANALYSIS

Agency Contact: Michael Keith Horn

(1) Type and number of entities affected: The type and number of entities affected are counties which operate juvenile detention facilities.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received. Implementation of this regulation 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 Justice Cabinet.

2. Continuing costs or savings: There will not be any continuing direct or indirect costs or savings to the Justice Cabinet.

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 Justice Cabinet 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.

(b) Kentucky: There will be no economic impact from this administrative regulation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternative methods were considered because KRS 15A.210 transferred authority for management of juvenile detention facilities to the Department of Juvenile Justice.

(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.

(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.

(c) If detrimental effect would result, explain detrimental effect: There would be no detrimental effect.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(a) Necessity of proposed regulation if in conflict: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate the proposed regulation.

(10) Any additional information or comments: There is no additional information or comments of which we are aware.

(11) TIERING: Is tiering applied? No. This administrative regulation applies equally to all individuals or entities regulated by it.

**CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(New Administrative Regulation)**

922 KAR 1:100. Agency adoptions.

RELATES TO: KRS 199.470-199.590, 209.020, 508.100, 508.110, 508.120, 510.040-510.140, 510.150, 529.020-529.050, 530.020, 530.064, 531.300-531.370, 600.020(1)

STATUTORY AUTHORITY: KRS 194B.050(1), 199.472
NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050(1) provides that the Secretary of the Cabinet for Families and Children shall, by administrative regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This administrative regulation describes the process of agency adoptions.

Section 1. Definitions. (1) "Adoptive home study" means a study conducted by a social worker to document the preparation and training received by an approved adoptive family. The study shall include:

(a) Documentation that no physical, mental or emotional barrier to the parent's ability to adopt exists;

(b) A written report on any physical or mental illness and documentation of subsequent counseling or treatment including diagnosis, prognosis and the therapist's recommendation regarding appropriateness for adoptive placement;

(c) Verification of marriage;

(d) When applicable, divorce or death verification of a previous spouse;

(e) A criminal records check;

(f) A child and spouse abuse check and copy of any investigation previously completed by any agency;

(g) Personal and financial reference; and

(h) A statement documenting the family's current status with any previous adoption or foster care agency.

(2) "Administrative review" means an independent study or assessment by cabinet staff in which a recommendation may be made regarding the status of a case at least every six (6) months.

(3) "Cabinet" means Cabinet for Families and Children.

(4) "Concurrent planning" means the cabinet may simultaneously plan for reunification of a child with the birth family and permanent removal of the child if the prognosis for reunification is poor.

(5) "Concurrent planning family" means a foster family specifically trained and approved by the cabinet to provide concurrent planning placement services.

(6) "Interstate Compact on the Placement of Children (ICPC)" means the legal framework pursuant to KRS 615.030 for the placement of a child out of state.

(7) "Preplacement conference" means a meeting conducted by cabinet staff to:

(a) Provide an approved adoptive family with information regarding a child that has been referred to the family for adoptive placement;

(b) Assist the family in reaching a decision regarding acceptance of placement; and

(c) Determine the method of presenting the family to the child.

(8) "Special Needs Adoption Program (SNAP)" means recruitment of an adoptive family by cabinet staff for a child for whom an adoptive placement has not been identified within one (1) month following termination of parental rights.

(9) "Statement of After-placement Services" means an agreement for after-placement supervision for a child placed with an out-

of-state family whose agency is a licensed private adoption agency.

Section 2. Preparation of the Child for Adoptive Placement. (1) A child prepared for adoptive placement by cabinet staff shall receive clarification regarding the:

(a) Relationship to birth parent;

(b) Entitlement to a parent;

(c) Foster parent relationship;

(d) Reason for which the foster placement may not become the adoptive placement;

(e) Role of the family service worker and the child in placement planning;

(f) Meaning of adoption;

(g) Process of recruitment of a family and how the child may be involved;

(h) Impending placement;

(i) Visitation process;

(j) Placement decision; and

(k) Cabinet staff responsible for the placement decision.

(2) If a child's adoption plan includes reunification with a sibling separated in foster care, planning for the reunion and coordination of increased visitation between siblings shall occur before termination of parental rights.

(3) If cabinet staff agree by consensus during a planning conference, a sibling may be separated from another sibling in adoption upon consideration of:

(a) If age appropriate, each sibling's understanding of the facts of the relationship, his feelings, wishes, and ideas regarding options for placement;

(b) The foster parent's or child placement professional's perceptions of each child's relationship with his sibling; and

(c) The recommendation of therapists and psychologists working with each child.

(4) A mental health counselor, birth relative, family service worker, nonadopting foster parent, or other appropriate person may assist with preparing the child for adoption.

(5) A foster child may be placed in a home approved for adoption prior to termination of parental rights when the child's goal has been changed to adoption.

(6) If an approved family has not been identified within one (1) month after the child is freed for adoption, cabinet staff shall register a waiting child with SNAP for recruitment of an adoptive family.

Section 3. Selection of the Adoptive Family. (1) Emphasis for adoptive placement in the best interest of the child shall be to expedite the adoptive placement.

(2) Priority consideration for an adoptive placement shall be given to the:

(a) Existing relative; or

(b) Current foster parent.

(3) A final decision to pursue relative or foster adoption shall be made no later than five (5) days from the:

(a) Entry of the final order for termination of parental rights; or

(b) Termination of parental rights hearing.

(4) If the existing relative or foster parent shall not be pursued as an adoptive placement, the cabinet shall pursue adoptive placement according to the needs of the child with:

(a) A concurrent planning family; or

(b) An approved adoptive family.

(5) Acceptance by an approved family of a referral for adoptive placement shall result in a preplacement conference.

Section 4. Preparation of the Potential Adoptive Resource. (1) The prospective adoptive family shall have completed preparation for placement of a child for whom the cabinet has received wardship pursuant to 922 KAR 1:350 and be approved as a family resource home.

(2) Cabinet staff shall schedule a preplacement conference for a child freed for adoption with the child's:

(a) Foster parent;

(b) Prospective adoptive parent;

(c) If applicable, therapist; and

(d) If applicable, social worker from the licensed private child care or child-placing agency where the child is placed.

(3) During the preplacement conference, cabinet staff shall discuss with the prospective adoptive parent acceptance of the:

- (a) Referral;
- (b) Health, background, and placement history of the child; and
- (c) Plan for visitation and placement.

Section 5. Adoptive Placement. (1) Planned visitation between a child older than one (1) month and a prospective adoptive family shall occur at least two (2) times prior to placement.

(2) Final placement with an adoptive family shall occur as quickly as possible upon the:

- (a) Concurrence among cabinet staff, family and the child that the family and child are ready; and
 - (b) Completion of the Adoptive Placement Agreement.
- (3) If a foster home or concurrent planning family placement becomes an adoptive family placement, a foster care payment shall cease upon completion of the Adoptive Placement Agreement.
- (4) Adoption assistance shall be explored pursuant to 922 KAR 1:050.

Section 6. Out-of-State Adoptive Placement. (1) If an approved family is not identified within six (6) months after the child is freed for adoption, SNAP personnel shall:

- (a) Refer the child to a national adoption exchange in search of a family; or
 - (b) Consider placement through an out-of-state agency.
- (2) Placement of a Kentucky child with an out-of-state adoptive family may occur if:
- (a) The family is seeking a child:
 1. Through their state's public child welfare agency; or
 2. With a licensed child placing adoption agency;
 - (b) An adoptive home study has been completed or updated by the family's present adoption agency, current within one (1) year by the date of the completion of the interstate referral package;
 - (c) A birth or adoptive child living in the prospective adoptive family's home has been in the home for one (1) year by the time of placement;
 - (d) Another child placed in the home for the purpose of adoption:
 1. Has had his adoption finalized prior to the referral of the Kentucky child; or
 2. Is a sibling of the child being referred;
 - (e) An agreement with the cabinet has been signed by the adoptive family stating that no additional child, except for a sibling of a previously placed child, shall be accepted by the family for adoption until the Kentucky child has been in placement with the family for one (1) year and the adoption has been finalized; and
 - (f) The family's agency is a licensed private adoption agency and the family's agency has signed the Statement of After-Placement Services.

(3) A prospective out-of-state adoptive family who cannot pay the expense to attend a preplacement conference or visit a Kentucky child may have travel expenses paid by the cabinet.

(4) If the deputy compact administrator in both states provides written approval of the visit and both states sign the Interstate Compact Placement Request, a Kentucky child may travel to visit an out-of-state prospective adoptive family.

(5) Cabinet staff or another adult whom the child knows shall accompany a Kentucky child on an out-of-state visit to a prospective adoptive family upon approval from the secretary for the cabinet.

Section 7. Postplacement Service. (1) The goal of a postplacement service shall be to:

- (a) Ensure the success of the placement; and
 - (b) Prevent disruption.
- (2) The cabinet shall provide regular support and counseling service to the child and the adoptive family during the period prior to the legal adoption through finalization.
- (3) Until the adoption judgement has been granted by the circuit court, administrative review for a child placed in an adoptive home shall continue.

Section 8. Alternative Placement When Disruption Occurs. (1) An alternative placement shall be planned following disruption of an adoptive placement.

(2) The child may be placed temporarily with a family that has already adopted a special needs child.

Section 9. Reconsideration of a Closed Adoptive Home. The family may reapply and receive approval for adoptive placement:

- (1) If previously closed in good standing; or
- (2) Following finalization of an adoption.

Section 10. Closure of Approved Adoptive Homes. (1) If an approved family does not receive a placement within three (3) years, the family shall be closed on the third anniversary of the approval date unless an indefinite extension is granted for a family waiting for a nonspecial needs child.

(2) Closure of an approved adoptive home shall occur if:

(a) An approved adoptive parent is criminally convicted or pleads guilty to charges of a sexual offense designated in KRS 510.040 to 510.140, 510.150, 529.020 to 529.050, 530.020, 530.064, or 531.300 to 531.370;

(b) An approved adoptive parent commits:

1. A crime of abuse, neglect or exploitation of a child pursuant to KRS 508.100, 508.110, or 508.120; or

2. Abuse, neglect or exploitation of a child, pursuant to KRS 600.020(1), substantiated by the cabinet pursuant to 922 KAR 1:330 and, if appealed, 922 KAR 1:320;

(c) Physical abuse of a spouse pursuant to KRS 209.020 by the approved adoptive parent is substantiated by the cabinet pursuant to 922 KAR 5:070;

(d) Serious physical or mental illness develops to the extent that care of the child by an approved adoptive parent is impaired; or

(e) The adoptive parent is convicted of a Class A or Class B felony offense pursuant to KRS Chapter 510; and

(3) If closure is necessary for an adoptive family who has a child placed, but the adoption is not finalized, the child shall be removed from the home.

(4) If the deficiency that led to closure has been resolved, an adoptive family previously closed due to a deficiency may reapply for approval as an adoptive family.

(5) Except for the referral of a sibling of a child previously placed with the adoptive family, the status of a nonfoster adoptive family placed on the register of waiting families shall change to inactive and subsequent referrals for adoptive placement shall not be made until finalization has occurred.

Section 11. Confidentiality of Records. Pursuant to KRS 199.570, no person having charge of an adoption record shall give to an individual:

- (1) The name of a party appearing in the record; or
- (2) A copy of the record except upon order of the court that granted the adoption.

Section 12. Request for Information from Adoption Records. (1) Identifying information from the cabinet's record may be released only upon written order by the court upon application to the circuit court that granted the adoption by an adoptee, twenty-one (21) years of age or older.

(2) If the birth parent has not previously filed consent for release of identifying information with the circuit court, the judge may:

(a) Issue a court order requiring the cabinet to conduct a search for each birth parent as identified on the original birth certificate; and

(b) Determine the parent's desire concerning the release of identifying information from the record.

(3) Upon receipt of written request by the adult adoptee or the adoptive family, nonidentifying health and background information may be released by the cabinet from a closed adoption record.

(4) If a request is received from an adoptee, eighteen (18) years of age or older, for contact with an adult preadoptive birth sibling separated during finalization of a closed adoption, cabinet staff shall:

(a) Review the adoption record; and

(b) Release identifying information if a mutual request for contact is contained within the record.

(5) If a request is received from a birth relative seeking an adoptee, either adult or minor, information may be given that adoption did occur and reassurance of the well being of the adoptee at last contact may be confirmed, but cabinet staff shall not contact an

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adoptive family at the request of the birth family.

(6) If an adult adoptee seeks contact with the birth family, cabinet staff shall inform the adult adoptee of a birth relative's interest.

DIETRA PARIS, Commissioner

CHARLES P. LAWRENCE, Attorney

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: January 12, 2000

FILED WITH LRC: January 14, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 22, 2000, at 9 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 15, 2000, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Judy Trigg, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy G. Mobley, Director

(1) Type and number of entities affected: During fiscal year 1998, 200 of 310 children waiting for adoption were placed by the cabinet. During fiscal year 1999, 334 children waiting for adoption were placed by the cabinet. The cabinet estimates that 401 children will be placed during fiscal year 2000.

(2) Direct and indirect cost or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect cost or savings:

1. First year: None

2. Continuing cost or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No effect.

(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:

(a) Geographical area in which administrative regulation will be implemented: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received.

(b) Kentucky: The same as 6(a).

(7) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of

the geographical area in which implemented and on Kentucky: None

(b) State whether a detrimental effect on environment and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

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

(10) Any additional information or comments: None

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

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of January 13, 2000

The January meeting of the Administrative Regulation Review Subcommittee was held on Thursday, January 13, 2000 at 3:30 p.m. in Room 131 of the Capitol Annex. Representative John Arnold, Chairman, called the meeting to order, and the roll call was taken. The minutes of the December 14, 1999 meeting were approved.

Present were:

Members: John Arnold, Chairman; Senators Marshall Long, Richard Roeding, and Joey Pendleton; Representatives James Bruce and Woody Allen.

LRC Staff: Dave Nicholas, Donna Little, Stephen Lynn, Susan Wunderlich, Angela Phillips, Donna Valencia, Edna Lowery, Ellen Benzing, Alison Rechtin, Peter Jakubiak.

Guests: Lloyd Vest, Bill Schmidt, Board of Medical Licensure; Nancy L. Black, Diane Fleming, Jennifer Caudle, George Purvis, Board of Speech-Language Pathology and Audiology; Jennifer Field, Charles Bush, Bob Bates, Roy A. Grimes, Tom Bennett, Scott Porter, Department of Fish and Wildlife Resources; Emily Burks Brown, Phyllis Bruning, Economic Development; Richard Dobson, Revenue Cabinet; Brenda Priestley, Tamela Biggs, Department of Corrections; Stephanie Bingham, Department of Criminal Justice Training and Kentucky Law Enforcement Council; Keith Horn, Department of Juvenile Justice; Mary Ellen Wiederwohl, Teresa E. McGraph, Sandy Rhodes, Marilyn K. Troupe, Education Professional Standards Board; Beverly H. Haverstock, Jim Byford, Michael B. McCall, Kentucky Community and Technical College System; Maria Schmitt, Brenda Parker, Mark McGuire, Carrie Banahan, Char Hummel, Department of Insurance; Colleen Keefe, Department of Financial Institutions; Pamela Aldridge, Sherilyn Redmon, Joyce R. Turley, Karen Doyle, Teresa Goodrich, Paula York, Danna Droz, Trish Howard, Cabinet for Health Services; Marilyn Haynes, Paula Woodworth, Floyd Parrish, Thelma Cornett, Joyce Lea, Virginia V. Smith, Debbie Salleng, John B. Kaplan, B.J. Jacobs, Cabinet for Families and Children; Vince Guenther, Louisville Water Company.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Kentucky Board of Speech-Language Pathology and Audiology

201 KAR 17:011. Requirements for interim licensure. Nancy Black, Director, Division of Occupations and Professions; George Purvis, Chair; and Diane Fleming, Assistant Attorney General, represented the Board.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 1 was amended to: (a) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4); and (b) clearly require submission of the application form; and (4) a new Section 2 was created to incorporate by reference the required application form.

201 KAR 17:012. Requirements for licensure. 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) Section 1 was amended to: (a) comply with the: 1. format requirements of KRS 13A.220(4); and 2. drafting requirements of KRS 13A.222(4); and (b) clearly require submission of the application form; and (4) a new Section 2 was created to incorporate by reference the required application form.

201 KAR 17:015. Board members, expenses. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (2) Section

1 was amended to comply with the drafting requirements of KRS 13A.222(4).

201 KAR 17:025. Requirements for an interim license as a speech-language pathology assistant. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 were amended to comply with the drafting requirements of KRS 13A.222(4); (3) Section 2 was amended to establish the supervisor requirements in accordance with 704 KAR 20:670; and (4) Sections 2(15) and 5 were amended to delete language that repeated or summarized statutory provisions, as required by KRS 13A.120(2)(e) and (f).

201 KAR 17:027. Supervision requirements for a speech-language pathology assistant. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Sections 1, 2, 3, 6, 7, and 8 were amended to comply with the drafting requirements of KRS 13A.222(4); (4) Section 3 was amended to establish the supervisor requirements in accordance with 704 KAR 20:670; and (5) Section 9 was amended to delete language that repeated or summarized statutory provisions, as required by KRS 13A.120(2)(e) and (f).

201 KAR 17:030. License fees. Senator Roeding stated that the fee form developed by Subcommittee staff was very enlightening and provided necessary information for the fee increases.

This administrative regulation was amended as follows: (1) the TITLE was amended to accurately reflect the subject matter of this administrative regulation; (2) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (3) 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); (4) Sections 2, 3 and 4 were amended to delete language that summarized or repeated existing statute, as prohibited by KRS 13A.120(2)(e) and (f); (5) Sections 1 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); (6) Section 3 was amended to clearly require submission of the application form; and (7) a new Section 4 was created to incorporate by reference the required application form.

201 KAR 17:041. Professional code of ethics. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 1(2)(a) was amended to delete language that repeated or summarized existing statute, as required by KRS 13A.120(2)(e) and (f); (4) Section 2(3) was amended to correct an internal cross-reference; and (5) Sections 1 through 6 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 17:070. Complaint procedure. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct a statutory citation; and (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 3, 4, and 6 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

201 KAR 17:090. Continuing education requirements. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 1, 2, 3, 4, 5, 6, 7, 9,

and 11 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

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. Tom Bennett, Commissioner, Roy Grimes, Wildlife Director, and Scott Porter, Assistant Attorney General, represented the Department.

In response to a question by Representative Bruce, Mr. Bennett stated that this administrative regulation, 301 KAR 3:015, and 301 KAR 5:050 did not regulate elk.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Sections 1 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).

Hunting and Fishing

301 KAR 3:015. Shooting ranges on wildlife management areas. 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) Section 1 was amended to define the term "firing line"; (4) Section 2(7) was amended to allow an instructor to be present along with a person in a shooting station; and (5) 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).

Licensing

301 KAR 5:050. Purchasing licenses electronically. In response to questions by Chairman Arnold, Mr. Bennett stated that: (1) a license could be purchased electronically by telephone or over the Internet with the use of a credit card; (2) after a person made an electronic purchase, the person was: (a) required to write down a unique number issued to the person during the transaction; and (b) carry the number and a picture identification card with the person; and (3) the number was embedded with a code that enabled Department officers to determine which licenses were purchased.

This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations.

Economic Development Cabinet: Department for Financial Incentives: Kentucky Enterprise Zone Program

306 KAR 1:010. Definitions. Phyllis Bruning, Director, and Richard Dobson, Tax Consultant, Revenue Cabinet, represented the Department.

In response to questions by Senator Long, Ms. Bruning stated that: (1) the Department was authorized to expand the size of an enterprise zone without legislative approval if the area: (a) met the statutorily-prescribed criteria at the time the designation was made; and (b) was contiguous to the current zone; and (2) those determinations were made based on: (a) census blocks; (b) block groups; and (c) census tracts.

Senator Long stated that: (1) while he was not against this administrative regulation, the enterprise zones were expanding so much that it might be necessary to designate the entire state as an enterprise zone to: (a) give everyone an equal break; and (b) remove the advantage that people in enterprise zones have over competitors not located in an enterprise zone; and (2) he wanted the record to show that he did not like the enterprise zones.

In response to questions by Senator Roeding, Ms. Bruner stated that: (1) because she contacted each zone's administrator throughout the drafting process, the existing enterprise zones were aware of this administrative regulation; (2) additionally, the Department had worked closely with the Revenue Cabinet and the Department for Employment Services, Workforce Development Cabinet; (3) the three agencies met in an annual meeting to discuss the effect of each administrative regulation on each agency; (4) the zone administrators worked closely with businesses in their zone's area and provided input to the Department from businesses regarding the administrative regulations; (5) the zones were established specifi-

cally by census tracts, which divided some roads, with: (a) one side of the road included in a zone; and (b) the other side excluded from a zone; (6) the Department provided the Revenue Cabinet with a copy of its certificate that identifies each business by name, tax identification number, and address; (7) if a business moved after completing an exemption form with the Revenue Cabinet, the business might have problems; and (8) the Department had tried to make the required forms less cumbersome while still providing information needed to determine statutory compliance.

In response to questions by Chairman Arnold, Ms. Bruner stated that: (1) the General Assembly: (a) established: 1. seven (7) enterprise originally in 1983; and 2. three (3) additional zones in 1986; (b) limited the Department to those ten (10) zones, which have existed since 1986; (c) provided for the expiration of the zones after twenty (20) years; and (d) established the zones based on boundaries provided by census tracts for areas that were economically depressed; (2) the Department received census tracts from the U.S. Census that identified the number of people in each zone; (3) because the boundaries were very specific, the zone administrators were required to give exact street addresses to determine if that address was included in a zone; (4) the ten zones included: (a) Ashland; (b) Covington; (c) Campbell County; (e) Knox County; (f) Lexington; (g) Louisville; (h) Hopkinsville; (i) Owensboro; (j) Paducah; and (k) Hickman; (5) applications for new zones had not been accepted since 1986; and (6) a business in an enterprise zone received: (a) a sales tax exemption for building materials; (b) an exemption for machinery and equipment if the business was qualified; and (c) a usage tax exemption for vehicles purchased for business use.

Senator Long stated that: (1) the enterprise zone had worked well given the number of company-owned Lexus, Jaguar, and Mercedes-Benz vehicles used for company use; the General Assembly raised these questions several years ago; (2) while the original intent of the program was to help primary urban or poor areas provide jobs, that intent does not seem present in enterprise zones that stretch across each county; and (3) enterprise zones negatively affected competitors who were not included in the zone.

In response to questions by Representative Bruce, Ms. Bruner stated that these administrative regulations would help the Department monitor the businesses and reduce the amount of misuse.

This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 were amended to comply with the drafting requirements of KRS Chapter 13A; (3) Section 1(11) was amended to delete definition of "public assistance" as superfluous; and (4) Section 1(18) was amended to clarify definition of "unemployed."

306 KAR 1:020. Application process for new or existing business. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to state the necessity for the administrative regulation; (3) Sections 1 through 3 were amended to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) Section 2(2) was amended to delete discretionary references for additional information required.

306 KAR 1:030. Eligibility requirements for expansion of an enterprise zone. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to state the necessity for the administrative regulation; and (3) Section 1 was amended to comply with the drafting requirements of KRS Chapter 13A.

306 KAR 1:040. Qualified business certificates. This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to state the necessity for the administrative regulation; (3) Sections 1 through 4 were amended to clarify language; (4) Section 3 was amended to correct statutory citations; (5) Section 3(3)(d) was amended to delete redundant requirement to supply an employer identification number; and (6) Section 5 was amended to comply with the drafting requirements of KRS Chapter 13A.

306 KAR 1:070. Duties of the authority. This administrative

regulation was amended as follows: (1) the TITLE was amended to reflect content; (2) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (3) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to state the necessity for the administrative regulation; and (4) the entire administrative regulation was amended to delete old language and replace with statutorily compliant procedures for compliance monitoring: (a) Section 1 was amended to treat: 1. monitoring information required on an annual basis; and 2. reasons and procedure for de-certification; (b) Section 2 was amended to treat repayment by a de-certified business of previously unpaid taxes; and (c) Section 3 was amended to incorporate by reference annual monitoring forms.

Justice Cabinet: Department of Juvenile Justice: Juvenile Detention Facilities

505 KAR 2:010. Definitions. This administrative regulation was amended as follows: various provisions were amended to comply with the drafting requirements of KRS 13A.222(4).

505 KAR 2:020. Administration, organization and management. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) various provisions were amended to comply with the drafting requirements of KRS 13A.222(4).

505 KAR 2:030. Personnel. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Section 1(1)(d) was amended to delete material that exceeded statutory authority.

505 KAR 2:040. Juvenile records. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) various provisions were amended to comply with the drafting requirements of KRS 13A.222(4).

505 KAR 2:050. Safety and emergency procedures. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) various provisions were amended to comply with the drafting requirements of KRS 13A.222(4).

505 KAR 2:060. Security and control. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) Section 1(18) was amended to clarify the: (a) types of searches that may be conducted; and (b) circumstances for a search; and (3) Section 1 was amended to comply with the drafting requirements of KRS 13A.222(4).

505 KAR 2:070. Food service. This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations.

505 KAR 2:080. Sanitation and hygiene. This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations.

505 KAR 2:090. Juvenile rights. This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations.

505 KAR 2:100. Training and staff development. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) various provisions were amended to comply with the drafting requirements of KRS 13A.222(4).

505 KAR 2:110. Medical and health care services. This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations.

505 KAR 2:120. Rules and discipline. This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations.

505 KAR 2:130. Intake. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY

AUTHORITY paragraphs were amended to correct statutory citations; and (2) Section 1(3) was amended to comply with the drafting requirements of KRS 13A.222(4).

505 KAR 2:140. Admission procedures. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Section 1(3) was amended to comply with the drafting requirements of KRS 13A.222(4).

505 KAR 2:150. Programs. This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations.

505 KAR 2:160. Communication: mail, visiting and telephone. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Sections 1(1) and 1(2)(a) were amended to permit limitations on mail if necessary to protect the juvenile's well-being or to prevent criminal conduct.

505 KAR 2:170. Release preparation and transfer programs. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Section 1(3) was amended to comply with the drafting requirements of KRS 13A.222(4).

505 KAR 2:180. Citizen and volunteer involvement. This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations.

505 KAR 2:190. Waiver of compliance. This administrative regulation was amended as follows: the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations.

505 KAR 2:200. Physical plant. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; (2) Section 1(3) was amended to cross-reference 28 CFR 31.303; and (3) Section 1(1) was amended to comply with the drafting requirements of KRS 13A.222(4).

505 KAR 2:210. Application for construction, expansion or renovation. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Sections 2, 3, and 4 were amended to comply with KRS 13A.222(4).

505 KAR 2:220. Registration. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) Sections 1 and 2 were amended to comply with KRS 13A.222(4).

505 KAR 2:230. Additional standards for juvenile holding facilities. This administrative regulation was amended as follows: (1) the RELATES TO and STATUTORY AUTHORITY paragraphs were amended to correct statutory citations; and (2) various provisions were amended to comply with the drafting requirements of KRS 13A.222(4).

Education Professional Standards Board

704 KAR 20:690. Kentucky Teacher Internship Program. Mary Ellen Wiederwohl, Legislative Liaison, and Marilyn Troupe, Director of Teacher Education, represented the Board.

In response to a question by Senator Roeding, Ms. Troupe stated that page 11, line 16, of this administrative regulation required an intern to file an appeal within thirty (30) calendar days of written notice for failure of internship because the Board wanted to give the intern time enough to: (1) provide notification; (2) learn that the internship was not successful; (3) receive notification from the Board of both the: (a) decision; and (b) appeal rights; (4) gather and submit necessary documentation; and (5) compose a defense.

In response to questions by Senator Roeding, Ms. Wiederwohl stated that: (1) because currently this administrative regulation did not establish a deadline for filing an appeal, a teacher intern could file an appeal ten (10) years after receiving the decision notification; (2) the Board decided to limit appeals to thirty (30) days after checking with attorneys to determine a reasonable time period; (3) most interns: (a) were 22 or 23 years old; (b) had just completed the

first year of teaching through the internship; (c) generally did not have an attorney on retainer; (d) may not fully understand their legal rights; and (e) needed the additional time to: 1. consider their options; and 2. file an appeal; and (4) while she knew that school districts were concerned about moving ahead, because the districts were required to maintain the records for five (5) years, she believed the thirty (30) day time period was better than not having a deadline for filing an appeal.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Section 2 was amended to specify that a teacher intern and the beginning teacher committee shall follow the requirements established in this administrative regulation and in the handbook incorporated by reference; (4) Section 5 was amended to delete language that repeated or summarized applicable statute, as required by KRS 13A.120(2)(e) and (f); (5) Section 10 was amended to incorporate by reference the required form and applicable handbook; and (6) Sections 1 through 8 and 10 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

Department of Financial Institutions: Securities

808 KAR 10:340. Registration exemption for certain limited offerings made exclusively to accredited investors. Colleen Keefe, Director, represented the Department.

In response to questions by Senator Roeding, Ms. Keefe stated that this administrative regulation: (1) did not change the existing fees; (2) would not affect small businesses and start-up companies differently than current requirements; (3) was amended to clarify the definition of accredited investor, which generally was either: (a) a person with a very high net worth; or (b) an institution with a high net worth, such as a bank; and (4) provided an exemption from registration requirements: (a) for people who desired to sell to accredited investors; and (b) to make it easier to sell securities.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); and (2) Section 3 was amended to adopt without change the applicable federal regulation.

Cabinet for Health Services: Department for Public Health: Division of Adult and Child Health: Controlled Substances

902 KAR 55:020 & E. Schedule II substances. Danna Droz, Branch Manager for Drug Control, represented the Department.

In response to questions by Chairman Arnold, Ms. Droz stated that: (1) Dronabinol was: (a) a dosage form of tetrahydrocannabinols; (b) an extract of marijuana prepared into a capsule; and (c) approved specifically for use in cancer chemotherapy patients for nausea; (2) the drug could be ordered from a manufacturer; (3) while the marijuana itself was illegal, this particular extract in this FDA-approved formulation was: (a) a product with a legitimate medical use; and (b) approved by the FDA; and (4) she believed a farm in Alabama raised marijuana legally.

This administrative regulation was amended to clarify technical language throughout this administrative regulation.

902 KAR 55:025 & E. Schedule III substances. This administrative regulation was amended to clarify technical language throughout this administrative regulation.

Department for Medicaid Services

907 KAR 1:011 & E. Technical eligibility requirements. Karen Doyle, Commissioner's Office, Teresa Goodrich, Policy Coordination, and Joyce Turley, Policy Coordination, represented the Department.

This administrative regulation was amended as follows: (1) Sections 1(4) and 5(12)(a)1.b. were amended to move substantive provisions from the definitions section to the body of the administrative regulation; and (2) Sections 1, 2, 3, 5, and 6 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

907 KAR 1:031. Payments for home health services. Karen Doyle, Commissioner's Office, Pamela Aldridge, Division of Long-Term Care, and Sherilyn Redmon, Division of Long-Term Care, represented the Department.

This administrative regulation was amended as follows: (1) Section 1 was amended to alphabetize the definitions, as required by KRS 13A.222(4)(e); (2) Section 6(2)(d) was amended to correct an internal cross-reference; and (3) Sections 3, 5, 6, 7, 9, 10, and 11 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

907 KAR 1:605. Medicaid procedures for determining initial and continuing eligibility. Karen Doyle, Commissioner's Office, Teresa Goodrich, Policy Coordination, and Joyce Turley, Policy Coordination, represented the Department.

This administrative regulation was amended as follows: (1) Section 1(3) was amended to define "partnership", rather than cross-reference another administrative regulation, in accordance with KRS 13A.222(4)(e); and (2) Sections 2 and 6 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

907 KAR 1:640 & E. Income standards for Medicaid. This administrative regulation was amended as follows: (1) Section 3(2) was amended to correct a citation to an applicable administrative regulation; and (2) Sections 1, 2, 3, 4, and 6 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

907 KAR 1:645. Resource standards for Medicaid. This administrative regulation was amended as follows: (1) Section 1(4) was amended to define "TANF", rather than cross-reference another administrative regulation, in accordance with KRS 13A.222(4)(e); and (2) 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).

Cabinet for Families and Children: Department for Community Based Services: Protection and Permanency: Day Care

922 KAR 2:090 & E. Child care facility licensure. John Kaplan, Branch Manager, Adult Services; Thelma Cornett, Department for Community Based Services, and Debbie Salleng, Policy and Program Support Branch, represented the Department.

Subcommittee staff stated that: (1) there was a statutory conflict affecting this administrative regulation; (2) at its October 12, 1999, meeting, the Subcommittee approved a motion to request the Legislative Research Commission to refer the issue to the appropriate interim joint committee for recommendations for the 2000 Regular Session of the General Assembly; and (3) House Bill 121: (a) had been introduced; and (b) would resolve the conflict.

In response to questions by Senator Roeding, Subcommittee staff stated that: (1) the issues raised in the initial staff review had been addressed by the amendment; and (2) the statutory conflict concerned the hiring of sex offenders.

This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to delete an incorrect statutory citation; and (2) Sections 1, 2, and 6 were amended to correct minor grammatical and typographical errors.

Adult Services

922 KAR 5:090. General adult services. This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to remove superfluous language; (2) Sections 1, 2, 3, and 5 were amended to clarify language; and (3) Section 2 was amended to delete reference to replace the word "customer" with "the adult."

The Subcommittee determined that the following administrative regulations complied with statutory authority:

Kentucky Board of Speech-Language Pathology and Audiology

201 KAR 17:013. Repeal of 201 KAR 17:010, 201 KAR 17:080, and 201 KAR 17:091. Nancy Black, Director, Division of Occupations and Professions; George Purvis, Chair; and Diane Fleming, Assistant Attorney General, represented the Board.

Justice Cabinet: Department of Corrections: 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. Tamela Biggs, Staff Attorney, represented the Department.

Division of Adult Institutions: Office of the Secretary

501 KAR 6:050. Luther Luckett Correctional Complex.

501 KAR 6:170. Green River Correctional Complex.

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.

Department of Criminal Justice Training: Kentucky Law Enforcement Council

503 KAR 1:110 & E. Department of Criminal Justice Training basic training: graduation requirements; records. Stephanie Bingham, General Counsel, represented the Department.

In response to a question by Chairman Arnold, Ms. Bingham stated that this administrative regulation was amended to reflect the academic and other requirements for basic training, participation, and graduation, including the required tests, passing scores, and practical exercises.

Law Enforcement Foundation Program Fund

503 KAR 5:090 & E. Participation; requirements; application; withdrawal. In response to questions by Chairman Arnold, Ms. Bingham stated that: (1) this administrative regulation did not establish additional expenses for the Kentucky Law Enforcement Foundation (KLEF) Program Fund, which provided a salary incentive pay for training; (2) the KLEF program gave officers who completed basic training in the past to re-enter the program and be eligible for the supplement with credit for years of experience; (3) previously, a person out of service for two years was required to complete basic training without consideration given for years of experience; (4) jailers were not included in training programs offered by the Department because both the Department of Corrections and Kentucky Jailers Association provided separate training through the Department of Corrections; and (5) the inclusion of jailers in Department training would require extensive revision and costs because: (a) law enforcement training needs differed from jailer training needs; and (b) the training programs were not compatible.

Kentucky Community and Technical College System: Board of Regents

739 KAR 1:010 & E. Acquisition and disbursement of funds, accounting system - records and annual report. Dr. Michael McCall, President KCTCS, Beverly Haverstock, General Counsel, and Jim Byford, Interim Vice President for Finance, represented the Board.

Subcommittee staff note: three typographical errors that did not change the substance of this administrative regulation, including changing the word "and" to "an", capitalizing part of the agency's name, and correcting a statutory citation, were made pursuant to KRS 13A.040(9).

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.

Department of Insurance: Health Insurance Contracts

806 KAR 17:205 & E. High-cost condition codes and severity questionnaire. Carrie Banahan, Branch Manager, Division of Health Insurance Policy and Managed Care, and Char Hummel, General Counsel, represented the Department.

In response to a question by Senator Roeding, Ms. Banahan stated that states surrounding Kentucky had not implemented similar provisions.

Senator Roeding stated that: (1) Kentucky did not have competition in the insurance industry because requirements that were statutorily established in Kentucky were not established in other states in the United States; and (2) the requirements on all Kentucky insurance industries should be lightened to enable better competition with other states.

The Subcommittee and promulgating administrative bodies agreed to defer consideration of the following administrative regulations to the February 7, 2000 meeting of the Subcommittee:

Department of Law: Child Sexual Abuse and Exploitation Prevention Board: Victims Advocacy Division: Kentucky Victim and Witness Protection Program

40 KAR 6:020E. Funding assistance for child sexual abuse medical examinations.

Personnel Cabinet: Classified

101 KAR 2:102E. Classified leave administrative regulations.

Unclassified

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

Board of Medical Licensure

201 KAR 9:175. Physician assistants; certification and supervision.

201 KAR 9:310. Continuing medical education. Bill Schmidt, Executive Director, and Lloyd Vest, General Counsel, represented the Board.

In response to questions by Representative Bruce, Mr. Vest stated that: (1) because this administrative regulation was approved by the Board, he assumed the Board members who were members of the Kentucky Medical Association had: (a) notified the Association of the provisions of this administrative regulation; and (b) conferred with the Association prior to the approval of this administrative regulation; (2) the Board did not specifically notify the Kentucky Medical Association regarding this administrative regulation; and (3) the Board's vice president was a member of the Association's Board of Directors.

In response to questions by Senator Roeding, Mr. Vest stated that: (1) the three hour domestic violence course was required by KRS 194A.540(2); (2) a license would be suspended if a doctor failed to complete the required thirty (30) hours of continuing medical education, including the domestic violence course; and (3) the paperwork requirement had not been changed.

Representative Bruce stated that: (1) local doctors needed notification about the requirements of this administrative regulation, either through a bulletin or letter sent by the Board or the Association; and (2) this administrative regulation should be deferred to permit either the Board or the Kentucky Medical Association to notify the physicians through a newsletter about the provisions of this administrative regulation.

Without objection, this administrative regulation was deferred.

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.

Restricted Custody Center

501 KAR 7:010. Definitions.

501 KAR 7:020. Administration; management.

501 KAR 7:040. Personnel.

501 KAR 7:050. Physical plant.

501 KAR 7:060. Security; control.

501 KAR 7:080. Sanitation; hygiene.

501 KAR 7:120. Admission; release.

501 KAR 7:140. Inmate rights.

Direct Supervision for Full-Service Jails

501 KAR 10:010. Definitions.

501 KAR 10:040. Personnel.

501 KAR 10:060. Security; control.

501 KAR 10:070. Safety; emergency procedures.

501 KAR 10:110. Classification.

501 KAR 10:120. Admission; release.

501 KAR 10:140. Inmate rights.

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.

Department for Medicaid Services: Medicaid Services

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 1:044E. Mental health center services.

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

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.

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: 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.

OTHER BUSINESS:

Chairman Arnold introduced and welcomed Pete Jakubiak, the Subcommittee's intern during the 2000 Regular Session.

The Subcommittee adjourned at 4:25 p.m. until February 7, 2000, at 2 p.m. in Room 149 of the Capitol Annex.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

**SENATE STATE AND LOCAL
GOVERNMENT COMMITTEE
Meeting of January 11, 2000**

The following administrative regulations were available for consideration by the Senate State and Local Government Committee during its meeting of January 11, 2000, having been referred to the Committee on December 17, 1999, pursuant to KRS 13A.290(6):
815 KAR 20:020
815 KAR 35:015 & E

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 11, 2000 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**HOUSE AND SENATE STANDING COMMITTEES
ON TRANSPORTATION
Meetings of January 12, 2000 and January 13, 2000**

The following administrative regulations were available for consideration by the House and Senate Committees on Transportation during their meetings of January 12, 2000 and January 13, 2000, respectively, having been referred to the Committee on December 17, 1999, pursuant to KRS 13A.290(6):
603 KAR 5:120
603 KAR 5:150

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 12, 2000 and January 13, 2000 meetings, which are hereby incorporated by reference.

rated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**HOUSE COMMITTEE ON LOCAL GOVERNMENT
Meeting of January 6, 2000**

The following administrative regulations were available for consideration by the House Committee on Local Government during its meeting of January 6, 2000, having been referred to the Committee on December 17, 1999, pursuant to KRS 13A.290(6):
815 KAR 20:020
815 KAR 35:015

The above referenced administrative regulations were approved by the Committee as submitted.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the January 6, 2000 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**SENATE AGRICULTURE AND
NATURAL RESOURCES COMMITTEE
Meeting of January 13, 2000**

The Senate Agriculture and Natural Resources Committee met on Thursday, January 13, 2000. During the meeting, the committee reviewed a Department of Fish and Wildlife Resources administrative regulation, 301 KAR 1:085, relating to mussel shell harvesting.

The committee reviewed and approved the regulation, as amended by the House Natural Resources and Environment Committee.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates H - 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 H - 14

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 H - 22

The Subject Index is a general index of administrative regulations published in VOLUME 26 of the Administrative Register, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	25 Ky.R. Page No.	Effective Date	Regulation Number	25 Ky.R. Page No.	Effective Date
VOLUME 25					
The administrative regulations listed under VOLUME 25 are those administrative regulations that were originally published in Volume 25 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1999 bound Volumes were published.					
EMERGENCY ADMINISTRATIVE REGULATIONS:			201 KAR 9:320	687	
12 KAR 4:170E	2813	4-22-99	As Amended	2834	
Expired		11-18-99	Withdrawn		1-10-2000
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:			415 KAR 1:120		
11 KAR 15:040			Amended	1122	(See Volume 26)
Amended	2923	9-1-99	418 KAR 1:020		
200 KAR 5:340	2709	(See Volume 26)	Amended	2938	(See Volume 26)
201 KAR 2:010			418 KAR 1:030		
Amended	2925	(See Volume 26)	Amended	2940	(See Volume 26)
201 KAR 2:095			418 KAR 1:040		
Amended	2926	(See Volume 26)	Amended	2942	(See Volume 26)
201 KAR 9:175			418 KAR 1:050		
Amended	2423		Amended	2944	(See Volume 26)
201 KAR 9:310			418 KAR 1:060		
Amended	2427		Amended	2946	(See Volume 26)

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418 KAR 1:070			907 KAR 1:019		
Amended	2948	(See Volume 26)	Amended	1248	
505 KAR 1:080	2985	(See Volume 26)	Amended	1937	(See Volume 26)
601 KAR 14:010			907 KAR 1:021		
Amended	2952	(See Volume 26)	Amended	1252	
703 KAR 5:070	2731	(See Volume 26)	Amended	1940	(See Volume 26)
802 KAR 1:010			907 KAR 3:035	2732	(See Volume 26)
Amended	434		908 KAR 1:310		
Amended	880	(See Volume 26)	Amended	2017	
902 KAR 20:160			Amended	2632	
Amended	2967	(See Volume 26)	908 KAR 1:311	2484	(Volume 24)
902 KAR 20:240			908 KAR 1:370	2485	(Volume 24)
Amended	2971	(See Volume 26)	Amended	355	
907 KAR 1:002			922 KAR 7:251	2996	9-15-99
Amended	1731		*Statement Of Consideration Not Filed By Deadline		
Withdrawn		9-10-99			

VOLUME 26

Regulation Number	26 Ky.R Page No.	Effective Date	Regulation Number	26 Ky.R. Page No.	Effective Date
EMERGENCY ADMINISTRATIVE REGULATIONS: (Note: Emergency regulations expire 170 days from publication; or 170 days from publication plus number of days of requested extension; or upon replacement or repeal, whichever occurs first)			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
			803 KAR 2:500E	38	6-15-99
			Replaced	655	11-15-99
			806 KAR 17:205E	353	6-24-99
			815 KAR 35:015E	541	7-30-99
			Replaced	1049	1-11-2000
40 KAR 6:020E	1088	10-27-99	902 KAR 4:040E	958	9-30-99
101 KAR 2:102E	1089	11-4-99	902 KAR 55:020E	705	8-20-99
101 KAR 3:015E	1094	11-4-99	902 KAR 55:025E	706	8-20-99
200 KAR 2:006E	341	7-1-99	907 KAR 1:011E	355	7-2-99
Replaced	1114	12-16-99	907 KAR 1:013E	544	7-21-99
202 KAR 6:010E	1383	11-23-99	907 KAR 1:025E	548	7-21-99
202 KAR 6:020E	1384	11-23-99	907 KAR 1:044E	1098	10-21-99
202 KAR 6:030E	1386	11-23-99	907 KAR 1:070E	1499	12-30-99
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301 KAR 2:226E	1397	11-24-99	907 KAR 4:020E	364	6-23-99
502 KAR 31:020E	24	5-26-99	Replaced	1425	1-12-2000
Replaced	1155	12-16-99	907 KAR 4:030E	1110	10-29-99
503 KAR 1:110E	536	8-10-99	921 KAR 2:006E	964	10-1-99
503 KAR 5:090E	538	8-10-99	921 KAR 2:015E	1508	12-30-99
505 KAR 1:090E	1398	12-14-99	921 KAR 2:016E	971	10-1-99
704 KAR 20:210E	345	7-6-99	921 KAR 2:017E	979	10-1-99
Replaced	1156	12-16-99	921 KAR 2:370E	982	10-1-99
725 KAR 1:071E	346	6-28-99	921 KAR 3:020E	1513	12-30-99
Expired		1-18-2000	921 KAR 3:030E	1517	12-30-99
739 KAR 1:010E	348	6-22-99	921 KAR 4:120E	708	8-10-99
739 KAR 1:020E	349	6-22-99	Expired		3-19-2000
739 KAR 1:030E	350	6-22-99	922 KAR 2:090E	710	9-8-99
739 KAR 1:040E	351	6-22-99			
739 KAR 1:050E	352	6-22-99			
803 KAR 2:300E	26	6-15-99			
Replaced	1004	11-15-99			
803 KAR 2:301E	27	6-15-99			
Replaced	1004	11-15-99			
803 KAR 2:306E	29	6-15-99			
Replaced	1005	11-15-99			
803 KAR 2:307E	31	6-15-99			
Replaced	1006	11-15-99			

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11 KAR 6:010			101 KAR 2:105		
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11 KAR 8:030			As Amended	572	8-25-99
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301 KAR 3:015	1265		Repealed by 401 KAR 57:019		7-14-99
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301 KAR 5:050	1266		Repealed by 401 KAR 57:019		7-14-99
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301 KAR 6:060			Repealed by 401 KAR 57:019		7-14-99
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306 KAR 1:045	1267		Repealed by 401 KAR 57:019		7-14-99
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