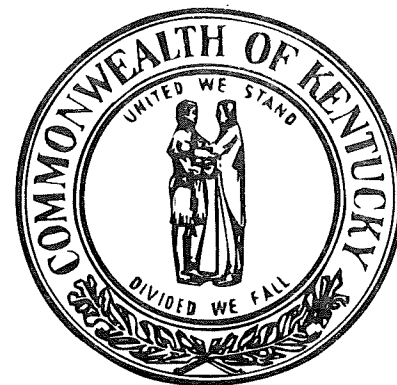


# ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION  
Frankfort, Kentucky

VOLUME 26, NUMBER 12  
THURSDAY, JUNE 1, 2000

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**MEETING NOTICE**

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on June 13, 2000, at 10 a.m. in Room 149 of the Capitol Annex. See tentative agenda on pages 2195-2197 of this Administrative Register.

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

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

#### **ADMINISTRATIVE REGISTER OF KENTUCKY**

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**VOLUME 26, NUMBER 12 – JUNE 1, 2000**

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE  
TENTATIVE AGENDA – June 13, 2000 at 10 a.m., Room 149, Capitol Annex**

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101 KAR 2:020. Guidelines for admission to the state-supported postsecondary education institutions in Kentucky.

**PERSONNEL CABINET**

**Department of Personnel, Classified**

101 KAR 2:102 & E. Classified leave administrative regulations. ("E" expired 5/19/00)

**Department of Personnel, Unclassified**

101 KAR 3:015 & E. Leave administrative regulations for unclassified service. ("E" expired 5/19/00)

**BOARDS**

**Board for Specialists in Hearing Instruments**

201 KAR 7:015. Fees.

**Kentucky Athletic Commission**

201 KAR 27:005. Definitions.

201 KAR 27:008. Licensing requirements and fees.

201 KAR 27:010. General requirements for boxing, elimination events, kick boxing, matches, shows, or exhibitions.

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201 KAR 27:013. Scoring and conduct of boxing, kick boxing, and elimination events.

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201 KAR 27:015. Prompt payment of fees, fines and forfeitures required.

201 KAR 27:035. Seconds.

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202 KAR 6:020 & E. CMRS carrier cost recovery. ("E" expires 6/19/2000)

202 KAR 6:030 & E. Confidential and proprietary information. ("E" expires 6/19/2000)

202 KAR 6:040E. Dispute resolution. (Deferred from May) ("E" expires 6/19/2000)

202 KAR 6:050 & E. PSAP certification. ("E" expires 6/19/2000)

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301 KAR 1:018. Use of boating access areas.

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301 KAR 1:201. Fishing limits.

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301 KAR 2:142. Spring wild turkey hunting.

301 KAR 2:221E. Waterfowl seasons and limits. (Deferred from April) ("E" expires 8/18/00)

301 KAR 2:222E. Waterfowl hunting requirements. (Deferred from February) ("E" expires 6/19/00)

301 KAR 2:226E. Youth waterfowl hunting season. (Deferred from February) ("E" expires 6/19/00)

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**Department for Environmental Protection**

**Division for Air Quality**

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**Attainment and Maintenance of the National Ambient Air Quality Standards**

401 KAR 51:056. Repeal of 401 KAR 51:055.

**New Source Standards**

401 KAR 59:311. Repeal of 401 KAR 59:310.

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401 KAR 60:670. Standards of performance for nonmetallic mineral processing plants.

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**Department of Corrections**

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

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501 KAR 3:040. Personnel.

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- 501 KAR 3:070. Safety; emergency procedures.
- 501 KAR 3:110. Classification.
- 501 KAR 3:120. Admission; release.
- 501 KAR 3:140. Inmate rights.

### Office of the Secretary

- 501 KAR 6:020E. Corrections policies and procedures. ("E" expires 10/18/2000)
- 501 KAR 6:070. Kentucky Correctional Institution for Women.
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### Direct Supervision for Full-Service Jails (Deferred from August)

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

## EDUCATION PROFESSIONAL STANDARDS BOARD

### Board

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### Department of Education

### Division of Exceptional Children Services

### Exceptional and Handicapped Programs

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- 707 KAR 1:290. Free appropriate public education.
- 707 KAR 1:300. Child find, evaluation, and reevaluation.
- 707 KAR 1:310. Determination of eligibility.
- 707 KAR 1:320. Individual education program.
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### Department for Adult and Technical Education

### Personnel System for Certified and Equivalent Employees

- 780 KAR 3:065 & E. Certified and equivalent service administrative regulations. ("E" expires 8/18/2000)
- 780 KAR 3:071 & E. Repeal of 780 KAR 3:070. ("E" expires 8/18/2000)
- 780 KAR 3:072 & E. Attendance, compensatory time, and leave for certified and equivalent service. ("E" expires 8/18/2000)
- 780 KAR 3:075 & E. Sick leave sharing procedures for certified and equivalent service. ("E" expires 8/18/2000)
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### Unclassified Personnel Administrative Regulations

- 780 KAR 6:005 & E. Unclassified service administrative regulations. ("E" expires 8/18/2000)
- 780 KAR 6:061 & E. Repeal of 780 KAR 6:060. ("E" expires 8/18/2000)
- 780 KAR 6:062 & E. Attendance, compensatory time and leave for unclassified service. ("E" expires 8/18/2000)
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### Department of Vocational Rehabilitation

### Administration

- 781 KAR 1:010. Department of Vocational Rehabilitation appeal procedures.
- 781 KAR 1:050. Carl D. Perkins Comprehensive Rehabilitation Center.

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### Department

- 782 KAR 1:040. Appeal procedures.

### Department for Employment Services

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787 KAR 1:210. Employer contribution rates.

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**Department of Workplace Standards**

**Occupational Safety and Health**

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**PUBLIC PROTECTION AND REGULATION CABINET**

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**Assets and Liabilities**

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**Health Maintenance Organizations**

806 KAR 38:100. Risk-based capital for health organizations.

**Department of Financial Institutions**

**Securities**

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808 KAR 10:040. Dishonest or unethical practice defined.

**Kentucky Racing Commission**

**Thoroughbred Racing**

810 KAR 1:060. Chemical dependency. (Amended After Hearing) (Deferred from April)

**CABINET FOR HEALTH SERVICES**

**Department for Medicaid Services**

**Division of Physical Health**

**Medicaid Services**

907 KAR 1:012E. Inpatient hospital services. ("E" expires 10/18/2000)

907 KAR 1:013E. Payments for hospital inpatient services. ("E" expires 10/18/2000)

907 KAR 1:025 & E. Payment for services provided by an intermediate care facility for the mentally retarded and developmentally disabled, a dually-licensed pediatric facility, an institution for mental diseases, a nursing facility with an all-inclusive rate unit, and a hospital with federally-defined swing beds. ("E" expires 8/18/2000)

907 KAR 1:065 & E. Payments for price-based nursing facility services. ("E" expires 8/18/2000)

907 KAR 1:671. Conditions of Medicaid provider participation; withholding overpayments, appeals process, and sanctions. (Amended After Hearing)

**Department for Mental Health and Mental Retardation Services**

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908 KAR 3:050E. Per diem rate pursuant to the "Patient Liability Act of 1978." ("E" expires 10/18/2000)

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**Department for Community Based Services**

**K-Tap, Kentucky Works, Welfare to Work, State Supplementation**

921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability. ("E" expires 7/20/2000)

921 KAR 2:490. Welfare to Work Grant Program.

**Food Stamp Program**

921 KAR 3:020 & E. Financial requirements. ("E" expires 7/20/2000)

921 KAR 3:030 & E. Application process. ("E" expires 7/20/2000)

**Division of Policy Development**

**Child Welfare**

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922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.

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

922 KAR 1:350. Family preparation.

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

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

**Adult Services**

922 KAR 5:100. Alternate care for adults.

**VOLUME 26, NUMBER 12 – JUNE 1, 2000**  
**ADMINISTRATIVE REGULATION REVIEW PROCEDURE**  
**(See KRS Chapter 13A for specific provisions)**

**Notice of Intent**

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

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

**Filing and Publication**

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

**Public Hearing**

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

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

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

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

**Review Procedure**

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

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NOTICES OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATIONS  
RECEIVED AS OF NOON, MAY 15, 2000

FINANCE AND ADMINISTRATION CABINET  
Office of the Secretary

May 1, 2000

- (1) **200 KAR 2:006.** Employees' reimbursement for travel.
- (2) The Finance and Administration Cabinet intends to promulgate an amendment to the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed amendment to the administrative regulation has been scheduled for June 27, 2000, at 10 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to the hearing date, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Ed Ross, Controller, Finance and Administration Cabinet, Office of the Controller, Room 384 Capitol Annex, Frankfort, Kentucky 40601, Phone (502) 564-2210, Fax (502) 564-6597.
- (b) On a request for a public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file the request may obtain a request form from the Office of the Secretary at the following address: Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6660 Phone, (502) 564-9875 Fax.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of the above-cited administrative regulation is contained in KRS 44.060 and 45.101.
  - (b) The proposed amendment to this administrative regulation will delete the prohibition against reimbursing an employee for lodging and meals within 40 miles of the employee's work station or home, if such reimbursement is approved in advance by the employee's agency head.
  - (c) The necessity and function of the proposed administrative regulation is as follows: The Finance and Administration Cabinet is directed by law to coordinate and supervise the fiscal affairs and procedures of the state and is authorized to adopt administrative regulations for that purpose.
  - (d) The benefit expected from this proposed administrative regulation is as follows: The regulation is intended to reimburse employees and others in the official service of the Commonwealth in a fair and just manner.
  - (e) This administrative regulation will be implemented by the Finance and Administration Cabinet and all affected agencies of the Commonwealth by adherence to the amended administrative regulation.

KENTUCKY REAL ESTATE COMMISSION

April 20, 2000

- (1) **201 KAR 11:011,** Definitions.
- (2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.
- (b) On a request for public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).
  - (b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:011, Definitions. It will create definitions of office worker duties; increase value of an item a licensee may provide to a consumer as a gift at or after closing; eliminate the regulatory definition of regular employee, and amend the definition of "without unreasonable delay."
  - (c) The necessity and function of the proposed administrative regulation is as follows: Confusion exists among licensees as to what duties an office or clerical employee may perform in a real estate brokerage office. KRS 13A.100(1) mandates the Real Estate Commission promulgate a regulation rather than adopt a policy regarding this issue. Increasing the maximum value of a closing gift will reflect an adjustment pursuant to inflation and market trends since the original maximum was established; KRS Chapter 324 now includes a definition of regular employee and therefore KRS 13A.120(2)(e) mandates deletion of the regulatory definition; after extensive review by real estate attorneys, indus-

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try trade groups and the Real Estate Commission, "without unreasonable delay" should be amended to allow licensees more time to deposit money in an escrow account.

(d) The benefits expected from administrative regulation are: The amendments will provide a clear definition of the duties of an office/clerical employee working for a real estate licensee; reflect adjustment in value of an available closing gift in accordance with the current marketplace; deletes a regulatory definition due to the superseding effect of a statute providing a definition on the same issue; and increases, by one day the time a broker has to deposit money in an escrow account.

(e) The administrative regulation will be implemented as follows: All amendments will take effect upon enactment. No special implementation concerns exist.

April 20, 2000

(1) **201 KAR 11:040**, Contracts to contain financing provisions.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:040, Contracts to contain financing provisions. It will remove the word "exact" from the regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: After extensive review by practicing real estate attorneys, industry members and extensive comment periods, all conclude a real estate contract needs to provide the manner in which the purchase shall be financed and the amount of any encumbrance.

(d) The benefits expected from administrative regulation are: Amendment will retain the requirement the manner of financing and amount of encumbrance be included in any contract.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment.

April 20, 2000

(1) **201 KAR 11:045**, Written offers to be submitted to owner-client.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:045, Written offers to be submitted to owner-client. It will delete the term "undue" from the regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: "Undue" is superfluous. The term also creates confusion among licensees with regard to other statutory references.

(d) The benefits expected from administrative regulation are: After extensive review by real estate attorneys, industry trade groups, and an extensive period for consumer comment, this change has broad support as it clarifies the regulation by removing superfluous language.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment.

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(1) **201 KAR 11:062**, Retention of broker's records.

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- (2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.
- (b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation:
- (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).
- (b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:062, Retention of broker's records. It will require brokers to retain real estate records for 5 years instead of 4 years.
- (c) The necessity and function of the proposed administrative regulation is as follows: Real estate records provide important evidence when a dispute arises. Given that many statute of limitations are after 5 years for various claims, 1 additional year of record retention should allow sufficient information to promote resolution of disputes.
- (d) The benefits expected from administrative regulation are: It promotes interests of dispute resolution, accountability and responsibility of brokers. As real estate records are often the only reliable evidence in real estate disputes, the 5 year period will promote the fair resolution of disputes.
- (e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment.

April 20, 2000

- (1) **201 KAR 11:090**, Instruments prepared by broker; disposition.
- (2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.
- (b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation:
- (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).
- (b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:090, Instruments prepared by broker; disposition. It will replace the term "duplicate original" with "copy".
- (c) The necessity and function of the proposed administrative regulation is as follows: The change reflects the fact that copies are often utilized in real estate transactions rather than "duplicate originals". The substantive effect is zero since the consumer will still receive a complete document.
- (d) The benefits expected from administrative regulation are: Reflects reality of copier machines and does not impose a violation on the licensee if copies are utilized.
- (e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment.

April 20, 2000

- (1) **201 KAR 11:095**, Closing statements; rental management agreements.
- (2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General

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Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:095, Closing statements; rental management agreements. It will remove the term from the title, which is no longer applicable: "rental management agreements".

(c) The necessity and function of the proposed administrative regulation is as follows: Title will accurately reflect and summarize regulation.

(d) The benefits expected from administrative regulation are: Accuracy and clarity of title.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment.

April 20, 2000

(1) **201 KAR 11:105**, Owner's consent and authorization.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:105, Owner's consent and authorization. It will replace "publicly" with "to the general public" and require a "written" consent of an owner before a sign is placed on property.

(c) The necessity and function of the proposed administrative regulation is as follows: "Publicly" has been a confusing term to licensees. In accordance with the statutory mandate of KRS 13A.100(1), the Real Estate Commission seeks to change the language of the regulation to eliminate confusion. "Written" consent should be added to the regulation due to the uncertainties, misunderstanding and absence of record of oral communication.

(d) The benefits expected from administrative regulation are: Clarity of language and improvement in consent requirement.

(e) The administrative regulation will be implemented as follows: Regulation shall take effect upon implementation.

April 20, 2000

(1) **201 KAR 11:121**, Improper conduct.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

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



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KRS 324.281(5).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:121, Improper conduct. It will require disclosure of all referral fees received by the licensee on the lease or purchase contract, clarify the regulation cannot contradict Fair Housing law; provide a listing of specific fiduciary duties; reflect only a broker may offer a guaranteed sales plan.

(c) The necessity and function of the proposed administrative regulation is as follows: Full disclosure of referral fees provides consumers with complete information; prevent misunderstanding or confusion relative to the licensee's role relative to fair housing and contradictory instructions from a consumer; details what specific duties are considered fiduciary duties and promotes compliance by licensee; clarifies only broker can offer guaranteed sales plan.

(d) The benefits expected from administrative regulation are: After extensive review by real estate attorneys, industry trade groups and an extensive consumer comment period, full disclosure of referral fees was indicated as being in consumer and licensee interest; the current regulatory language relative to owner instruction should be amplified to indicate licensees must follow fair housing law; and indicate brokers may offer guaranteed sales plans; fiduciary duties being specifically listed promotes awareness and compliance by licensees.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment.

April 20, 2000

(1) **201 KAR 11:135**, Salesman obtaining broker's license.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:135, Salesman obtaining broker's license. It will change the term "their" to "any".

(c) The necessity and function of the proposed administrative regulation is as follows: Licensees should not misrepresent facts in any sworn statement to the Real Estate Commission.

(d) The benefits expected from administrative regulation are: Amendment removes "loophole" of claim of limitation of requirement to be forthright with the Real Estate Commission.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment.

April 20, 2000

(1) **201 KAR 11:145**, Salesman's duties when terminating employment with broker.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:145, Salesman's duties when terminating employment with broker. It will change "employment" to "affiliation".

(c) The necessity and function of the proposed administrative regulation is as follows: Very few real estate associates are employed by a broker. Therefore "employ" should be amended to "affiliate". Affiliation with a broker is mandated by KRS 324.010.

(d) The benefits expected from administrative regulation are: Current language is not in accord with law or practice of real estate brokerage.

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(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment:

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- (1) **201 KAR 11:161**, Repeal of 201 KAR 11:160, Hearing on failure to abide by rules and regulations.
- (2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.
- (b) On a request for public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).
  - (b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will repeal an existing regulation. It will repeal 201 KAR 11:160, Hearing on failure to abide by rules and regulation.
  - (c) The necessity and function of the proposed administrative regulation is as follows: To repeal 201 KAR 11:160 as the subject matter of the regulation is addressed by KRS 324.160, 324.170, 324.200 and Chapter 13B and is therefore prohibited by KRS 13A.120(2)(e) and (f).
  - (d) The benefits expected from administrative regulation are: Brings regulatory scheme in compliance with KRS Chapter 13A.
  - (e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment and repeal of 201 KAR 11:160.

April 20, 2000

- (1) **201 KAR 11:170**, Private school approval.
- (2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.
- (b) On a request for public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).
  - (b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:170, Private school approval. It will require all approved real estate schools to indicate on student application that a criminal conviction may prevent licensure by Real Estate Commission.
  - (c) The necessity and function of the proposed administrative regulation is as follows: Prelicense students enrolling in approved schools often receive no indication that a past criminal conviction may prevent licensure.
  - (d) The benefits expected from administrative regulation are: Students will be informed prior to enrolling in an approved school and paying tuition for the school that a past conviction may prevent licensure.
  - (e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment by the approved schools altering application for licensure.

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- (1) **201 KAR 11:190**, Rules of practice and procedure before the Kentucky Real Estate Commission.
- (2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.
- (b) On a request for public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5) and 324.151.
  - (b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:190, Rules of Practice and Procedure before the Kentucky Real Estate Commission. It will reflect changes made necessary by change to KRS 324.151 relative to commission staff review of consumer complaints.
  - (c) The necessity and function of the proposed administrative regulation is as follows: Change to KRS 324.151 (1) mandates change.
  - (d) The benefits expected from administrative regulation are: Regulation amended to reflect change in KRS 324.151 (1).
  - (e) The administrative regulation will be implemented as follows: Implementation upon enactment.

April 20, 2000

- (1) **201 KAR 11:210**, Licensing, education and testing requirements.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.
- (b) On a request for public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5) and 324.046.
  - (b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:210, Licensing, education and testing requirements. It will detail procedure by which real estate courses are approved for licensure credit by the Real Estate Commission.
  - (c) The necessity and function of the proposed administrative regulation is as follows: KRS 13A.100 mandates all procedures that implement law or policy be prescribed by administrative regulation.
  - (d) The benefits expected from administrative regulation are: Compliance with KRS 13A.100.
  - (e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment.

April 20, 2000

- (1) **201 KAR 11:230**, Mandatory continuing education.
- (2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.
- (b) On a request for public hearing, a person shall state:

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5), 324.010(15), and 324.230(8).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:230, Mandatory continuing education. It will change education course from minimum of 2 to 3 hours and change "expired" to "cancelled"; will detail specific procedure for commission review and approval of continuing education courses.

(c) The necessity and function of the proposed administrative regulation is as follows: Hourly change reflects majority of real estate courses are offered in 3 hour blocks; "cancelled" is the new definition provided in KRS Chapter 324; change in statute requires commission promulgate a regulation detailing how continuing education courses are approved.

(d) The benefits expected from administrative regulation are: Hours required reflect actual practice and terminology is changed to mirror change in KRS Chapter 324 and bring the regulation in compliance with KRS 13A.100.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment.

April 20, 2000

(1) **201 KAR 11:245**, Property management procedures and guidelines.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5) and 324.111(7).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:245, Property management procedures and guidelines. It will change "agent" references to "licensee" since "agency" is a legal relationship that does not always exist in brokerage activity; changes "undue delay" to "unreasonable delay" to reflect law accurately; four year record retention requirement is amended to reflect proposed amendment to 201 KAR 11:062.

(c) The necessity and function of the proposed administrative regulation is as follows: Clarifies language to more accurately reflect the current law and pending proposed amendment to 201 KAR 11:062.

(d) The benefits expected from administrative regulation are: Amends language to conform with status of law in several respects.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment.

April 20, 2000

(1) **201 KAR 11:250**, Listing and purchase contracts provisions required.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).

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(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend an existing regulation. It will add "time" for signing of listing contract; changes "commission" to "compensation" requires "date and time" for initialing for all changes on document; amends language on "back-up offer" to allow alternative terminology.

(c) The necessity and function of the proposed administrative regulation is as follows: A question about when a listing contract begins exists when no time for signing is mandated; real estate contracts are often altered with only initials notation and change mandates change by initials include date and time of change as the time of the changes can dramatically change the rights of the parties in the transaction; alternative language available for "back-up offer" is provided.

(d) The benefits expected from administrative regulation are: Provides regulatory protection in real estate contract requirements and allows some alternatives in "back-up offer" language.

(e) The administrative regulation will be implemented as follows: The regulation will go into effect upon enactment.

April 20, 2000

(1) **201 KAR 11:350**, Seller disclosure of property condition.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5) and 324.360.

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:350, Seller's disclosure of property conditions. It will make changes to the seller's disclosure or property conditions form authorized by KRS 324.360. Two legislative changes are mandated and the Real Estate Commission desires adding a blank for time of signing for buyers and sellers.

(c) The necessity and function of the proposed administrative regulation is as follows: Legislative enactment and minimal revision of form.

(d) The benefits expected from administrative regulation are: Meets legislative directive and provides more information regarding the buyer and seller signatures.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment and publication of a new form.

April 20, 2000

(1) **201 KAR 11:400**, Agency disclosure requirements.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.

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

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

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

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

(b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5).

(b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will amend 201 KAR 11:400, Agency disclosure requirements. It will lessen regulatory burden on licensees while retaining protection against undisclosed agency for consumers.

(c) The necessity and function of the proposed administrative regulation is as follows: Dual delivery requirements of regulation create several difficulties for licensees and consumers.

(d) The benefits expected from administrative regulation are: Amendments seek to repair difficulties posed by dual delivery requirements.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented upon enactment, printing of form and proper notice to licensees.

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- (1) **201 KAR 11:420**, Internet advertising by real estate licensees.
- (2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.
- (b) On a request for public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5) and 324.117.
  - (b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will not amend an existing administrative regulation. It will address Internet advertising.
  - (c) The necessity and function of the proposed administrative regulation is as follows: After a thorough review of the current regulatory framework by real estate attorneys, licensees, industry groups and after a thorough open comment period, all concur that a specific regulation detailing internet advertising is needed. Internet technology and terminology mandates this regulation.
  - (d) The benefits expected from administrative regulation are: Provide regulation which utilizes sufficient and appropriate terminology to regulate Internet advertising.
  - (e) The administrative regulation will be implemented as follows: Implementation upon enactment.

April 20, 2000

- (1) **201 KAR 11:430**, Procedure of new applicant for criminal records background check.
- (2) Kentucky Real Estate Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 27, 2000, at 9 a.m., at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 27, 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: Jeffrey C. Blair, General Counsel, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Phone (502) 425-4273, Fax (502) 426-2717.
- (b) On a request for public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Real Estate Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 324.281(5) and 324.045(4).
  - (b) The administrative regulation that the Kentucky Real Estate Commission intends to promulgate will not amend an existing administrative regulation. It will describe applicant procedure for criminal records background check.
  - (c) The necessity and function of the proposed administrative regulation is as follows: Change to KRS 324.045 (4) mandates the change.
  - (d) The benefits expected from administrative regulation are: Regulation will ensure compliance with KRS 13A.100.
  - (e) The administrative regulation will be implemented as follows: Implementation through licensure application process.

## KENTUCKY BOARD OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

May 11, 2000

- (1) **201 KAR 17:030**, License fees.
- (2) The Kentucky Board of Speech-Language Pathology and Audiology intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 21, 2000 at 2 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.
- (a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 21, 2000 the public hearing will be canceled.

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

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

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

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

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

(7) Information relating to the proposed regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to license fees is KRS 334A.080 and 334A.160.

(b) The administrative regulation the Board of Speech-Language Pathologists and Audiologists intends to promulgate will establish the license fees.

(c) The necessity and function of the proposed administrative regulation is the requirement in KRS 334A.160 which sets forth in detail all fees to be charged by the board.

(d) The benefit expected from this administrative regulation is increased clarity of all fees charged by the Board of Speech-Language Pathology and Audiology.

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

### BOARD OF PHYSICAL THERAPY

May 15, 2000

(1) **201 KAR 22:070**, Requirements for foreign-trained physical therapists.

(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 June 26, 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 a least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree in writing to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing is not received at least 10 days prior to June 26, 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; Telephone: (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 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 22:070, an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is within the 2000 amendments of KRS 327.060(2). This will amend the requirements of a foreign educated physical therapist must fulfill to be licensed.

(d) The benefits expected from this administrative regulation are that the period of mandatory supervised practice will be reduced, verification of license from the country of education will be required, the agency will name prescreening and educational credential evaluation agencies.

(e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

May 15, 2000

(1) **201 KAR 22:106**, Assistant's certification procedure.

(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 June 26, 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 a least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agree in writing to be present at the public hearing.

(b) If a request for a public hearing and agreement to attend the public hearing is not received at least 10 days prior to June 26, 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; Telephone: (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 Executive Director; Board of Physical Therapy; 9110 Leesgate



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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(12).

(b) The administrative regulation that the Board of Physical Therapy intends to promulgate will amend 201 KAR 22:106, an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is within KRS 327.040(12). This will amend the language of the requirements a physical therapist's assistant must fulfill to be licensed which will amend it to current terminology.

(d) The benefit expected from this administrative regulation is that terminology will be current.

(e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

May 15, 2000

(1) **201 KAR 22:130**, Per diem of board members.

(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 June 26, 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 a least 5 persons, or an administrative body, or an association having at least 5 members; and

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

(b) If a request for a public hearing and agreement to attend the public hearing is not received at least 10 days prior to June 26, 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; Telephone: (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 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 22:130, an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is within the 2000 amendments of KRS 327.030(6). This will amend the per diem a board member receives when required to represent the board or attend its meetings.

(d) The benefits expected from this administrative regulation are that potential board members will be more likely to be willing to serve if the amount of per diem they receive will be less of a loss of income.

(e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

May 12, 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 June 26, 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 a least 5 persons, or an administrative body, or an association having at least 5 members; and

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

(b) If a request for a public hearing and agreement to attend the public hearing is not received at least 10 days prior to June 26, 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; Telephone: (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 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(3), (7), and (8). These amendments will amend fees, and bring the method of applying for the examination into compliance with the contract between the Federation of State Boards of Physical Therapy, and the Kentucky State Board of Physical Therapy.

(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.

May 15, 2000

(1) **201 KAR 22:140**, Fee To fund impaired physical therapy practitioners committee.

(2) The Board of Physical Therapy intends to promulgate the new 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 June 26, 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 June 26, 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; Telephone: (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 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 a new, unnamed section KRS Chapter 327 pertaining to an impaired physical therapy practitioner's committee.

(b) The administrative regulation that the Board of Physical Therapy intends to promulgate will create 201 KAR 22:140, a new administrative regulation.

(c) The necessity and function of the proposed administrative regulation is within KRS Chapter 327.

(d) The benefit expected from this administrative regulation is that the fee to fund this committee to be collected biennially during license and certification renewal will be established.

(e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

### KENTUCKY OCCUPATIONAL THERAPY BOARD

May 12, 2000

(1) **201 KAR 28:130.** Supervision of occupational therapy assistants, occupational therapy aides, occupational therapy students, and temporary permit holders.

(2) The Kentucky Occupational Therapy Board intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 21, 2000 at 8 a.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.

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

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

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

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

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

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

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

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

(7) Information relating to the proposed regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to the supervision of occupational therapy assistants, occupational therapy aides, occupational therapy students, and temporary permit holders is KRS 319A.070(3).

(b) The administrative regulation the Occupational Therapy Board intends to promulgate will add the requirement that the licensees enter into a supervisory contract, which sets forth their plan of supervision.

(c) The necessity and function of the proposed administrative regulation is to establish a supervisory contract which will clearly state the professional goals to be accomplished, as well as the frequency, format and duration of the supervision.

(d) The benefit expected from this administrative regulation is increased clarity of the regulations and statutes pertaining to the Occupational Therapy Board.

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

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**KENTUCKY BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS**

May 8, 2000

- (1) **201 KAR 31:010**. Fees.
- (2) The Kentucky Board of Registration for Professional Geologists intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 21, 2000 at 12 p.m., EST, at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky.
- (a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 21, 2000 the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Ms. Nancy Black, Executive Director, Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky 40601, Phone: (502) 564-3296, Fax: (502) 564-4818.
- (b) On a request for a public hearing, a person shall state:
  1. "I agree to attend the public hearing;" or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by an administrative body.
- (b) Persons who wish to file this request may obtain a request form from Nancy Black at the Division of Occupations and Professions at the address above.
- (7) Information relating to the proposed regulation.
- (a) The statutory authority for the promulgation of an administrative regulation relating to fees is KRS 332A.030(5).
- (b) The administrative regulation the Board of Registration for Professional Geologists intends to promulgate will set forth the requirements for payment of the application, examination and renewal fees, as well as late renewal penalties, and the fee for a duplicate copy of the registration certificate.
- (c) The necessity and function of the proposed administrative regulation is to set forth in detail all fees charged by the board.
- (d) The benefit expected from this administrative regulation is increased clarity of the regulations and statutes pertaining to the Board of Registration for Professional Geologists.
- (e) The regulation will be implemented by the Division of Occupations and Professions. The implementing body will merely adhere to the definitions as outlined in the regulation.

**KENTUCKY DEPARTMENT OF AGRICULTURE**

May 10, 2000

- (1) **302 KAR 45:010**. Ginseng, general provisions.
- (2) The Kentucky Department of Agriculture intends to promulgate an administrative regulation governing the above subject matter.
- (3) A public hearing to receive oral and written comments has been scheduled for Thursday, June 22, 2000 at 9 a.m. in the Department of Agriculture's Conference Room, 7th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing is not received from the required number of people at least 10 days prior to June 22, 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: Mark Farrow, General Counsel, Kentucky Department of Agriculture, 7th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601. Phone: (502) 564-4696 Fax: (502) 564-2133.
- (b) On a request for a public hearing, a person shall state:
  1. "I agree to attend the public hearing;" or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that a person who desires to be informed of the intent of an administrative body to promulgate an administrative regulation governing a subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Kentucky Department of Agriculture 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 ginseng, general provisions is KRS Chapter 13A and 246.660.
- (b) The administrative regulation that the Kentucky Department of Agriculture intends to promulgate will amend 302 KAR 45.010, Ginseng, general provisions. It will set forth the definitions related to harvesting of wild American ginseng.
- (c) The necessity and function of the proposed administrative regulation is as follows: Same as (b).
- (d) The benefits expected from the proposed administrative regulation are: This regulation will discourage individuals from digging plants that have not yet reproduced, as well as discourage dealers from purchasing roots of young plants.
- (e) The administrative regulation will be implemented as follows: Ginseng growers will no longer be able to harvest the ginseng until it is 5 years old or has 3 prongs.

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ECONOMIC DEVELOPMENT CABINET

May 12, 2000

(1) **307 KAR 7:010**, "Definitions", Kentucky Economic Opportunity Zone Act.

(2) The Cabinet for Economic Development intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral or written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 9 a.m. EST, at the Cabinet for Economic Development, 24th Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 23, 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: Robin Fields Kinney, General Counsel, Cabinet for Economic Development, Capital Plaza Tower, 24th Floor, Frankfort, Kentucky 40601, (502) 564-7670, fax (502) 564-1535.

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

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

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

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

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

(7) The following information relates to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulations relating to the subject matter of the administrative regulation is Acts Chapter 528 (Senate Bill no. 225 as enacted), the Kentucky Economic Opportunity Zone Act.

(b) The Cabinet for Economic Development intends to promulgate a new administrative regulation relating to the approval process and administration of the Kentucky Economic Opportunity Zone Program, as established by Acts Chapter 528, effective July 15, 2000.

(c) The necessity and function of the proposed administrative regulation is as follows: Acts Chapter 528 provides that the Kentucky Economic Development Finance Authority shall establish procedures and standards for certification of qualified zones, and determination and approval of eligible companies and their projects. As staff to the authority, the Cabinet for Economic Development will accept applications and monitor the approved companies. This administrative regulation provides definitions for terms used in relation to the Kentucky Economic Opportunity Zone Program.

(d) The benefits expected from the administrative regulation are to establish procedures for submitting an application for certification of qualified zones, determination and approval of eligible companies and economic development projects, and the process for monitoring the approved companies. The administrative regulation will provide notice to applicants of the procedures.

(e) The administrative regulation will be implemented as follows: The Cabinet for Economic Development as the staff to the Kentucky Economic Development Finance Authority will implement the regulation.

May 12, 2000

(1) **307 KAR 7:020**, "Eligibility Requirements for Qualified Zone", Kentucky Economic Opportunity Zone Act.

(2) The Cabinet for Economic Development intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral or written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 9 a.m. EST, at the Cabinet for Economic Development, 24<sup>th</sup> Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 23, 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: Robin Fields Kinney, General Counsel, Cabinet for Economic Development, Capital Plaza Tower, 24th Floor, Frankfort, Kentucky 40601, (502) 564-7670, fax (502) 564-1535.

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

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

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

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

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

(7) The following information relates to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulations relating to the subject matter of the administrative regulation is Acts Chapter 528 (Senate Bill no. 225 as enacted), the Kentucky Economic Opportunity Zone Act.

(b) The Cabinet for Economic Development intends to promulgate a new administrative regulation relating to the approval process and administration of the Kentucky Economic Opportunity Zone Program, as established by Acts Chapter 528, effective July 15, 2000.

(c) The necessity and function of the proposed administrative regulation is as follows: Acts Chapter 528 provides that the Kentucky Economic Development Finance Authority shall establish procedures and standards for certification of qualified zones, and determination and approval of eligible companies and their projects. As staff to the authority, the Cabinet for Economic Development will accept applications and monitor the approved companies. This administrative regulation establishes the requirements for application by a county, urban-county government, or city of the first class for certification of a qualified zone.

(d) The benefits expected from the administrative regulation are to establish procedures for submitting an application for certification of qualified zones, determination and approval of eligible companies and economic development projects, and the process for monitoring the

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approved companies. The administrative regulation will provide notice to applicants of the procedures.

(e) The administrative regulation will be implemented as follows: The Cabinet for Economic Development as the staff to the Kentucky Economic Development Finance Authority will implement the regulation.

May 12, 2000

(1) **307 KAR 7:030**, "Eligibility Requirements for Amendment to Qualified Zone Boundary", Kentucky Economic Opportunity Zone Act.

(2) The Cabinet for Economic Development intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral or written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 9 a.m. EST, at the Cabinet for Economic Development, 24th Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 23, 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: Robin Fields Kinney, General Counsel, Cabinet for Economic Development, Capital Plaza Tower, 24th Floor, Frankfort, Kentucky 40601, (502) 564-7670, fax (502) 564-1535.

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

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

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

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

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

(7) The following information relates to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulations relating to the subject matter of the administrative regulation is Acts Chapter 528 (Senate Bill no. 225 as enacted), the Kentucky Economic Opportunity Zone Act.

(b) The Cabinet for Economic Development intends to promulgate a new administrative regulation relating to the approval process and administration of the Kentucky Economic Opportunity Zone Program, as established by Acts Chapter 528, effective July 15, 2000.

(c) The necessity and function of the proposed administrative regulation is as follows: Acts Chapter 528 provides that the Kentucky Economic Development Finance Authority shall establish procedures and standards for certification of qualified zones, and determination and approval of eligible companies and their projects. As staff to the authority, the Cabinet for Economic Development will accept applications and monitor the approved companies. This administrative regulation establishes the eligibility requirements for amending a qualified zone boundary.

(d) The benefits expected from the administrative regulation are to establish procedures for submitting an application for certification of qualified zones, determination and approval of eligible companies and economic development projects, and the process for monitoring the approved companies. The administrative regulation will provide notice to applicants of the procedures.

(e) The administrative regulation will be implemented as follows: The Cabinet for Economic Development as the staff to the Kentucky Economic Development Finance Authority will implement the regulation.

(f) If you have a disability for which the Cabinet for Economic Development needs to provide accommodations, please notify us of your requirements by June 19, 2000. This request is not required to be in writing. This notice can be provided in an alternative format upon request.

May 12, 2000

(1) **307 KAR 7:040**, "Decertification of qualified zone", Kentucky Economic Opportunity Zone Act.

(2) The Cabinet for Economic Development intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral or written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 9 a.m. EST, at the Cabinet for Economic Development, 24th Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 23, 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: Robin Fields Kinney, General Counsel, Cabinet for Economic Development, Capital Plaza Tower, 24th Floor, Frankfort, Kentucky 40601, (502) 564-7670, fax (502) 564-1535.

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

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

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

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

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

(7) The following information relates to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulations relating to the subject matter of the administrative regulation is Acts Chapter 528 (Senate Bill no. 225 as enacted), the Kentucky Economic Opportunity Zone Act.

(b) The Cabinet for Economic Development intends to promulgate a new administrative regulation relating to the approval process and administration of the Kentucky Economic Opportunity Zone Program, as established by Acts Chapter 528, effective July 15, 2000.

(c) The necessity and function of the proposed administrative regulation is as follows: Acts Chapter 528 provides that the Kentucky Economic Development Finance Authority shall establish procedures and standards for certification of qualified zones, and determination and approval of eligible companies and their projects. As staff to the authority, the Cabinet for Economic Development will accept applications and

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monitor the approved companies. This administrative regulation establishes a procedure for decertification of a qualified zone.

(d) The benefits expected from the administrative regulation are to establish procedures for submitting an application for certification of qualified zones, determination and approval of eligible companies and economic development projects, and the process for monitoring the approved companies. The administrative regulation will provide notice to applicants of the procedures.

(e) The administrative regulation will be implemented as follows: The Cabinet for Economic Development as the staff to the Kentucky Economic Development Finance Authority will implement the regulation.

May 12, 2000

(1) **307 KAR 7:050**, "Economic Opportunity Zone Act Tax Credit Program" Kentucky Economic Opportunity Zone Act.

(2) The Cabinet for Economic Development intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral or written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 9 a.m. EST, at the Cabinet for Economic Development, 24th Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 23, 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: Robin Fields Kinney, General Counsel, Cabinet for Economic Development, Capital Plaza Tower, 24th Floor, Frankfort, Kentucky 40601, (502) 564-7670, fax (502) 564-1535.

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

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

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

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

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

(7) The following information relates to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulations relating to the subject matter of the administrative regulation is Acts Chapter 528 (Senate Bill no. 225 as enacted), the Kentucky Economic Opportunity Zone Act.

(b) The Cabinet for Economic Development intends to promulgate a new administrative regulation relating to the approval process and administration of the Kentucky Economic Opportunity Zone Program, as established by Acts Chapter 528, effective July 15, 2000.

(c) The necessity and function of the proposed administrative regulation is as follows: Acts Chapter 528 provides that the Kentucky Economic Development Finance Authority shall establish procedures and standards for certification of qualified zones, and determination and approval of eligible companies and their projects. As staff to the authority, the Cabinet for Economic Development will accept applications and monitor the approved companies. This administrative regulation is necessary to set out the application processes and project selection criteria for the Kentucky Economic Opportunity Zone Act tax credit program established pursuant to Acts Chapter 528.

(d) The benefits expected from the administrative regulation are to establish procedures for submitting an application for certification of qualified zones, determination and approval of eligible companies and economic development projects, and the process for monitoring the approved companies. The administrative regulation will provide notice to applicants of the procedures.

(f) The administrative regulation will be implemented as follows: The Cabinet for Economic Development as the staff to the Kentucky Economic Development Finance Authority will implement the regulation.

May 12, 2000

(1) **307 KAR 7:060**, "Approval standards", Kentucky Economic Opportunity Zone Act.

(2) The Cabinet for Economic Development intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral or written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 9 a.m. EST, at the Cabinet for Economic Development, 24th Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 23, 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: Robin Fields Kinney, General Counsel, Cabinet for Economic Development, Capital Plaza Tower, 24th Floor, Frankfort, Kentucky 40601, (502) 564-7670, fax (502) 564-1535.

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

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

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

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

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

(7) The following information relates to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulations relating to the subject matter of the administrative regulation is Acts Chapter 528 (Senate Bill no. 225 as enacted), the Kentucky Economic Opportunity Zone Act.

(b) The Cabinet for Economic Development intends to promulgate a new administrative regulation relating to the approval process and administration of the Kentucky Economic Opportunity Zone Program, as established by Acts Chapter 528, effective July 15, 2000.

(c) The necessity and function of the proposed administrative regulation is as follows: Acts Chapter 528 provides that the Kentucky Economic Development Finance Authority shall establish procedures and standards for certification of qualified zones, and determination and

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approval of eligible companies and their projects. As staff to the authority, the Cabinet for Economic Development will accept applications and monitor the approved companies. The administrative regulation sets forth the standards for preliminary and final approval of an eligible company and its economic development project in the Kentucky Economic Opportunity Zone Program.

(d) The benefits expected from the administrative regulation are to establish procedures for submitting an application for certification of qualified zones, determination and approval of eligible companies and economic development projects, and the process for monitoring the approved companies. The administrative regulation will provide notice to applicants of the procedures.

(e) The administrative regulation will be implemented as follows: The Cabinet for Economic Development as the staff to the Kentucky Economic Development Finance Authority will implement the regulation.

May 12, 2000

(1) **307 KAR 7:070**, "Financing agreement contents", Kentucky Economic Opportunity Zone Act.

(2) The Cabinet for Economic Development intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral or written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 9 a.m. EST, at the Cabinet for Economic Development, 24th Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 23, 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: Robin Fields Kinney, General Counsel, Cabinet for Economic Development, Capital Plaza Tower, 24th Floor, Frankfort, Kentucky 40601, (502) 564-7670, fax (502) 564-1535.

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

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

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

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

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

(7) The following information relates to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulations relating to the subject matter of the administrative regulation is Acts Chapter 528 (Senate Bill no. 225 as enacted), the Kentucky Economic Opportunity Zone Act.

(b) The Cabinet for Economic Development intends to promulgate a new administrative regulation relating to the approval process and administration of the Kentucky Economic Opportunity Zone Program, as established by Acts Chapter 528, effective July 15, 2000.

(c) The necessity and function of the proposed administrative regulation is as follows: Acts Chapter 528 provides that the Kentucky Economic Development Finance Authority shall establish procedures and standards for certification of qualified zones, and determination and approval of eligible companies and their projects. As staff to the authority, the Cabinet for Economic Development will accept applications and monitor the approved companies. This regulation discusses additional information required in a financing agreement entered into pursuant to the Kentucky Economic Opportunity Zone Act.

(d) The benefits expected from the administrative regulation are to establish procedures for submitting an application for certification of qualified zones, determination and approval of eligible companies and economic development projects, and the process for monitoring the approved companies. The administrative regulation will provide notice to applicants of the procedures.

(e) The administrative regulation will be implemented as follows: The Cabinet for Economic Development as the staff to the Kentucky Economic Development Finance Authority will implement the regulation.

May 12, 2000

(1) **307 KAR 7:080**, "Service and technology agreement contents", Kentucky Economic Opportunity Zone Act.

(2) The Cabinet for Economic Development intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral or written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 9 a.m. EST, at the Cabinet for Economic Development, 24th Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 23, 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: Robin Fields Kinney, General Counsel, Cabinet for Economic Development, Capital Plaza Tower, 24th Floor, Frankfort, Kentucky 40601, (502) 564-7670, fax (502) 564-1535.

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

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

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

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

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

(7) The following information relates to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulations relating to the subject matter of the administrative regulation is Acts Chapter 528 (Senate Bill no. 225 as enacted), the Kentucky Economic Opportunity Zone Act.

(b) The Cabinet for Economic Development intends to promulgate a new administrative regulation relating to the approval process and administration of the Kentucky Economic Opportunity Zone Program, as established by Acts Chapter 528, effective July 15, 2000.

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(c) The necessity and function of the proposed administrative regulation is as follows: Acts Chapter 528 provides that the Kentucky Economic Development Finance Authority shall establish procedures and standards for certification of qualified zones, and determination and approval of eligible companies and their projects. As staff to the authority, the Cabinet for Economic Development will accept applications and monitor the approved companies. This administrative regulation discusses additional information required in a service and technology agreement entered into pursuant to the Kentucky Economic Opportunity Zone Act.

(d) The benefits expected from the administrative regulation are to establish procedures for submitting an application for certification of qualified zones, determination and approval of eligible companies and economic development projects, and the process for monitoring the approved companies. The administrative regulation will provide notice to applicants of the procedures.

(e) The administrative regulation will be implemented as follows: The Cabinet for Economic Development as the staff to the Kentucky Economic Development Finance Authority will implement the regulation.

May 12, 2000

(1) **307 KAR 7:090**, "Incorporation by reference", Kentucky Economic Opportunity Zone Act.

(2) The Cabinet for Economic Development intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral or written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 9 a.m. EST, at the Cabinet for Economic Development, 24th Floor Conference Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to June 23, 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: Robin Fields Kinney, General Counsel, Cabinet for Economic Development, Capital Plaza Tower, 24th Floor, Frankfort, Kentucky 40601, (502) 564-7670, fax (502) 564-1535.

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

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

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

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

(7) The following information relates to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulations relating to the subject matter of the administrative regulation is Acts Chapter 528 (Senate Bill no. 225 as enacted), the Kentucky Economic Opportunity Zone Act.

(b) The Cabinet for Economic Development intends to promulgate a new administrative regulation relating to the approval process and administration of the Kentucky Economic Opportunity Zone Program, as established by Acts Chapter 528, effective July 15, 2000.

(c) The necessity and function of the proposed administrative regulation is as follows: Acts Chapter 528 provides that the Kentucky Economic Development Finance Authority shall establish procedures and standards for certification of qualified zones, and determination and approval of eligible companies and their projects. As staff to the authority, the Cabinet for Economic Development will accept applications and monitor the approved companies. This administrative regulation incorporates the forms that must be completed and submitted to the Kentucky Economic Development Finance Authority for application and monitoring purposes.

(d) The benefits expected from the administrative regulation are to establish procedures for submitting an application for certification of qualified zones, determination and approval of eligible companies and economic development projects, and the process for monitoring the approved companies. The administrative regulation will provide notice to applicants of the procedures.

(e) The administrative regulation will be implemented as follows: The Cabinet for Economic Development as the staff to the Kentucky Economic Development Finance Authority will implement the regulation.

### JUSTICE CABINET Department of Corrections

May 12, 2000

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

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 21, 2000, at 9 a.m., in the Office of General Counsel, 2439 Lawrenceburg Road, Frankfort, Kentucky.

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

1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and  
2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.  
(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 21, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Tamela Biggs, Staff Attorney, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400, Phone (502) 564-2024, Fax (502) 564-6494.

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

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

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

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

(7) Information relating to the proposed administrative regulation:



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(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 196.035 and 197.020.

(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:030, as follows:

1. Inmate Canteen (KSR 02-00-01) shall be amended to reflect the days and times the inmate canteen is open and to establish a procedure for inmates housed in the nursing care facility and Corrections Psychiatric Treatment Unit to place canteen orders.

2. Screening Disbursement from Inmate Personal Accounts (KSR 02-00-03) shall be amended to add a procedure for the process of legal filing fees and conform policy with required LRC language.

3. Inmate Personal Accounts (KSR 02-00-11) shall be amended to accurately reflect the procedure in maintaining inmate personal accounts and to conform policy with required LRC language.

4. Institutional Funds and Issuance of Checks (KSR 02-00-12) shall be amended to reflect the correct classification of funds and the issuance of checks and to conform policy with required LRC language.

5. Special Management - Inmate Legal Access (KSR 10-00-10) shall be amended to provide a procedure for inmates in the Corrections Psychiatric Treatment Unit to gain access to legal aides and the Law Library.

6. Special Management Unit Staff Allocation, Position Description, Staff Selection, Training and Evaluation (KSR 10-01-01) shall be amended to conform policy with required LRC language and to add a recreation coordinator to the program staff assigned to the unit.

7. Special Management Unit - Inmate Tracking System and Record System (KSR 10-01-03) shall be amended to conform policy with required LRC language.

8. Special Management - Administrative Segregation (KSR 10-01-04) shall be amended to add a section on the procedure for administrative segregation status review and conform policy with required LRC language.

9. Special Management - Disciplinary Segregation (KSR 10-01-05) shall be amended to provide a procedure allowing some telephone access to inmates in disciplinary segregation and to conform with LRC language requirements.

10. Special Management - Protective Custody (KSR 10-01-06) shall be amended to conform policy with required LRC language.

11. Special Management - Safekeepers and Pretrial Contract Hold Status Inmates (KSR 10-01-08) shall be amended to clarify admissions and discharges under this status and conform policy with required LRC language.

12. Special Management - Hold Ticket Inmates (KSR 10-01-09) shall be amended to conform with required LRC language.

13. Special Management - Behavior Problem Control (KSR 10-01-11) shall be deleted from this administrative regulation and included as a secure policy in 501 KAR 6:999.

14. Special Management - Property Room Access (KSR 10-01-13) shall be amended to conform with required LRC language.

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

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

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

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

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

May 15, 2000

(1) **501 KAR 6:120**, Blackburn Correctional Complex.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 21, 2000, at 9 a.m., in the Office of General Counsel, 2439 Lawrenceburg Road, Frankfort, Kentucky.

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

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

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

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

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Justice Cabinet, Department of Corrections, Tamela Biggs, Staff Attorney, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400, Phone (502)64-2024, Fax (502) 564-6494.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 196.035 and 197.020.

(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:120, as follows:

1. Fiscal Management: Budget (BCC 02-02-04) shall be amended to clarify the budget preparation process, and staff responsibilities.

2. Fiscal Management: Insurance (BCC 02-02-05) shall be amended to reflect current operating procedures and correct insurance certificate number.

3. Fiscal Management: Audits (BCC 02-02-06) shall be amended to comply with actual practice.

4. Billing Method for Specialized Health Services (BCC 02-04-01) shall be amended to comply with actual practice of utilization of time-sheets for health services instead of billing statements or invoices.

5. Release of Records (BCC 06-02-01) shall be amended to comply with actual practice and to include processing of requests to inspect through open records coordinator for recordkeeping purposes.

6. Offender Records (BCC 06-02-02) shall be amended to comply with actual practice of transfer of records on inmates who left on parole, shock probation or court order.

7. Storage, Control and Accountability for Flammable, Toxic, Caustic and Other Hazardous Materials (BCC 08-06-01) shall be amended to



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delete locations of gasoline pumps and storage of oil in small quantities.

8. Inmate Identification (BCC 09-03-01) shall be amended to comply with actual practice of inmate ID's being made at RCC or BCC in cases of lost, stolen or replacement ID's.

9. Office of Public Advocacy Attorney Visits (BCC 14-01-01) shall be amended to designate who shall supervise library activities.

10. Inmate Visiting (BCC 16-02-01) shall be amended to comply with actual practices of prohibiting food being brought onto complex.

11. Inmate Personal Property (BCC 17-02-01) shall be amended to comply with actual practices and the deletion of duplicated information from CPP 17.1.

12. Inmate Check Out Procedure (BCC 25-01-01) shall be amended to comply with actual practice and to bring wording in policy to exact quote of ACA Standard.

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

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

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

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

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

May 12, 2000

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

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

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

(4) Information relating to these proposed administrative regulations:

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

(b) The administrative regulations that the Department of Corrections intends to promulgate shall delete secured policy from existing administrative regulation and establish 501 KAR 6:999, as follows: Special Management - Behavior Problem Control (KSR 10-01-11) shall be established to govern the management of behavioral problems through consistent, safe and efficient methods in both the Special Management Unit and the Corrections Psychiatric Treatment Unit.

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

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

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

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

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

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

**TRANSPORTATION CABINET**

May 11, 2000

(1) **601 KAR 15:010**, Disciplinary actions relating to employees commissioned pursuant to the provisions of KRS 281.770.

(2) The Kentucky Transportation Cabinet intends to amend this administrative regulation regarding disciplinary actions of commissioned employees.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 21, 2000, 10:30 a.m., local prevailing time, at 501 High Street, State Office Building, 10<sup>th</sup> Floor General Counsel Conference Room, Frankfort, Kentucky 40622.

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

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

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

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

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

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to KRS 281.772.

(b) The administrative regulation that the Transportation Cabinet intends to promulgate will amend an existing regulation.

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(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 18A.095 specifies that employees of the Transportation Cabinet, Department of Vehicle Regulation, Division of Motor Vehicle Enforcement commissioned pursuant to KRS 281.765 be disciplined under the provisions of KRS Chapter 281 rather than KRS 18A.095. This administrative regulation sets forth the administrative procedure to be followed by the Department of Vehicle Regulation in imposing disciplinary action against Motor Vehicle Enforcement commissioned employees and the procedures before the Trail Board.

(d) The benefits expected from the administrative regulation are to provide regulatory guidelines for the discipline of commissioned employees.

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

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

### EDUCATION PROFESSIONAL STANDARDS BOARD

May 2000

(1) **704 KAR 20:198.** Director of special education.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.

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

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

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

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

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

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the establishing of standards and requirements for obtaining and maintaining a certificate for coordinating special education services and the approval of requisite preparation programs is KRS 157.250, 161.028 and 161.030.

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:198, Director of special education. The Education Professional Standards Board is amending this regulation to adopt a new statewide format for education administration programs. This administrative regulation is being amended concurrently with other education administration regulations; the amendments will align educational attainment and renewal requirements.

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

1. KRS 157.250 requires all persons employed to teach or serve as special education coordinator, director, supervisor, or other special education administrator in any special education program hold certification required by the Education Professional Standards Board for such duty.

2. KRS 161.020 requires that all professional school personnel hold certificates of legal qualifications for their respective positions.

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

4. KRS 161.028(1)(b) requires the Education Professional Standards Board to set standards for, approve, and evaluate preparation programs for professional school personnel.

5. KRS 161.030(1) grants the Education Professional Standards Board certification authority.

6. KRS 161.030(10) requires the Education Professional Standards Board to approve the curricula of preparation programs for professional school personnel.

(d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will create greater continuity for teachers seeking administrator certification and avoid duplication in program offerings at teacher/administrator preparation institutions.

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

May 2000

(1) **704 KAR 20:305.** Written examination prerequisites for teacher certification.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.

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

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

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

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

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

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

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

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:305, Written examination prerequisites for teacher certification. The Education Professional Standards Board is amending this regulation to adopt new testing requirements for teacher candidates seeking a certificate to teach hearing-impaired exceptional children. The EPSB may also align other assessments' passing scores pending public comment of such action.

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

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

2. KRS 161.030 requires the Education Professional Standards Board to select appropriate assessments that measure knowledge of the specific teaching field of each teacher applicant.

(d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will designate the required assessments for teachers seeking certification for exceptional children/hearing impaired. If the EPSB amends the cut-off scores of other assessments, it would be for the purpose of aligning passing scores with the standards and expectations for preparation/certification programs in those specific subject fields.

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

May 2000

(1) **704 KAR 20:410.** Certification for supervisor of instruction, grades K-12.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.

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

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

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

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

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

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

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

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:410, Certification for supervisor of instruction, grades K-12. The Education Professional Standards Board is amending this regulation to adopt a new statewide format for education administration programs. This administrative regulation is being amended concurrently with other education administration regulations; the amendments will align educational attainment and renewal requirements.

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

1. KRS 161.020 requires that all professional school personnel hold certificates of legal qualifications for their respective positions.

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

3. KRS 161.028(1)(b) requires the Education Professional Standards Board to set standards for, approve, and evaluate preparation programs for professional school personnel.

4. KRS 161.030(1) grants the Education Professional Standards Board certification authority.

5. KRS 161.030(10) requires the Education Professional Standards Board to approve the curricula of preparation programs for professional school personnel.

(d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will create greater continuity for teachers seeking administrator certification and avoid duplication in program offerings at teacher/administrator preparation institutions.

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

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May 2000

- (1) **704 KAR 20:420.** Certification for school superintendent.
- (2) The Education Professional Standards intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 22, 2000, the hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.
- (b) On a request for public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Education Professional Standards Board at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the establishing of standards and requirements for obtaining and maintaining a teaching certificate and the approval of requisite preparation programs is KRS 161.028 and 161.030.
  - (b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:420, Certification for school superintendent. The Education Professional Standards Board is amending this regulation to adopt a new statewide format for education administration programs. This administrative regulation is being amended concurrently with other education administration regulations; the amendments will align educational attainment and renewal requirements.
  - (c) The necessity and function of the proposed administrative regulation is as follows:
    1. KRS 161.020 requires that all professional school personnel hold certificates of legal qualifications for their respective positions.
    2. KRS 161.028(1)(a) requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a certificate.
    3. KRS 161.028(1)(b) requires the Education Professional Standards Board to set standards for, approve, and evaluate preparation programs for professional school personnel.
    4. KRS 161.030(1) grants the Education Professional Standards Board certification authority.
    5. KRS 161.030(10) requires the Education Professional Standards Board to approve the curricula of preparation programs for professional school personnel.
  - (d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will create greater continuity for teachers seeking administrator certification and avoid duplication in program offerings at teacher/administrator preparation institutions.
  - (e) The administrative regulation will be implemented as follows: Local districts, teacher training institutions, and private education associations will be notified of the changes, and publications of the Education Professional Standards Board and the Office of Teacher Education and Certification will be updated to reflect the changes.

May 2000

- (1) **704 KAR 20:540.** Professional certificate for directors of pupil personnel and assistants.
- (2) The Education Professional Standards intends to amend the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 22, 2000, the hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Dr. Susan Leib, Education Professional Standards Board, 1024 Capital Center Drive, Frankfort, Kentucky 40601, (502) 573-4606, fax (502) 573-1610.
- (b) On a request for public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Education Professional Standards Board at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the establishing of standards and requirements for obtaining and maintaining a teaching certificate and the approval of requisite preparation programs is KRS 161.028 and 161.030.
  - (b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:540, Professional certificate for directors of pupil personnel and assistants. The Education Professional Standards Board is amending this regulation to adopt a new statewide format for education administration programs. This administrative regulation is being amended concurrently with other education administration regulations; the amendments will align educational attainment and renewal requirements.
  - (c) The necessity and function of the proposed administrative regulation is as follows:
    1. KRS 161.020 requires that all professional school personnel hold certificates of legal qualifications for their respective positions.
    2. KRS 161.028(1)(a) requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a certificate.
    3. KRS 161.028(1)(b) requires the Education Professional Standards Board to set standards for, approve, and evaluate preparation programs for professional school personnel.
    4. KRS 161.030(1) grants the Education Professional Standards Board certification authority.

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5. KRS 161.030(10) requires the Education Professional Standards Board to approve the curricula of preparation programs for professional school personnel.

(d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will create greater continuity for teachers seeking administrator certification and avoid duplication in program offerings at teacher/administrator preparation institutions.

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

May 2000

(1) **704 KAR 20:710.** Professional certificate for instructional leadership - school principal, all grades.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 22, 2000, at 1 p.m. in the Council on Postsecondary Education Conference Room A, 1024 Capital Center Drive, Frankfort, Kentucky 40601.

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

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

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

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

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

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

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

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

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

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

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the establishing of standards and requirements for obtaining and maintaining a principal certificate and the approval of requisite preparation programs is KRS 161.027, 161.028 and 161.030.

(b) The administrative regulation that the Education Professional Standards Board intends to amend is 704 KAR 20:710, Professional certificate for instructional leadership - school principal, all grades. The Education Professional Standards Board is amending this regulation to adopt a new statewide format for education administration programs. This administrative regulation is being amended concurrently with other education administration regulations; the amendments will align educational attainment and renewal requirements.

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

1. KRS 161.020 requires that all professional school personnel hold certificates of legal qualifications for their respective positions.

2. KRS 161.027(1) requires the Education Professional Standards Board to establish requirements for preparation programs leading to principal certification and criteria for applicants' admission to same.

3. KRS 161.027(9) requires the Education Professional Standards Board to prescribe renewal requirements for the principal certificate.

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

5. KRS 161.028(1)(b) requires the Education Professional Standards Board to set standards for, approve, and evaluate preparation programs for professional school personnel.

6. KRS 161.030(1) grants the Education Professional Standards Board certification authority.

7. KRS 161.030(10) requires the Education Professional Standards Board to approve the curricula of preparation programs for professional school personnel.

(d) The benefits expected from administrative regulation are: The amendments to this administrative regulation will create greater continuity for teachers seeking administrator certification and avoid duplication in program offerings at teacher/administrator preparation institutions.

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

**WORKFORCE DEVELOPMENT CABINET  
Kentucky State Board for Proprietary Education**

May 5, 2000

(1) **783 KAR 1:030.** Associate degree regulations and award standards. This proposed amended administrative regulation amends the associate degree and award standards for academic programs for schools licensed by the board.

(2) The Kentucky State Board for Proprietary Education intends to amend the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 3 p.m., Kentucky State Board for Proprietary Education, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 business days prior to June 23, 2000, by June 13, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Roger Grim, Executive Director, Kentucky State Board for Proprietary Education, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 564-4233, Fax (502) 564-4818.

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

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to examinations are KRS 165A.310(4) and 165A.370(1)(e).

(b) The administrative regulation the Kentucky State Board for Proprietary Education intends to promulgate will amend the associate degree program and award standards.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will amend the process and documentation required for a school to change its associate degree program and award standards.

(d) The benefit expected from this administrative regulation is the increased flexibility in licensed schools changing associate degree program and award standards.

(e) The regulation will be implemented by the executive director and board administrator who are charged with overseeing the licensing process and associate degree program status of licensed schools.

May 5, 2000

(1) **783 KAR 1:040.** Fees. This proposed amended administrative regulation will set various licensing and renewal fees for schools licensed and renewed by the board.

(2) The Kentucky State Board for Proprietary Education intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 3 p.m., Kentucky State Board for Proprietary Education, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 business days prior to June 23, 2000, by June 13, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Roger Grim, Executive Director, Kentucky State Board for Proprietary Education, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 564-4233, Fax (502) 564-4818.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to fees is KRS 165A.400.

(b) The administrative regulation the Kentucky State Board for Proprietary Education intends to promulgate will create a fee schedule for the board.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will set forth the licensing fees and renewals to be paid by licensed schools of the board.

(d) The benefit expected from this administrative regulation is the compliance with KRS Chapter 13A requiring that licensing fees be set forth in regulation.

(e) The regulation will be implemented by the executive director and board administrator who are charged with overseeing the licensing process and renewal process.

May 5, 2000

Frankfort, Kentucky 40601

(1) **783 KAR 1:050.** School closing process. This proposed amended administrative regulation will mandate the various steps that the board shall take when a school closes and ceases to do business.

(2) The Kentucky State Board for Proprietary Education intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 3 p.m., Kentucky State Board for Proprietary Education, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

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

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 business days prior to June 23, 2000, by June 13, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Roger Grim, Executive Director, Kentucky State Board for Proprietary Education, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 564-4233, Fax (502) 564-4818.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to school closings is KRS 165A:400 and 165A.390(5).

(b) The administrative regulation the Kentucky State Board for Proprietary Education intends to promulgate will mandate the steps that the board must take when a school closes and ceases to operate.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will set forth the steps that the board must take when a school closes and ceases to operate.

(d) The benefit expected from this administrative regulation is the orderly implementation of recordkeeping of closed schools as required

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by KRS 165A.390(5).

(e) The regulation will be implemented by the executive director and board administrator who are charged with overseeing the process to be undertaken when a school closes and ceases to operate.

May 5, 2000

(1) **783 KAR 1:060.** Complaints procedure. This proposed amended administrative regulation will mandate the various steps that the board shall take when a student of a licensed school files a complaint with the board.

(2) The Kentucky State Board for Proprietary Education intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 3 p.m., Kentucky State Board for Proprietary Education, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 business days prior to June 23, 2000, by June 13, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Roger Grim, Executive Director, Kentucky State Board for Proprietary Education, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 564-4233, Fax (502) 564-4818.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to student complaint procedures is KRS 165A.400 and 165A.360(3)(b).

(b) The administrative regulation the Kentucky State Board for Proprietary Education intends to promulgate will mandate the steps that the board must take when a student files a complaint against a licensed school.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will set forth the steps that the board must take when a student files a complaint against a licensed school.

(d) The benefit expected from this administrative regulation is the orderly process of handling student complaints as required by KRS 165A.360(3).

(e) The regulation will be implemented by the executive director and board administrator who are charged with overseeing the process to be undertaken when a student files a complaint with the board against a licensed school.

May 5, 2000

(1) **783 KAR 1:070.** Transfer of ownership, change of school name, change of location, change of curriculum. This proposed amended administrative regulation will mandate the various steps that the licensed school must complete when there has been a transfer of ownership, change of school name, change of location, or change of curriculum.

(2) The Kentucky State Board for Proprietary Education intends to promulgate the administrative regulation cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 23, 2000, at 3 p.m., Kentucky State Board for Proprietary Education, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601.

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

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 business days prior to June 23, 2000, by June 13, 2000, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should file their written request with the executive director at the following address: Roger Grim, Executive Director, Kentucky State Board for Proprietary Education, Berry Hill Annex, 700 Louisville Road, Frankfort, Kentucky 40601, Phone (502) 564-4233, Fax (502) 564-4818.

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to transfer of ownership, change of school name, change of location, or change of curriculum is KRS 165A.400, 165A.360(9) and 165A.370.

(b) The administrative regulation the Kentucky State Board for Proprietary Education intends to promulgate will mandate the steps that a licensed school must take when it undertakes a transfer of ownership, change of school name, change of location, or change of curriculum.

(c) The necessity and function of the proposed administrative regulation is as follows: This regulation will set forth the steps that the licensed school must complete when it undertakes a transfer of ownership, change of school name, change of location, or change of curriculum.

(d) The benefit expected from this administrative regulation is the orderly process of transfer of ownership, change of school name, change of location, or change of curriculum as required by KRS 165A.360(9) and 165A.370.

(e) The regulation will be implemented by the executive director and board administrator who are charged with overseeing the process to be completed when a school undertakes a transfer of ownership, change of school name, change of location, or change of curriculum.



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**PUBLIC PROTECTION AND REGULATION CABINET  
Department of Insurance**

May 15, 2000

- (1) **806 KAR 15:040**, Licensing, reporting and general requirements for viatical settlement providers and brokers.
- (2) The Department of Insurance intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive written and oral comments on the proposed administrative regulations has been scheduled for June 21, 2000, at 10 a.m. (ET), at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601.
- (4)(a) The public hearing will be held if:
  1. It is requested in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing to be present at the hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 21, 2000, the public hearing will be canceled.
- (5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Richard H. Deters, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602, Phone: (502) 564-6032. Fax: (502) 564-1456.
- (b) On a request for a public hearing, a person shall state:
  1. "I agree to attend the public hearing"; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from the Department of Insurance at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is 2000 Ky. Acts ch. 472, KRS 304.15-700(2) and 304.15-720.
  - (b) The administrative regulation that the Department of Insurance intends to promulgate will amend an existing regulation, 806 KAR 15:040.
  - (c) The necessity and function of the proposed administrative regulation is as follows: 2000 Ky. Acts ch. 472 requires the commissioner to promulgate administrative regulations providing for the training and licensure of viatical broker and providers, and the revocation or termination of the license. KRS 304.15-720 permits the commissioner to promulgate administrative regulations implementing KRS 304.15-700 through 304.15-720. This administrative regulations in necessary to specify the licensing, testing, continuing education, and reporting requirements of viatical settlement providers and viatical settlement brokers. Form filings for viatical forms will also be amended. New editions of Forms VSP and VSB will be incorporated by reference.
  - (d) The benefits expected from the administrative regulation are as follows: This administrative regulation will provide for more qualified and better trained viatical settlement brokers and viatical settlement providers for Kentucky consumers. It will also provide for better oversight of their activities through form approval and enhanced uniform reporting.
  - (e) The administrative regulation will be implemented as follows: Viatical settlement broker and viatical settlement providers will be required to complete an initial viatical training program of 40 training hours. They must then pass a viatical test and maintain viatical continuing education through approved classes. All current licensees will be required to complete these requirements for any renewal after March 31, 2001. New editions of the Form VSP (Viatical Settlement Provider Application) and Form VSB (Viatical Settlement Broker Application) will be incorporated by reference. The reporting requirements for both providers and brokers will be amended by adopting the NAIC model. The format and filing requirements for viatical forms will be specified.

**KENTUCKY RACING COMMISSION**

May 11, 2000

- (1) **811 KAR 1:090**. Stimulants and drugs.
- (2) The Kentucky Racing Commission intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 21, 2000, 10 a.m. at the commission offices at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511.
- (4)(a) The public hearing will be held if:
  1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request or a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 21, 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: Rena Elswick, Kentucky Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Phone: (606) 246-2040, Fax: (606) 246-2039.
- (b) On a request for public hearing, a person shall state:
  1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request from the Kentucky Racing Commission at the address listed above.
- (7) Information relating to the proposed administrative regulation:
  - (a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of administrative regulation is KRS 230.630(3), (4), and (7).
  - (b) The administrative regulation that the Kentucky Racing Commission intends to promulgate will amend 811 KAR 1:090, Stimulants and drugs. It will update the section that deals with bleeders and a new section will be added to aid in the detection of milkshaking in horses.
  - (c) The necessity and function of the proposed administrative regulation is as follows: It will redefine the language of a bleeder being placed on and removed from the veterinarian's list. Milkshaking a horse is a fairly new procedure that individuals have started doing to illegally enhance the speed of the horse.
  - (d) The benefits expected from administrative regulation are: By amending the section that deals with bleeders to read the same as the thoroughbred regulation regarding with bleeders will make it easier for the owners and trainers in understanding the procedure for bleeders and make the standardbred and thoroughbred regulation more uniform. Concerning the milkshaking of horses, there are currently no regula-



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tions governing this illegal procedure.

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

**CABINET FOR HEALTH SERVICES  
Office of Inspector General**

May 8, 2000

- (1) **906 KAR 1:110**. Critical access hospital services
- (2) The Office of Inspector General intends to promulgate the administrative regulation cited above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 2000, at 9 a.m. in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.
- (4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members, and
  2. A minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
- (b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to June 30, 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: Selina R. Riley, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 4W-C, Frankfort, Kentucky 40621, Telephone: (502) 564-7905, Fax: (502) 564-7573.
- (b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."; or
  2. "I will not attend the public hearing."
- (a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
- (b) Persons who wish to file this request may obtain a request form from: Administrative Regulation Coordinator, Office of Inspector General, 275 East Main Street, 4E-A, Frankfort, Kentucky 40621.
- (c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans with Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services regulations may call toll free 1-800-372-2973 (V/TDD).
- (7) Information relating to the proposed administrative regulation:
- (a) The statutory authority for the promulgation of administrative regulations relating to health facilities and health services is KRS 216B.042 and 216B.105.
- (b) The cabinet intends to amend 906 KAR 1:110 to include specific criteria for the Secretary of the Cabinet for Health Services to use to certify an acute general hospital as a necessary provider of health services to area residents, and to reference the provisions of KRS 216.380(4). Other amendments will comply with drafting requirements of KRS Chapter 13A.
- (c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 216.380(11) requires the Cabinet for Health Services to promulgate administrative regulations necessary to implement a program for licensure of critical access hospitals. This administrative regulation establishes quality of care and licensure standards for critical access hospitals.
- (d) The benefits expected from these proposed amendments are that they will permit rural general acute care hospitals the opportunity to be relicensed as critical access hospitals and then be certified by Medicare to receive an enhanced reimbursement rate.
- (e) The administrative regulation will be implemented as follows: By the Division of Licensing and Regulation in the Office of Inspector General, Cabinet for Health Services.

**Department for Medicaid Services**

May 5, 2000

- (1) **907 KAR 1:044**, Mental health center services.
- (2) Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.
- (3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 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 June 30, 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: Selina Riley, 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 Community Mental Health Services are KRS 194A.050 and 205.520, 42 USC 1396a-d and 42 CFR 440.130.

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(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:044 to provide increased access to medically necessary mental health services under the Medicaid benefit by allowing advanced registered nurse practitioners to provide the same services currently limited to the psychiatrist.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes the eligibility criteria, provider participation requirements, covered services and limitations in coverage for community mental health benefits under the Medicaid Program.

(d) The benefits expected from this administrative regulation are: Increased access for Medicaid consumers to community mental health services.

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

April 17, 2000

(1) **907 KAR 3:066**, Nonemergency medical transportation waiver services and payments.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for June 30, 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 June 30, 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: Selina Riley, 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 nonemergency medical transportation waiver services and payments are KRS 194A:050 and 205.520.

(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will provide Medicaid recipients access to medically necessary nonemergency medical transportation services in accordance with HB 488. It will provide the services, excluding ambulance stretcher services, through a more efficient and economic sole source, capitated rate process.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes a process whereby nonemergency medical transportation services, excluding ambulance stretcher service, can be provided pursuant to 42 USC 1396n(b).

(d) The benefits expected from this administrative regulation are: The administrative regulation will permit a statewide capitated transportation network which will be phased in by regions. The regional transportation network will reflect the region's transportation infrastructure and will be geared to the unique needs of that region's population, particularly the disabled population. This EMPOWER Kentucky initiative should offer savings to the cabinet while retaining stability and improving access and coordination in providing transportation to those in need.

(e) The administrative regulation will be implemented as follows: By the Division of Physical Health, Department for Medicaid Services, Cabinet for Health Services through development and implementation of an agreement with the Transportation Cabinet.

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

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

STATE OF EMERGENCY  
906 KAR 1:110E

This emergency administrative regulation amends 906 KAR 1:110 to establish specific criteria for the Secretary of the Cabinet for Health Services to determine if an acute care hospital is eligible for relicensing as a critical access hospital. The administrative regulation is also being amended to add the provisions of KRS 216.380(4) enacted by the 2000 Kentucky Legislature. Failure to enact this administrative regulation on an emergency basis would not allow hospitals requesting licensure and certification as a critical access hospital to receive a more favorable reimbursement rate for Medicare. The emergency administrative regulation shall be replaced by an ordinary administrative regulation. The notice of intent to promulgate an administrative regulation will be filed with the Regulations Compiler at the same time as the emergency administrative regulation is filed. This emergency administrative regulation is different from 906 KAR 1:110E filed May 3, 2000, because the provisions of KRS 216.380(4), enacted by the 2000 Kentucky Legislature became effective immediately and needed to be implemented by the above listed regulation.

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

CABINET FOR HEALTH SERVICES  
Office of Inspector General  
Division of Licensing and Regulation

906 KAR 1:110E. Critical access hospital services.

RELATES TO: KRS 216.380, 216B.010, 216B.015, 216B.040, 216B.042, 216B.045 to 216B.055, 216B.075, 216B.105 to 216B.131, 314.011(8), 331.560(4), 42 CFR 485.618(d)

STATUTORY AUTHORITY: KRS 216.380(11), 216B.040(3)(a), 216B.042(1)(a), (c)

EFFECTIVE: May 10, 2000

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.380(11) requires the Cabinet for Health Services to promulgate administrative regulations necessary to implement a program for licensure of critical access hospitals. This administrative regulation establishes quality of care and licensure standards for critical access hospitals.

Section 1. Definitions. "Licensee" means a general acute-care hospital relicensed as a critical access hospital.

Section 2. Requirements for Critical Access Status. (1) In order to be relicensed as a critical access hospital, a general acute-care hospital shall meet the requirements established in KRS 216.380(3).

(2) Before the cabinet certifies a hospital as a necessary provider pursuant to KRS 216.380(3)(a)2 the hospital shall meet one of the following criteria:

(a) Be located in a county where the percentage of the population with income less than 200 percent of poverty is greater than the state average;

(b) Be located in a county that has an unemployment rate higher than the state average unemployment rate;

(c) Be located in a county with a greater number of people aged 64 or older than the state average;

(d) Treat on average a higher than state average percentage of Medicare patients;

(e) Treat on average a higher than state average percentage of Medicaid patients; or

(f) Meet the provisions of KRS 216.380(4).

(3) A general acute-care hospital applying to be relicensed as a critical access hospital shall supply documentation that the require-

ments established in KRS 216.380(3) or 216.380(4) are met.

(4) If denial of the relicensing of a general acute-care hospital as a critical access hospital is appealed, it shall be appealed pursuant to the provisions of KRS Chapter 13B.

Section 3. Administration and Operation. (1) The licensee shall be legally responsible for the operation of the critical access hospital and for compliance with federal, state, and local law pertaining to the operation of the critical access hospital.

(2) A critical access hospital shall be under the medical direction of a physician licensed to practice medicine in Kentucky.

(3) The licensee shall:

(a) Establish written policies and lines of authority; and

(b) Designate the person principally responsible for the daily operation of the critical access hospital.

(4) The licensee shall develop a patient care policy with the advice of a group of professional persons, as identified by the licensee.

(a) The group of professional persons shall include:

1. One (1) or more physicians licensed in the Commonwealth of Kentucky; and

2. One (1) or more persons who are not members of the staff.

(b) The patient care policy shall include:

1. A description of services that the critical access hospital shall provide directly or through contractual agreement;

2. A written program narrative describing in detail the:

a. Services to be offered;

b. Methods and protocols for service delivery;

c. Qualifications of personnel to be involved in the delivery of services; and

d. Outcomes expected to be reached through the delivery of specified services.

3. Guidelines for medical case management of health problems which include:

a. Criteria for determining if a case requires medical consultation;

b. Patient referral procedures; and

c. Maintenance of health records.

4. Procedures for the proper storage, handling and administration of drugs and biologicals; and

5. Procedures establishing the annual review and evaluation of services provided.

(5) A critical access hospital shall establish a written policy regarding patient rights and responsibilities. The policy shall assure that each patient is:

(a) Informed of these rights and of rules and regulations governing patient conduct and responsibilities, including a procedure for handling patient grievances;

(b) Informed of services available and related charges, including charges not covered by Medicare, Medicaid, or other third-party payor;

(c) Informed of his:

1. Medical condition, unless medically contraindicated as documented in his medical record;

2. Right to participate in planning his medical treatment; and

3. Right to refuse to participate in experimental research;

(d) Assisted in understanding his patient rights;

(e) Provided confidential treatment of his records and is given the opportunity to approve or refuse their release to an individual not involved in his care, except as required by Kentucky law or third-party payment contract;

(f) Treated with consideration, respect, and recognition of his dignity and individuality, including privacy in treatment and in the care of his personal health needs; and

(g) Informed of the procedure for filing a grievance or a recommendation to change a policy or service. The policy shall establish a time frame within which critical access hospital personnel shall determine what corrective action to take.

(6) Personnel.

(a) Staffing shall be in accordance with KRS 216.380(6).

(b) A physician shall:

1. Be responsible for all medical aspects of the critical access hospital;

2. Provide direct medical services in accordance with KRS Chapter 311.

3. Be present to provide medical direction, supervision, and consultation to the staff at least once in every two (2) week period, unless no patient has been treated since the last visit;

4. Participate with other medical personnel in developing, executing, and periodically reviewing written policies and services;

5. Review and sign patient records during the site visit; and

6. Provide medical orders and medical care services to patients in accordance with the critical access hospital protocols.

(c) A registered nurse or licensed practical nurse shall be on duty if [when] an inpatient is present.

(7) The critical access hospital shall have transfer and linkage contracts that meet the requirements of KRS 216.380(8) and (9)(a).

(8) Medical records.

(a) A critical access hospital shall maintain medical records. A medical record shall contain at least the following:

1. The names of the patient's immediate family members;

2. Medical and social history, including data obtainable from other providers;

3. Description of each medical visit or contact, including:

a. Condition or reason necessitating visit or contact;

b. Assessment;

c. Diagnosis;

d. Services provided;

e. Medications and treatments prescribed; and

f. Disposition made;

4. Reports of laboratory, x-ray, and other test findings; and

5. Documentation of referrals made, including:

a. Reason for referral;

b. To whom patient was referred; and

c. Information obtained from referral source.

(b) Confidentiality of individual patient records shall be maintained at all times.

(c) Transfer of records. The critical access hospital shall establish systematic procedures to assist in continuity of care if the patient moves to another source of care, and shall, upon proper release, transfer medical records or an abstract upon request.

(d) Retention of records. After a patient's death or discharge, the completed medical record shall be placed in an inactive file and retained for five (5) years or, in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(9) Utilization review and medical audit. In order to determine the appropriateness of services delivered, there shall be a written plan for utilization review which specifies the frequency of reviews and composition of the body conducting the review.

(10) Quality assessment and performance improvement program.

(a) A critical access hospital shall have a program, in accordance with KRS 216.380(7), to ensure continuous and effective mechanisms for:

1. Review and evaluation of patient care; and

2. Corrective action.

(b) The program shall be approved by the licensee.

(c) The program shall:

1. Establish responsibility for monitoring and evaluation of services;

2. Delineate the scope of care;

3. Identify specific aspects of care to be provided;

4. Establish and document clinical criteria used to monitor care and services;

5. Systematically evaluate the standard of care to identify problems and recommend corrective action or alternatives to improve the standard of care;

6. Establish criteria to assess the effectiveness of corrective action taken to improve care; and

7. Require documentation of improvements in the standard of care, subsequent to corrective action taken.

(11) Contracted services. The critical access hospital shall assure that a service provided under contract is properly licensed or certified in accordance with applicable local, state, and federal regulations and

statutes.

Section 4. [3:] Provision of Services. (1) A [The] critical access hospital shall provide the services established in [required-by] KRS 216.380(4).

(2)(a) A critical access hospital shall provide, either directly or through contract, basic laboratory services essential to the immediate diagnosis and treatment of the patient on a twenty-four (24) hour basis.

(b) If the critical access hospital provides laboratory services directly, the service shall be in compliance with 902 KAR 20:016, Section 4(4).

(c) If the critical access hospital contracts for laboratory services, the laboratory it contracts with shall be in compliance with KRS Chapter 333.

(d) The following services shall be provided:

1. [(a)] Chemical examination of urine, including ketone measurement, by stick or tablet method, or both;

2. [(b)] Microscopic examination of urine sediment;

3. [(c)] Hemoglobin or hematocrit;

4. [(d)] Blood sugar;

5. [(e)] Gram stain;

6. [(f)] Examination of stool specimens for occult blood;

7. [(g)] Pregnancy tests;

8. [(h)] Primary culturing for transmittal to a hospital laboratory or licensed laboratory; and

9. [(i)] Test for pinworms.

(3) A critical access hospital shall provide medical emergency procedures as a first response to common life-threatening injuries and acute illness, and shall have available the drugs and biologicals commonly used in life-saving procedures, such as analgesics, local anesthetics, antibiotics, anticonvulsants, antidotes and emetics, serums and toxoids.

(a) Examination services shall be provided by the critical access hospital in accordance with 902 KAR 20:012.

(b) There shall be a physician, nurse practitioner, or physician assistant with training or experience in emergency care on-call and immediately available by telephone or radio contact, and available on site within thirty (30) minutes on a twenty-four (24) hour per-day basis.

(c) A registered nurse shall be on duty at the hospital to provide immediate emergency care on a twenty-four (24) hour per day basis.

(d) Emergency services shall be provided in accordance with KRS 216.380(4).

(4) In accordance with KRS 216.380(4)(b), a critical access hospital shall provide, either directly or through contract, basic pharmacy services essential to the treatment of the patient, on a twenty-four (24) hour basis.

(a) If the critical access hospital provides pharmacy services directly, it shall be in compliance with 902 KAR 20:016, Section 4(5).

(b) If the critical access hospital contracts for pharmacy services, the pharmacy it contracts with shall be in compliance with KRS Chapter 315.

(5) In accordance with KRS 216.380(4)(b), a critical access hospital shall provide, either directly or through contract, basic radiology services essential to the immediate diagnosis and treatment of the patient, on a twenty-four (24) hour basis.

(a) If the critical access hospital provides radiology services directly, it shall be in compliance with 902 KAR 20:016, Section 4(6).

(b) If the critical access hospital contracts for radiology services, the radiology service it contracts with shall have a current license or registration pursuant to KRS 211.842 to 211.852 and applicable [any] administrative regulations [thereunder].

(6) Pursuant to KRS 216.380(4)(b), dietary services shall be provided either directly or by contract in accordance with 902 KAR 20:016, Section 4(3), if [when] an inpatient is in the critical access hospital for more than twelve (12) hours.

Section 5. [4:] Physical and Sanitary Environment. A critical access hospital shall comply with the provisions of 902 KAR 20:016, Section 3(10).

Section 6. [5:] Facility Requirements. A critical access hospital shall comply with the requirements of 902 KAR 20:009 related to the

services offered.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form L&R 242, Application for Initial License to Operate a Critical Access Hospital (CAH), May 2000 edition; and

(b) Form L&R 242A, Application for Relicensure to Operate a Critical Access Hospital (CAH), May 2000 edition.

(2) This material may be inspected, copied, or obtained at the Office of the Inspector General, Division of Licensing and Regulation, 275 East Main Street, Fourth Floor East, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

PAMELA J. MURPHY, Inspector General

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 9, 2000

FILED WITH LRC: May 10, 2000 at 11 a.m.

# REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alex Reese

(1) Type and number of entities affected: Currently there are 28 licensed acute care hospitals that meet at least 1 of the criteria for licensing as a critical access hospital.

(2) Direct and indirect costs or savings to those affected:

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

(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 Notice of Intent public hearing.

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

1. First year following implementation: No additional reporting requirements imposed.

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: No additional factors.

(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: 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 Notice of Intent public hearing.

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

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 216.380(3)(a)3 requires the Secretary of the Cabinet for Health Services to certify an acute general hospital as a necessary provider of health services to area residents, specific criteria for this determination need to be incorporated into the regulation.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Critical Access Hospitals will receive cost based Medicare reimbursement which will help ensure that these hospitals are able to provide access to health care for rural Kentuckians.

(b) State whether a detrimental effect on environment and public health would result if not implemented: Closure of local community hospitals.

(c) If detrimental effect would result, explain detrimental effect: Loss of access to health care for rural Kentuckians.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? No. This regulation applies to all acute general hospitals meeting the requirements to be relicensed as critical access hospitals.

## STATEMENT OF EMERGENCY

907 KAR 1:044E

This emergency administrative regulation is being promulgated to permit advanced registered nurse practitioners (ARNP) to render services in community mental health centers in accordance with ARNP laws and regulations. Currently, community health centers are limited in the amount and number of services that can be provided on a daily basis because of the restriction to only allow a psychiatrist to render services that could be provided by an ARNP. This action allows more people in need of mental health services to access these services in a timely manner. Thus, ensuring individuals who pose a risk to self or others will have access to medically necessary services. 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 and citizens of the Commonwealth. This emergency administrative regulation differs from the emergency administrative regulation filed on the same subject on October 21, 1999 as follows: this emergency administrative regulation permits ARNPs to render community mental health services in accordance with ARNP laws and regulations. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulation Compiler on May 5, 2000.

PAUL E. PATTON, Governor

JIMMY D. HELTON, Secretary

## CABINET FOR HEALTH SERVICES

Department for Medicaid Services

Division of Behavioral Health

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

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194A.050 [194-050], 42 CFR 440.130, 42 USC 1396a-d

EFFECTIVE: May 5, 2000

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, [Human Resources] has responsibility to administer the 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 provisions relating to services provided by Mental Health Centers for which payment shall be made by the Medicaid Program on behalf of [to] both the categorically needy and the medically needy.

Section 1. Definitions. (1) "Advanced registered nurse practitioner" or "ARNP" means a person acting within his scope of practice in a psychiatric or mental health specialty who is licensed in accordance with KRS 314.042.

(2) "Affiliation agreement" means a cooperative agreement between two (2) agencies without an exchange of cabinet funds.

(3) "Cabinet" means the Cabinet for Health Services.

(4) "Certified psychologist with autonomous functioning" or "certified psychologist" means a person certified in accordance with KRS

319.056.

(5) "Certified social worker" means a person certified in accordance with KRS 335.080.

(6) "Clinical supervision" means monitoring and oversight of a person's provision of a service consistent with applicable requirements of the person's licensure or certification.

(7) "Community mental health center" or "CMHC" means a facility licensed in accordance with 902 KAR 20:091.

(8) "Department" means the Department for Medicaid Services.

(9) "Individual" means a person who has applied for medical assistance and has been determined to have met applicable conditions for eligibility pertaining to Kentucky's Medicaid Program.

(10) "Licensed psychologist" means a person licensed in accordance with KRS 319.050.

(11) "Licensed clinical social worker" means a person licensed in accordance with KRS 335.100.

(12) "Marriage and family therapist" means a person licensed in accordance with KRS 335.300.

(13) "Mental health associate" means a person with a minimum of a bachelor's degree from an accredited institution in psychology, sociology, social work or human services who is approved by a CMHC prior to July 1, 2000, to provide outpatient services established in Section 3(2) of this administrative regulation.

(14) "Physician" means a person licensed in accordance with KRS 311.530 who works under the supervision of a psychiatrist.

(15) "Professional art therapist" means a person certified in accordance with KRS 309.130.

(16) "Professional counselor" means a person certified in accordance with KRS 335.500.

(17) "Professional equivalent" means a person who:

(a) Has received a degree in an identical field of psychology, sociology, social work or human services as determined by the department with the following combination of education and experience;

1. Bachelor's degree and three (3) years full-time supervised experience;

2. Masters degree and six (6) months full-time supervised experience; or

3. Doctorate degree and no experience;

(b) Has supervised experience in the delivery of therapeutic rehabilitation; individual, group, family and collateral outpatient therapies; or intensive in-home services; and

(c) Has been approved as meeting requirements for reimbursement by the department prior to July 1, 2000.

(18) "Psychiatric nurse" means a person who:

(a) Has received a master of science in nursing with a specialty in psychiatric or mental health nursing;

(b) Is a graduate of a four (4) year nursing educational program with a bachelor of science in nursing and who has one (1) year of experience in a mental health setting;

(c) Is a graduate of a three (3) year nursing educational program and who has two (2) years of experience in a mental health setting;

(d) Is a graduate of a two (2) year nursing educational program with an associate degree in nursing and who has three (3) years of experience in a mental health setting; or

(e) Is certified by the American Nursing Association as a psychiatric or mental health nurse.

(19) "Psychiatrist" means a person licensed in accordance with KRS 311.530 to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology or American Board of Osteopathic Neurologists and Psychiatrists, Inc.

(20) "Psychological associate" means a person certified in accordance with KRS 319.064.

(21) "Subcontract" means an agreement between the provider and other agencies which involves cabinet funds and meets the requirements established in 908 KAR 2:060, Section 3.

(22) "Treatment plan" means a written plan of care based on an assessment of the medical, psychological, social, behavioral, developmental and cultural aspects of an individual and his need for treatment that lists measurable short-term and long-range goals and documents the involvement of the individual and, if appropriate, his family.

Section 2. Provider Participation Requirements. In order to provide community mental health center services pursuant to Section 3 of this administrative regulation, a provider shall be:

(1) A CMHC that provides services:

(a) Directly; or

(b) Indirectly through a subcontract that requires a subcontractor to meet the provisions of this administrative regulation; or

(2) An out-of-state provider that shall:

(a) Be a facility licensed to provide community mental health services by the state in which it is located;

(b) Participate in that state's Title XIX Medicaid Program; and

(c) Meet the requirements of 42 CFR 431.52.

(3) Responsible for the following:

(a) A screening interview with an individual that includes information on the individual's:

1. Current mental status and purpose for seeking services;

2. Need for community services to meet immediate needs for safety, food, clothing, shelter or medical care; and

3. Psychosocial history including the:

a. Current living arrangements;

b. Identification of household members and significant others in the individual's life;

c. Marital and family history;

d. History of alcohol and drug use;

e. Legal, employment, military, educational and vocational history;

f. Religious background and practices;

g. History of emotional, sexual and physical abuse including current need for safety;

h. Ethnic and cultural background;

i. Leisure and recreational activities; and

j. Individual strengths and limitations;

(b) A staffing conference following the screening to discuss the individual's needs, establish a diagnosis or clinical impression, recommend additional evaluations and formulate a treatment plan as defined in Section 1(22) of this administrative regulation.

1. The treatment plan shall:

a. Be signed by a:

(i) Psychiatrist;

(ii) Licensed psychologist;

(iii) Psychologist with autonomous functioning;

(iv) Licensed clinical social worker;

(v) ARNP;

(vi) Marriage and family therapist;

(vii) Professional art therapist; or

(viii) Professional counselor; and

b. Be reviewed at a minimum of every three (3) months for therapeutic rehabilitation program services and annually for all other services.

2. All treatment plan reviews shall be documented and maintained in the individual's medical record. [Definition of Psychiatric Nurse: (1) For the purpose of providing Medicaid Program-reimbursable services, registered nurses employed by participating mental health centers shall be considered psychiatric or mental health nurses when they meet any of the following criteria:

(a) Master of Science in Nursing (MSN) with specialty in psychiatric/mental health nursing; additional experience is not required; or

(b) Graduate of a four (4) year nursing educational program, with a Bachelor of Science in Nursing (BSN) and with a minimum of one (1) year of experience in a mental health setting; or

(c) Graduate of a three (3) year nursing educational program (diploma graduate), and with a minimum of two (2) years of experience in a mental health setting; or

(d) Graduate of a two (2) year nursing educational program, with an Associate Degree in Nursing (ADN) and with a minimum of three (3) years of experience in a mental health setting; or

(e) Effective July 1, 1989, any level of education with American Nursing Association (ANA) certification as a psychiatric and mental health nurse.

(2) Notwithstanding the preceding, any registered nurse employed by a participating mental health center in Kentucky on June 30, 1981 shall be considered a psychiatric nurse if their employment with the center continues, for the purpose of providing Medicaid Program reim-



bursable services:

Section 2. Community Mental Health Manual. The Community Mental Health Manual specifies the conditions for participation, services covered, and limitations for the mental health center services component of the Medicaid Program. The Community Mental Health Manual dated July 1, 1993 is incorporated by reference in this administrative regulation and may be reviewed during regular working hours (8 a.m. to 4:30 p.m. Eastern Standard Time) in the Office of the Commissioner, Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621. Copies may also be obtained from that office upon payment of an appropriate fee which shall not exceed approximate cost.]

Section 3. Covered Services. The following services provided by a provider who meets the requirements established in Section 2 of this administrative regulation shall be covered by the Medicaid Program if medically necessary: [participating mental health centers shall be considered covered when rendered within Kentucky Medicaid Program guidelines as shown in the Community Mental Health Manual:]

(1) Inpatient hospital services. An inpatient hospital service shall be utilized if no other community mental health service is appropriate. An inpatient hospital service may be provided in an acute care hospital that has an affiliation agreement with the CMHC. Inpatient services shall include:

(a) Initial inpatient services. An initial inpatient service shall be a face-to-face service provided by a psychiatrist or ARNP before an additional inpatient service is covered.

(b) Additional inpatient services. An additional inpatient service shall be covered if it is provided:

1. Pursuant to a treatment plan; and
2. By a:
  - a. Psychiatrist;
  - b. Licensed psychologist;
  - c. Certified psychologist;
  - d. Psychologist with autonomous functioning;
  - e. Psychological associate;
  - f. Licensed clinical social worker;
  - g. Certified social worker;
  - h. Psychiatric nurse;
  - i. ARNP;
  - j. Marriage and family therapist;
  - k. Professional art therapist;
  - l. Professional counselor; or
  - m. Professional equivalent.

(c) A service to an individual who is receiving community mental health services and is hospitalized for a diagnosis other than a psychiatric diagnosis shall be covered pursuant to subsection (2) of this section;

(2) Outpatient therapy services.

(a) An outpatient therapy service shall be delivered:

1. On site, which includes a facility owned, leased or donated to the provider; or
2. Off site, which includes the individual's place of residence, congregate living facility not otherwise reimbursed by Medicaid, school, day care center, senior citizen center and family resource center.

(b) An outpatient therapy service shall be:

1. Provided pursuant to the individual's treatment plan; and
2. Provided by a:
  - a. Psychiatrist;
  - b. Licensed psychologist;
  - c. Certified psychologist with autonomous functioning;
  - d. Licensed clinical social worker;
  - e. ARNP;
  - f. Marriage and family therapist;
  - g. Professional art therapist;
  - h. Professional counselor; or
3. Provided under the clinical supervision of a person identified

in subparagraph 2 of this paragraph by a:

- a. Certified psychologist
- b. Psychologist associate;
- c. Certified social worker;
- d. Psychiatric nurse;

e. Professional equivalent; or

f. Mental health associate.

(c) An outpatient therapy service shall be face to face and may include:

1. Individual therapy. Individual therapy shall be a therapeutic intervention with an individual for the purpose of reducing or eliminating the presenting mental health problem of the individual;

2. Group therapy. Group therapy shall be a therapeutic intervention provided to an individual in a group that focuses on subjects including building and maintaining healthy relationships, personal goal setting and the exercise of personal judgement;

3. Family therapy. Family therapy shall be a therapeutic intervention inclusive of an individual and a member of the individual's household or extended family who has a close association with the individual. Family therapy services shall be for the benefit of the individual and shall be billed under the individual's Medicaid number;

4. Collateral services. A collateral service shall provide counseling or consultation on behalf of an individual under twenty-one (21) years of age with a parent, legal representative, school personnel or other person in a position of custodial control or supervision of individual. A parent or person in a position of custodial control or supervision shall give written approval for a collateral service. A collateral service delivered to more than one (1) person at the same time shall be billed as actual time spent on an individual's behalf and shall be billed under the individual's Medicaid number;

5. Intensive in-home services. An intensive in-home service shall be a therapeutic intervention that may include teaching problem solving skills and behavior management:

a. On behalf of an individual under twenty-one (21) years who is at risk of placement outside his home; and

b. To:

(i) The individual;

(ii) His immediate family;

(iii) A person who interacts with the individual in his home; or

(iv) A person in the family with whom reunification is planned;

6. Home visits. A home visit service shall be provided in the individual's residence if the residence is not otherwise reimbursed by Medicaid. A home visit service may be appropriate:

a. As part of a beginning assessment in a difficult case;

b. During a family crisis in which immediate intervention is needed;

c. To provide outreach in a high-risk case;

d. For a homebound individual; or

e. To help an individual generalize skills in his home setting.

7. Emergency services. An emergency service shall:

a. Provide immediate evaluation and care of an individual in a crisis situation;

b. Be available twenty-four (24) hours a day and seven (7) days a week; and

c. Result in a referral of the individual to another service covered by this administrative regulation based on the individual's needs;

8. Personal care home services.

a. An outpatient service in a personal care home shall be covered if it is:

(i) An individual therapy service pursuant to subparagraph 1 of this paragraph; or

(ii) A remotivational or resocialization group activity.

b. If under the supervision of a psychiatrist, a physician may provide services to an individual in a personal care home which may include a physical examination, medication management, or an emergency service;

9. Substance abuse services. A substance abuse service shall be provided in accordance with 907 KAR 3:110E;

10. Therapeutic rehabilitation services for adults and children under twenty-one (21) years of age. A therapeutic rehabilitation service shall be provided as part of a therapeutic program to restore an individual to his highest functioning level or prevent unnecessary loss of functioning.

a. The program shall teach effective coping mechanisms and problem solving skills to manage illness and overcome deficits in functioning. Deficits in functioning may be related to a major activity of daily life such as the ability to stay in the least restrictive living situation and to engage in the most integrated community setting.

b. A psychiatrist shall be present at least monthly in the program

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and shall assume clinical responsibility for each individual.

c. The program shall have direct supervision by a person identified in subsection (1)(b)2 of this section; or

11. Emergency services. Services for the immediate evaluation and care of an individual in a crisis situation shall be available on a twenty-four (24) hour a day, seven (7) days a week basis.

(3) Psychiatric evaluations, psychological examinations, and tests. An evaluation, examination, or test shall be for the purpose of determining a diagnosis and recommending a course of treatment.

(a) Psychiatric evaluations and testing shall be performed by a psychiatrist or ARNP.

(b) Psychological examinations and testing shall be performed by a psychologist within his scope of practice.

(4) Physical examinations. A physical examination of an individual shall be provided by:

(a) A physician;

(b) A psychiatrist; or

(c) An ARNP.

(5) Services in a detoxification setting. A psychiatric service provided by a psychiatrist or ARNP shall be covered for an individual undergoing detoxification in an acute care hospital.

(6) Medication management.

(a) Prescribing of medications shall be by a:

1. Psychiatrist;

2. Physician; or

3. ARNP.

(b) Blood and other laboratory tests and examinations shall be ordered in accordance with generally accepted medical practice.

Section 4. Service Limitations. (1) The department shall not cover a service to an individual if the diagnosis is deferred for more than three (3) visits.

(2) The department shall not cover a service for an individual with the diagnosis of a speech disturbance that is not symptomatic of a psychiatric illness.

(3) The department shall not cover a group therapy service to an individual in a group larger than twelve (12) persons. Group therapy shall not include:

(a) Physical exercise;

(b) Recreational activities;

(c) General academic or vocational education activities; or

(d) Social activities.

(4) The department shall not cover individual or group therapy services in excess of three (3) hours per day per individual.

(5) The department shall not cover personal care home services provided by a mental health associate.

(6) Unless the mental health associate meets the qualification requirements of another category of licensure or certification described in Section 1 of this administrative regulation, a service provided pursuant to Section 3(2) of this administrative regulation by a mental health associate shall not be covered after June 30, 2003.

(7) The department shall not cover substance abuse services that are not provided in accordance with 907 KAR 3:110E.

(8) If an ARNP, physician or psychiatrist perform the same service on the same day to an individual, only one (1) of the services shall be covered.

(9) Prescription refills shall be limited to five (5) refills per prescription.

Section 5. Noncovered Services. The following services shall not be covered:

(1) Speech therapy;

(2) A service provided to a resident of a nursing facility;

(3) A service to an individual with mental retardation without documentation of a psychiatric diagnosis other than mental retardation;

(4) A psychiatric evaluation or psychological testing that does not result in an outpatient service pursuant to Section 3(2) of this administrative regulation;

(5) A collateral service pursuant to Section 3(2)(c)4 of this administrative regulation on behalf of an individual over twenty-one (21) years of age;

(6) A collateral service with a case manager employed by the CMHC;

(7) A telephone call or contact;

(8) Travel time;

(9) A field trip or other off-site activity;

(10) A recreational, social or physical exercise activity in an individual or group setting; or

(11) A general academic or vocational educational service.

Section 6. Medical Records. (1) A provider shall meet the requirements established in 902 KAR 20:091, Section 3(4).

(2) A medical record shall be:

(a) Furnished to the cabinet upon request and made available for inspection and copying by cabinet personnel; and

(b) Released in accordance with KRS 194A.060, 434.840 through 434.860, 422.317, and 42 CFR 431 Subpart F.

(3) Services delivered in accordance with this administrative regulation shall be documented in a medical record maintained for each individual and shall include the following:

(a) A dated identification sheet that shall be completed and documented in an individual's record within one (1) working day of his visit that includes the following:

1. An individual's name, address and telephone number;

2. Emergency contact person;

3. Referral source;

4. Health insurance carrier's or other responsible party's name and address;

5. Social Security number;

6. Age, sex, and race;

7. The reason the individual presents for services; and

8. Personal physician's name, address and telephone number;

(b) A signed consent for treatment form;

(c) Written approval from a parent or other person in position of custodial control or supervision of an individual receiving a collateral service in accordance with Section 3(2)(c)4 of this administrative regulation;

(d) Screening information. The screening interview information including the psychosocial history;

(e) A treatment plan. A treatment plan for a service provided pursuant to Section 3(1) and (2) of this administrative regulation shall be documented in the individual's CMHC medical record;

(f) Medical history and examinations. A medical history, physical examination including a mental status evaluation, and treatment rendered shall be documented. If a psychiatric hospital discharge summary has been completed for an individual within ninety (90) days, that summary may be used;

(g) Evaluations. Psychiatric, psychological and other evaluations shall be administered in accordance with generally accepted professional practices;

(h) Staff notes:

1. Services shall be individually documented within one (1) working day of provision of the service; however, a weekly summary note may be used to document therapeutic rehabilitation program services if daily attendance records are maintained.

2. An individual's progress towards meeting the objectives of a treatment plan shall be documented and the individual's symptoms, behavior, reaction to treatment, the intervention, changes in the treatment plan, if applicable, and the need for continued treatment shall be described.

3. If the service is provided in a group setting, a summary of the session's activities may be copied and placed in each group member's record if an individualized note describing an individual's participation, reaction and progress is added. A progress note shall not include the name of any other group member.

4. Documentation shall be recorded and signed by the person providing the service and shall document the start and end time of that service. Initials and typed or stamped signatures are not acceptable.

5. If an outpatient service is provided and documented by a mental health associate, the documentation shall be cosigned by the person who provides clinical supervision in accordance with Section 3(2)(b)3 of this administrative regulation;

(i) Medications. A medication used in treatment shall be recorded in a staff note and on a medication form if administered by the CMHC staff. A copy of the prescription shall be filed in the individual's medical record;



(j) Diagnosis or clinical impression. Diagnosis or clinical impression shall use the terminology of the most recent edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders; and

(k) Discharge summary. Upon discharge, a discharge summary shall be required for an individual seen in excess of three (3) visits and shall include significant findings and events during treatment, including a final evaluation regarding progress of the individual toward goals identified on the treatment plan, final diagnosis or clinical impression, and condition on discharge and disposition. A discharge summary shall be entered in the medical record within ten (10) days following discharge.

Section 7. Quality Improvement. A CMHC shall establish a quality improvement program that:

(1) Is described in a quality improvement plan approved annually by the governing body of the CMHC; and

(2) Continually evaluates the quality, access, continuity of care and health outcomes of services provided in accordance with this administrative regulation.

Section 8. Appeal Rights. (1) An appeal of a negative action taken by the department regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.

(2) An appeal of a negative action taken by the department regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.

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

Section 9. Incorporation by Reference. (1) "The Diagnostic and Statistical Manual of Mental Disorders, fourth edition", DSM IV™, copyright 1994, American Psychiatric Association; published by the American Psychiatric Association, Washington, D.C., is incorporated by reference.

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

(3) Therapeutic rehabilitation services;

(4) Emergency services; and

(5) Personal care home services.

Section 4. The provisions of this administrative regulation shall be applicable for services provided on or after July 1, 1993.]

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 5, 2000

FILED WITH LRC: May 5, 2000 at 11 a.m.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: There are currently 14 regional programs for mental health in Kentucky which could provide mental health services and receive reimbursement from Medicaid.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: No additional funds required.

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

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

(b) Kentucky: A public hearing for the opportunity to provide comments will be held upon the publication of 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: Increased access to mental health 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: Those individuals who pose a risk to self or others may not receive services in a timely manner.

(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.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Will not affect local government.

3. State the aspect or service of local government to which this administrative regulation relates. None

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: None

**STATEMENT OF EMERGENCY**  
**907 KAR 3:066E**

This administrative regulation is being promulgated as an emergency since 907 KAR 3:065 was found deficient by the Interim Health and Welfare Committee and will expire upon "sine die" of the 2000 General Assembly, on April 12, 2000. Medicaid Services cannot revert to the previous methodology because it no longer contracts with the Department for Community Based Services. It is in the Commonwealth's best interest to coordinate all state government agency transportation services and to delegate the oversight for the entire human service transportation program to the Transportation Cabinet. Transportation possesses the statutory authority to regulate the safety and inspections of motor vehicles used to provide transportation services on the Commonwealth's behalf. It is vitally important that persons eligible to participate in public aid programs be able to reach their required destinations and in a safe manner. The Commonwealth must act immediately to establish mechanisms to provide adequate and safe transportation to its needy citizens. An ordinary administrative regulation will be insufficient since adequate and safe transportation programs must be introduced prior to April 12, 2000. The Cabinet for Health Services must establish a mechanism to fund the transportation services for the Transportation Cabinet. Delaying the program's implementation until an ordinary administrative regulation could be adopted would deprive some of the Commonwealth's residents of the safe and adequate transportation to which they are entitled. 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 Administration and Development**

**907 KAR 3:066E. Nonemergency medical transportation waiver services and payments.**

RELATES TO: KRS 96A.010, 96A.095, 96A.170, 194A.025, 194A.030, 205.520, 281.013, 281.014, 281.605, 281.635, 42 CFR 431.53, 440.710, 42 USC 1396n(b)

STATUTORY AUTHORITY: KRS 194A.050, 195.020, HB 488

EFFECTIVE: April 17, 2000

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. KRS 205.520 authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes the coverage and payment requirements for nonemergency medical transportation services, excluding ambulance stretcher services, provided pursuant to

42 USC 1396n(b) and approved by the Health Care Financing Administration to waive Medicaid requirements related to nonemergency medical transportation of Medicaid requirements.

Section 1. Definitions. (1) "Capitated rate" means one (1) amount paid each month for each Medicaid recipient covered under authority of the waiver. The capitated rate shall not be a statewide rate but shall be set individually for each human service transportation delivery region as established in 603 KAR 7:080.

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

(3) "Human service transportation" means provision of mass transportation and taxi services to transport an individual who is eligible to receive Medicaid services.

(4) "Nonemergency medical transportation" means medical transportation not of an emergency nature, excluding ambulance stretcher services, provided to a Medicaid recipient by the Transportation Cabinet pursuant to an agreement between the Transportation Cabinet and the department.

(5) "Waiver authority" means the provisions contained in 42 USC 1396n(b).

Section 2. Interagency Agreement. Pursuant to waiver authority granted by the Health Care Financing Administration, U.S. Department for Health and Human Services, the Department for Medicaid Services may enter into an agreement with the Transportation Cabinet for the provision of nonemergency medical transportation to a Medicaid recipient.

Section 3. Coverage. (1) The coverage provisions established in 603 KAR 7:080 shall comply with this administrative regulation.

(2) A Medicaid-eligible recipient may receive nonemergency medical transportation services if the recipient meets the following conditions:

(a) The recipient shall be traveling to or from a Medicaid-covered service, exclusive of pharmaceutical services;

(b) The service shall be determined to be of medical necessity; and

(c) Free transportation which is appropriate for the recipient's medical needs is not available or use of an appropriate and operational household vehicle is not available.

Section 4. Reimbursement. (1) The Transportation Cabinet shall be reimbursed at a monthly capitated rate set by the department for each Medicaid recipient receiving services pursuant to this administrative regulation.

(2) The capitated rate shall not exceed the Medicaid Program's usual aggregate cost on a projected statewide basis of providing nonemergency medical transportation services to the covered group of recipients.

Section 5. Appeal Rights. (1) An appeal of a negative action regarding a Medicaid recipient shall be in accordance with 907 KAR 1:563;

(2) An appeal of a negative action regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560; or

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

Section 6. Implementation. The provisions of this administrative regulation shall be applicable for nonemergency transportation waiver services provided in accordance with KRS Chapter 45A and Section 2 of this administrative regulation on or after April 12, 2000.

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: April 3, 2000

FILED WITH LRC: April 17, 2000 at noon

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon Rodriguez or Karen Doyle

(1) Type and number of entities affected: All Medicaid recipients and all nonemergency medical transportation providers participating in the Medicaid 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 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 comments received: To be determined after the publication of the Notice of Intent.

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

1. First year following implementation: The regional transportation broker/provider may be required to collect encounter data and provide it to the department for all services provided.

2. Second and subsequent years: The department shall be responsible for obtaining an independent assessment of the cost effectiveness of the waiver and its impact on recipient access.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year costs or savings: \$1,666,600 (savings)

2. Continuing costs or savings: \$1,666,600 (savings)

3. Additional factors increasing or decreasing costs: None

4. Cost to the department will decrease because the payment is capitated at less than the prior fee-for-service expenditures.

(b) Reporting and paperwork requirements: An independent study to demonstrate that the provision of nonemergency transportation services are not negatively affected by the waiver is required by the Health Care Financing Administration.

(4) Assessment of anticipated effect on state and local revenues: To be determined after the publication of the Notice of Intent.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Savings realized from implementation of this administrative regulation are federal and state matching funds. Federal matching funds of 70.55% equaling \$1,175,800 and state matching funds of 29.45% equaling \$490,800 will be saved in Medicaid benefits.

(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: Provisions were approved in the HCFA waiver.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This regulation will provide improved access to and safety of nonemergency medical transportation by allowing management of the service provision by a regional transportation broker/provider who is familiar with the needs of the local population.

(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: Not implementing this program will deprive Medicaid recipients of increased access to nonemergency medical transportation and assurance of safe transportation vehicles with trained drivers.

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: This regulation is being promulgated as an emergency since 907 KAR 3:065 was found deficient by the Interim Health and Welfare Committee and

will die with the 2000 General Assembly on April 12, 2000. Medicaid Services cannot revert to the previous nonemergency medical transportation methodology because it no longer contracts with the Department for Community Based Services.

(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.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY  
AND REVIEWING LEGISLATIVE SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee

KENTUCKY BOARD OF PHARMACY  
(As Amended at ARRS, May 9, 2000)

201 KAR 2:045. Technicians.

RELATES TO: KRS 315.010(18), (25), 315.020(4)(b), 315.191(1)(a), (g), (l)

STATUTORY AUTHORITY: KRS 315.010(18), (25), 315.020(4)(b), 315.191(1)(a), (g), (l)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations governing pharmacy technicians. KRS 315.010(18) authorizes the board to permit a pharmacy technician to work under the general supervision of a pharmacist. KRS 315.191(1)(l) authorizes the board to promulgate administrative regulations establishing the qualifications a pharmacy technician is required to obtain [attain] prior to practicing under the general supervision of a pharmacist. This administrative regulation establishes the qualifications required for a pharmacy technician to practice under the general supervision of a pharmacist, and establishes the scope of practice for a pharmacy technician.

Section 1. A person shall be recognized by the board as a certified pharmacy technician, if:

(1)(a) He has successfully completed the National Certification Examination administered by the Pharmacy Technician Certification Board; and

(b) [(2)] The certificate issued by the Pharmacy Technician Certification Board is current; or

(2) [(3)] He has successfully completed the Nuclear Pharmacy Technician Training Program at the University of Tennessee.

Section 2. A certified pharmacy technician, subject to the supervision, as defined by KRS 315.010(25), of a pharmacist may perform the following functions:

(1) Certify for delivery unit dose mobile transport systems that have been refilled by another technician;

(2) Within a nuclear pharmacy, receive diagnostic orders; and

(3)(a) Initiate or receive a telephonic communication from a practitioner or practitioner's agent concerning refill authorization, after he clearly identifies himself as a certified pharmacy technician;

(b) If a practitioner or practitioner's agent communicates information that does not relate to the refill authorization:

1. A technician shall immediately inform the pharmacist; and

2. The pharmacist shall receive the communication.

Section 3. (1) A technician who has not been certified by the Pharmacy Technician Certification Board may perform the functions specified by Section 2 of this administrative regulation under the immediate supervision of a pharmacist.

(2) A function performed by a certified pharmacy technician or pharmacy technician shall be performed subject to the review of the pharmacist who directed the technician to perform the function.

(3) A pharmacist who directs a certified pharmacy technician or pharmacy technician to perform a function shall be responsible for the technician and the performance of the function.

DAVID L. JAQUITH, President

CHERYL LALONDE-MOONEY, JD, Assistant Attorney General

APPROVED BY AGENCY: December 15, 1999

FILED WITH LRC: February 14, 2000 at 3 p.m.

KENTUCKY BOARD OF PHARMACY  
(As Amended at ARRS, May 9, 2000)

201 KAR 2:230. Special limited pharmacy - central refill pharmacy.

RELATES TO: KRS [247-045(5)(a);] 315.010(9), 315.020, 315.035, 315.191(1)(a)

STATUTORY AUTHORITY: KRS 315.020, 315.035, 315.191(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.020 requires that prescription drugs, medicines, and pharmaceuticals be dispensed or manufactured by a licensed pharmacist. KRS 315.035 requires that all pharmacies hold a permit issued by the board. This administrative regulation establishes, consistent with the requirements of KRS 315.191(1)(a), minimum requirements for the permitting of those pharmacies that package, label and distribute refill prescriptions to pharmacies in the Commonwealth.

Section 1. Definition. [A] "Central refill pharmacy" means a pharmacy located in the Commonwealth that provides packaging, labeling and delivery of a refill prescription product to another pharmacy in the Commonwealth for the purpose of the refilling of a valid prescription.

Section 2. The central refill pharmacy shall [must]:

(1) Either:

(a) Have a written contract with the pharmacy which has custody of the original prescription authorization for refill dispensing; or

(b) Be under common ownership with that pharmacy;

(2) Prepare the label for the refill prescription product which clearly identifies the name and address of the pharmacy preparing the product for refill dispensing and the name and address of the pharmacy that will receive the prepared product for dispensing to the patient;

(3) In addition to its obligation to maintain complete and accurate records of drug products received and otherwise disposed of, maintain complete and accurate records of the preparation of the refilled prescription product, including the name of the:

(a) ~~[The name of the]~~ Pharmacist who verified the accuracy of the refilled prescription product;

(b) ~~[The name of the]~~ Pharmacy preparing the refilled prescription product; and

(c) ~~[The name of the]~~ Pharmacy to which the prepared refill prescription product is delivered;

(4) Provide the originating pharmacy with written information that describes how a patient may contact the central refill pharmacy if the patient has any questions about the preparation of the prescription refill; and

(5) Be responsible for ensuring that the order has been properly prepared and verified by a pharmacist.

Section 3. The pharmacy to which a prepared prescription refill product is delivered shall [must]:

(1) In addition to its obligation to maintain complete and accurate records of drug products received and otherwise disposed of, maintain complete and accurate records of the receipt and dispensing of the centrally refilled prescription product, including the name of the:

(a) ~~[The name of the]~~ Pharmacist who verified the accuracy of the refilled prescription product prior to its dispensing; and

(b) ~~[The name of the]~~ Pharmacy preparing the refilled prescription product;

(2) Be responsible for ensuring that the refill has been properly prepared, packaged and labeled;

(3) Provide the patient with written information that described how a patient may contact either;

- (a) The central refill pharmacy if the patient has any questions about the preparation of the prescription refill; or
- (b) the dispensing pharmacy if the patient has any questions about the use of the medication; and
- (4) Be responsible for adherence to the requirements of 201 KAR 2:210.

DAVID L. JAQUITH, President  
 CHERYL LALONDE-MOONEY, JD, Assistant Attorney General  
 APPROVED BY AGENCY: December 15, 1999  
 FILED WITH LRC: February 14, 2000 at 3 p.m.

**JUSTICE CABINET**  
**Department of Juvenile Justice**  
**(As Amended at ARRS, May 9, 2000)**

**505 KAR 1:090. Supervised placement revocation.**

RELATES TO: KRS 605.090, 635.100

STATUTORY AUTHORITY: KRS 605.150, **635.095**, 635.100(6)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 635.090**

**and 635.100(6) authorize the Department of Juvenile Justice to promulgate administrative regulations relating to juveniles committed to the department and placed on supervised placement. This administrative regulation establishes the procedures for revocation of supervised placement.** [KRS 605.090 permits the Department of Juvenile Justice to place a juvenile committed to the department in a home in the community upon such terms and conditions and under such supervision as the department deems necessary. If the juvenile violates the terms of the placement, KRS 605.090 permits the department to change the juvenile's placement, and KRS 635.100 permits the department to order that the juvenile be taken into custody and conduct a hearing to determine whether conditions of placement have been violated. If the supervised placement has been violated, the department may revoke the supervised placement, remove the juvenile from the home and place the juvenile in a different treatment setting. This administrative regulation sets forth the process for revocation of supervised placement.]

Section 1. Definitions. (1) "Commissioner's warrant" means a document issued by the department directing that a juvenile be taken into custody, pursuant to KRS 635.100.

(2) "Safety concern" means behavior that places the juvenile or community at risk for physical injury.

(3) "Supervised placement revocation hearing" means a hearing conducted by a hearing officer to determine if conditions of supervised placement have been violated.

Section 2. Request for Supervised Placement Revocation. (1)(a) **A juvenile that is arrested or charged with commission of a felony offense shall:**

- 1. Be considered a risk to the community; and**
- 2. Have supervised placement revocation initiated by the assigned juvenile services worker.**

**(b) If the juvenile services worker knows of extenuating circumstances related to the juvenile's behavior or the offense, they may request through the chain of command that the juvenile services regional manager authorize the noninitiation of revocation proceedings.** [A juvenile that has been arrested or charged with the commission of a felony offense shall be considered a risk to the community and shall have supervised placement revocation initiated by the assigned juvenile services worker. If there are extenuating circumstances related to the juvenile's behavior or the offense that the juvenile services worker feels makes initiation of supervised placement revocation unnecessary, the juvenile services worker may request, through the chain of command, that the juvenile services regional manager authorize that the revocation not be initiated.]

(2) In the case of a youth requiring immediate placement as a result of safety concern:

(a) The juvenile services worker shall prepare and forward a supervised placement violation report and a written statement sup-

porting the request for the issuance of a commissioner's warrant to his juvenile services district supervisor.

(b) If in agreement with the juvenile services worker's assessment, the juvenile services district supervisor shall forward the request to the juvenile services regional manager who, if in agreement, shall issue a commissioner's warrant and shall forward the request to the Division of Program Services.

(c) The juvenile services worker shall immediately notify the Division of Program Services when the commissioner's warrant is executed and forward a copy of the executed document to the Division of Program Services.

(d) The Director of the Division of Program Services, or designee, shall, upon receipt of a request for immediate placement, contact the Centralized Intake/Classification Branch Manager and inform her of the pending action and, upon notice that the juvenile has been taken into custody, shall:

1. Schedule a probable cause hearing within five (5) days, excluding weekend and holidays, of the youth being taken into custody, unless a continuance is requested by the juvenile or his attorney;

2. In writing, notify the juvenile, his parents or other person exercising custodial control of the specific conditions of supervised placement allegedly violated and forward a copy of the notification letter to appropriate department personnel;

3. Notify the juvenile, his parents or other person exercising custodial control of his right to be represented by counsel;

4. Forward a copy of the notification letter to the last attorney of record, counsel for the juvenile, or the Department of Public Advocacy, as appropriate;

5. Notify the juvenile, his parents or other person exercising custodial control, attorney and the juvenile services worker, of the time and location of the hearing; and

6. Conduct the hearing.

(e) The juvenile services worker, or current custodian of the juvenile, shall ensure that a copy of the notification letter signed by the juvenile is returned to the Division of Program Services.

(f) The juvenile services worker or the juvenile services district supervisor shall be responsible for presenting the case against the juvenile at the probable cause hearing. If the evidence presented includes documents, a copy of each document shall be given to the hearing officer for inclusion in the record and to the juvenile or his attorney.

(g) The probable cause hearing shall:

1. Be limited to a determination as to whether there is probable cause to believe that the juvenile violated any **terms** [term(s)] of the conditions of supervised placement, which may be proven by hearsay evidence, and whether there is a safety concern;

2. Have attendance limited to the juvenile, parents or other person exercising custodial control, legal counsel, department personnel, and witnesses as necessary;

3. Be conducted informally; and

4. Be mechanically recorded by the hearing officer.

(h) At the probable cause hearing, the juvenile shall have a right to:

1. Testify or refuse to testify in his own behalf;

2. Examine and cross-examine witnesses; and

3. Present evidence negating the determination of probable cause.

(i) At the conclusion of the probable cause hearing, the hearing officer shall:

1. Summarize the allegations and evidence presented and issue a decision determining whether there is probable cause to believe the juvenile has violated a **condition** [condition(s)] of supervised placement;

2. If probable cause is found, determine whether there is probable cause to believe a safety concern exists that requires that the juvenile remain in custody; and

3. If probable cause has been established, provide immediate notice to the juvenile services regional manager, or designee, and the Division of Program Services.

(j) Upon receipt of notice that probable cause has been established, the Director of the Division of Program Services shall assign a hearing officer to conduct the revocation hearing.

(k) If probable cause is not established, the juvenile shall be

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immediately released from custody and the juvenile services worker shall make arrangements for the juvenile to continue on supervised placement.

(l) If probable cause is established but a safety concern is not present, the juvenile shall be released from custody and the proceeding shall continue pursuant to Section (3) of this section.

(3) In the case of a juvenile not requiring immediate placement as a result of safety concerns:

(a) The juvenile services worker shall prepare and forward a supervised placement violation report and revocation hearing request to the juvenile services district supervisor.

(b) If in agreement with the juvenile services worker's assessment, the juvenile services district supervisor shall forward the request to the juvenile services regional manager who, if in agreement, shall forward the request to the Director of the Division of Program Services, or designee. An out-of-home placement packet shall be forwarded by the Court/Placement Specialist to the Centralized Intake/Classification Branch.

(c) The Director of the Division of Program Services shall assign a hearing officer to conduct the revocation hearing.

Section 3. Revocation Hearing. (1) The revocation hearing shall:

(a) For a juvenile in custody on a commissioner's warrant, be held within ten (10) days, excluding weekends and holidays, of the probable cause hearing, unless a continuance is requested by the juvenile or his attorney; and

(b) Be conducted by the assigned hearing officer.

(2) The hearing officer for the supervised placement revocation hearing shall:

(a) Notify the juvenile and his parents or other person exercising custodial control of the specific conditions of supervised placement allegedly violated and their right to be represented by counsel;

(b) Notify the juvenile, his parents or other person exercising custodial control, legal counsel, and department staff of the time and location of the hearing;

(c) Notify department staff that they shall, upon written request, provide copies of all revocation documents to the juvenile's attorney within five (5) working days of receipt of the request;

(d) Conduct the revocation hearing;

(e) Open the hearing by reading the terms [term(s)] of supervised placement allegedly violated, which shall set the parameters of the hearing;

(f) Administer the oath and take testimony from witnesses;

(g) Allow all parties to establish pertinent facts and circumstances relative to the allegations, bring witnesses, present evidence and question or refute any testimony or evidence presented, including the opportunity to cross-examine witnesses;

(h) Mechanically record the hearing;

(i) Based on a preponderance of the evidence presented at the hearing, determine whether the juvenile violated one (1) or more terms of his supervised placement; and

(j) Submit written findings of fact and a recommendation regarding revocation to the regional division director and the juvenile's attorney within three (3) working days of the conclusion of the hearing.

(3) The juvenile services worker or the juvenile services district supervisor who requested the hearing shall be responsible for presenting the department's case at the hearing. The juvenile services worker shall provide copies of documentation supporting the revocation request for entry into the record as evidence and shall be prepared to offer a recommendation as to appropriate treatment or sanctions. If the juvenile services worker plans to call witnesses to testify, it shall be the worker's responsibility to have the witnesses present for the hearing.

(4) If the hearing officer has determined that a violation has occurred, the regional division director, or designee, shall make the final decision regarding the results of the revocation hearing. Options may include ~~[-, but not be limited to,]~~ the following:

(a) If the hearing officer determined that a condition of supervised placement has been violated and revocation is warranted, a decision may be made for out-of-home placement.

(b) If the hearing officer determined that a condition of supervised placement has been violated, the division director may determine that revocation is not warranted and permit the juvenile to re-

main in the community on supervised placement. If the juvenile remains in the community, the juvenile services worker shall prepare revised conditions of supervised placement, with increased sanctions, within five (5) calendar days from the receipt of the revocation hearing decision. Failure by the juvenile to abide by the revised conditions may result in a request for supervised placement revocation.

(5) If the hearing officer has determined that the juvenile did not violate a condition of supervised placement, the juvenile shall remain on supervised placement.

(6) The regional division director, or designee, shall cause a decision letter to be sent by certified mail, return receipt requested, to the juvenile, the parents or other person exercising custodial control, and the juvenile's attorney within five (5) working days of receipt of the hearing officer's findings of facts. The decision letter shall be copied to appropriate department staff. The decision letter shall contain:

(a) Specific conditions [condition(s)] of supervised placement violated;

(b) Evidence relied upon in making the final decision; and

(c) The final decision.

(7) If supervised placement is revoked, the juvenile shall be advised that a decision concerning treatment and placement shall be rendered by the Centralized Intake/Classification Branch Manager.

(8) A juvenile who has remained in custody during the revocation process shall be placed, to the extent possible, within ten (10) days, excluding weekends and holidays, following the final decision to revoke.

Section 4. Appeal. A juvenile aggrieved by the decision of the regional division director may, within ten (10) days, submit a written request for reconsideration to the Commissioner of the Department of Juvenile Justice. The request shall provide justification for the requested reversal and shall be no longer than two (2) written pages. The commissioner, or his designee, shall, within five (5) days, issue a final decision ~~[-, which shall not be appealable on the merits].~~

RALPH E. KELLY, Ed.D., Commissioner

MICHAEL KEITH HORN, Office of General Counsel

APPROVED BY AGENCY: March 10, 2000

FILED WITH LRC: March 13, 2000 at 10 a.m.

**WORKFORCE DEVELOPMENT CABINET**  
**Department for Employment Services**  
**Division of Unemployment Insurance**  
**(As Amended at ARRS, May 9, 2000)**

**787 KAR 1:010. Application for employer account; reports.**

RELATES TO: KRS 341.190

STATUTORY AUTHORITY: KRS 151B.020, 341.115

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.190 requires each employing unit to keep specified work records and authorizes the secretary to require additional reports. This administrative regulation establishes the application requirements ~~[requires each employing unit to make application]~~ for an employer account and the requirements for ~~[to make]~~ other additional reports ~~[as]~~ required by the division.

Section 1. Each employing unit having in the state in covered employment one (1) or more workers shall complete and file with ~~[request from]~~ the Division of Unemployment Insurance an "Application for Unemployment Insurance Employer Reserve Account" UI-1 (Rev. 6/91) ~~[-, incorporated by reference herein, and shall submit this form to the division providing all information requested in the instructions to this form].~~

Section 2. Each employing unit shall complete and file with the Division of Unemployment Insurance the following reports [make additional reports] as required [on the forms prescribed by the division] in accordance with the instructions contained on the forms:

- (1) [- These forms include] UI-1S, "Supplemental Application for Unemployment Insurance Employer Reserve Account (Rev. 1/93)";
  - (2) UI-3, "Employer's Quarterly Unemployment Wage and Tax Report (Rev. 5/99 [7/99])";
  - (3) UI-3E, "Employer's Quarterly Unemployment Wage and Tax Report (EFT version) (Rev. 5/99)";
  - (4) [4/94, UI-3R, "Reimbursing Employer's Quarterly Unemployment Wage Report (Rev. 4/94), UI-3S Employer's Quarterly Unemployment Wage and Tax Substitute Report (Rev. 8/93), UI-3X Employer's Quarterly Unemployment Wage and Tax Report (yellow express envelope) (Rev. 4/94), UI-3.1A Summary Contribution Report (Rev. 10/92);] UI-3.2, "Request to Place Subject Employer's Account in Inactive Status (Rev. 1/90)";
  - (5) [UI-14B Employer Schedule of Wage Report Adjustments (Rev. 1/90);] UI-21, "Report of Change in [of] Ownership or Discontinuance of Business in Whole or Part (Rev. 10/93)";
  - (6) UI-47, "Claim for Refund of Contributions (Rev. 8/93)";
  - (7) UI-74, "Application for Partial Payment Agreement (Rev. 4/88)";
  - (8) UI-412A, "Notice to Employer of Claim for Unemployment Insurance Benefits (Rev. 9/92)"; and
  - (9) UI-203, "Overpayment and Fraud Detection (Rev. 4/96)".
- [9/94, UI-414 or UI-414A Report of Hire or Return to Work (Rev. 1/95) and are incorporated by reference the same as if reproduced in full herein. These forms are on file for public inspection in the Office of the Commissioner for Employment Services, 275 E. Main Street, 2W, Frankfort, Kentucky 40621.]

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) UI-1, "Application for Unemployment Insurance Employer Reserve Account (Rev. 6/91)";
  - (b) UI-1S, "Supplemental Application for Unemployment Insurance Employer Reserve Account (Rev. 1/93)";
  - (c) UI-3, "Employer's Quarterly Unemployment Wage and Tax Report (Rev. 5/99 [7/99])";
  - (d) UI-3E, "Employer's Quarterly Unemployment Wage and Tax Report (EFT version) (Rev. 5/99)";
  - (e) [UI-3R, "Reimbursing Employer's Quarterly Unemployment Wage and Tax Report (Rev. 4/88)";
  - (f) UI-3S, "Employer's Quarterly Unemployment Wage and Tax Substitute Report (Rev. 8/93)";
  - (g) UI-3X, "Employer's Quarterly Unemployment Wage and Tax Report (Rev. 4/94)";
  - (h) UI-3.1A, "Summary Contribution Report (Rev. 10/92)";
  - (i) UI-3.2, "Request to Place Subject Employer's Account in Inactive Status (Rev. 1/90)";
  - (j) UI-14B, "Employer Schedule of Wage Report Adjustments (Rev. 1/90)";
  - (k) UI-21, "Report of Change in [of] Ownership or Discontinuance of Business in Whole or Part (Rev. 10/93)";
  - (l) UI-47, "Claim for Refund of Contributions (Rev. 8/93)";
  - (m) UI-74, "Application for Partial Payment Agreement (Rev. 4/88)";
  - (n) UI-203, "Overpayment and Fraud Detection (Rev. 4/96)"; and
  - (o) UI-412A, "Notice to Employer of Claim for Unemployment Insurance Benefits (Rev. 9/92)";
  - (p) UI-414, "Report of New Hire (or Refusal of Job Offer) (Rev. 1/95)"; and
  - (q) UI-414A "Report of New Hire (Rev. 1/95)".
- (2) This material may be inspected, copied, or obtained at the Office of the Commissioner for Employment Services, 275 E. Main Street, 2W, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

MARGARET WHITTET, Commissioner  
 SHERRY DEATRICK, General Counsel  
 APPROVED BY AGENCY: February 28, 2000  
 FILED WITH LRC: April 14, 2000 at 9 a.m.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Mines and Minerals**  
**Division of Training, Education and Certification**  
**(As Amended at ARRS, May 9, 2000)**

**805 KAR 7:030. Annual retraining.**

RELATES TO: KRS 351.106 [351+105]

STATUTORY AUTHORITY: KRS 351.105, 351.106

NECESSITY, FUNCTION, AND CONFORMITY: KRS [351+102 and] 351.106 requires [require] the Department of Mines and Minerals to establish an annual miner retraining program according to the criteria and standards determined by the Mining Board. This administrative regulation establishes the requirements and terms of the annual retraining program.

Section 1. (1) A certified underground miner shall receive a minimum of sixteen (16) hours of annual retraining. At least eight (8) hours of the annual retraining shall be:

- (a) Administered in a classroom;
- (b) Conducted by a Kentucky certified underground mining instructor and the amount of training documented on the training form defined in Section 1(3) of this administrative regulation and embossed with the instructor's seal;
- (2) The balance of the [such] annual retraining shall [may] be administered in segments of not less than fifteen (15) minutes. Training administered in this manner shall be provided by, or under the direct supervision of, a Kentucky certified underground mining instructor or a Kentucky certified mine foreman. A person who receives annual retraining in this manner shall be notified that each segment is being administered in satisfaction of the annual retraining requirement, and a record of each segment, including dates, duration, subject and attendees, shall be maintained at the mine site until the training form, Mine Safety and Health Administration Form 5000-23, described [as defined] in Section 1(3) of this administrative regulation can be completed.

(3) Documentation of completed training shall [or Kentucky-certified mine foreman; and

- (e) Documented and include the following information:
- (a) [1:] Full name of person trained;
- (b) [2:] Miner identification number;
- (c) [3:] Type of mining operation;
- (d) [4:] Type of training received;
- (e) [5:] Date training completed;
- (f) [6:] Subjects taught in that training;
- (g) [7:] Signature of instructor;
- (h) [8:] Signature of miner; and
- (i) [9:] Date of signatures. After completion of his training, or upon the miner leaving employment with the licensee, the miner shall receive a copy of all of his [the] training records [form and be notified that each segment is administered in satisfaction of the annual retraining requirement].

(4) [(2)] The annual retraining courses shall include the following subjects:

- (a) Transportation controls and communications systems;
- (b) Barricading;
- (c) Roof control and ventilation plans;
- (d) First aid;
- (e) Electrical hazards and moving equipment;
- (f) Accident prevention;
- (g) Self-rescue devices;
- (h) Explosives;
- (i) Health and safety standards; and
- (j) Statutory rights of miners and their representatives.

Section 2. A person employed as a miner shall complete annual retraining within twelve (12) months from the end of the month of his most recent completed annual retraining requirement. A certified miner who has had a break in employment as an underground miner shall be eligible to work if he has successfully completed the annual retraining requirements within the last twelve (12) months.



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Section 3. The licensee shall maintain verification of all miner training and certification at the mine premises.

(1) The documentation shall include:

- (a) The dates the annual training sessions were conducted;
- (b) The name of the miner; and
- (c) The miner identification number.

(2) Licensees shall maintain documentation of the miners who are no longer employed by the licensee on the mine premises until the requirements of KRS 351.106(8) are met.

**Section 4. Incorporation by Reference. (1) The Mine Safety and Health Administration Form 5000-23, revised October 1983, is incorporated by reference.**

**(2) This material may be inspected, copied, or obtained at the Kentucky Department for Mines and Minerals, P.O. Box 2244, Frankfort, Kentucky 40602-2244, Monday through Friday, 8 a.m. to 4:30 p.m.**

JOHN L. FRANKLIN, Commissioner

RONALD B. MCCLOUD, Secretary

STEPHAN L. TAYLOR, General Counsel

APPROVED BY AGENCY: February 7, 2000

FILED WITH LRC: February 14, 2000 at 10 a.m.

**CABINET FOR HEALTH SERVICES  
Department for Medicaid Services  
Division of Long Term Care  
(As Amended at ARRS, May 9, 2000)**

### 907 KAR 1:070. Homecare Waiver Services.

RELATES TO: 42 CFR 441 Subpart G, Subpart B, 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 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) "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.**

**(8) "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) "PRO" means a peer review organization which is under contract with the department.

(10) "Provider" is defined in [means an entity pursuant to] KRS 205.8451(7).

(11) "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 Medicaid Assistance Program **established in 907 KAR 1:011.**

(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 developmental disabilities; 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:

(a) At twelve (12) month intervals;

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

(c) When an individual reapplies for the Homecare Waiver Services Program pursuant to Section 3(4)(a) or (c) of this administrative regulation.

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.

(4) A service pursuant to subsection (1) of this section shall be:

(a) Terminated if an individual leaves the Homecare Waiver Services Program;

(b) Suspended if an individual receives a temporary discharge from the Homecare Waiver Services Program pursuant to Section 2(2)(a) of this administrative regulation for not more than sixty (60) consecutive days; or

(c) Resumed if an individual, pursuant to paragraph (b) of this subsection, returns to the Homecare Waiver Services Program within sixty (60) days.

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; **and**

(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 **Cabinet** 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; **and**

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; **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 (f) 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; **and**

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. Its program monitoring procedures; **[and]**

3. Its case-management plan, including:

a. Implementation;

b. Short-term goals; and

c. Long-term goals; **and**

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. **a.** At the initial contact with a case manager; **and**

**b.(i)** [2:] Every twelve (12) months thereafter;

**(ii)** [3:] More frequently if an individual's condition or needs change; or

**(iii)** [4:] When an individual requests readmission to the Home-care Waiver Services Program;

2. [5:] 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 10-H "Kentucky Medicaid Program Home and Community Based Services Waiver"; **and**

e. MAP-24 [(January, 2000 Revision)] Department for Community Based Services form; and

3. [6:] 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; **and**

(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)(a)4 of this administrative regulation.

(2) If the PRO determines that an applicant meets nursing facility level of care requirements, the PRO shall: ~~[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 the [a] case manager.

(3) Upon receipt of the PRO's written confirmation, the [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; and

(f) A MAP-24 if services resume pursuant to Section 3(4)(c) of this administrative regulation.

(4) Upon receipt of the items listed in subsection (3) of this section ~~[Section 6(3)(a) through (f)]~~, the PRO shall generate a document approving or denying the [an] applicant for each home-care waiver service requested.

(5) The department shall ensure ~~[ensures]~~ that this document is forwarded to:

- (a) Each homecare waiver service provider; and
  - (b) The applicant.
- (6) If the PRO determines that the [an] applicant does not meet nursing facility level of care requirements, the PRO shall:
- (a) Verbally notify the [a] case manager of its determination; and
  - (b) Send written notification of its decision to:
    - 1. The [A] case manager;
    - 2. The Department for Community Based Services; and
    - 3. The applicant, whose 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, one (1) or more [a] professional specialists [specialist], who shall be:

- a. A nurse;
- b. A social worker;
- c. A home economist;
- d. A nutritionist or dietitian; and
- e. 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. Shall 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
  - (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 shall 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(6) and ~~(8) [(7)]~~ 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; and
- (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:

- (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 [from] MAP 350, ~~[and]~~
- (2) An eligible individual or his legal representative shall select participating Homecare 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 Homecare 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, Homecare 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;
- ~~(d) [(e)]~~ DSS 891-1,2, The Plan of Care, July 1996 Revision; ~~[and]~~
- ~~(e) [(f)]~~ The State of Kentucky, Aging Services Client Enrollment, January 2000 Revision; and
- ~~(f) [(g)]~~ MAP-24, Department for Community Based Services form, 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: February 23, 2000  
FILED WITH LRC: March 9, 2000 at 1 p.m.

**CABINET FOR HEALTH SERVICES**  
**Department for Medicaid Services**  
**Division of Long Term Care**  
**(As Amended at ARRS, May 9, 2000)**

**907 KAR 1:072. Payments for Homecare Waiver Services.**

RELATES TO: 42 CFR 441 Subpart G, 42 USC 1396 a, 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 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 1:070 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 1:070, 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	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; or
- (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: February 23, 2000  
FILED WITH LRC: March 9, 2000 at 1 p.m.

**CABINET FOR HEALTH SERVICES**  
**Department for Medicaid Services**  
**Division of Long Term Care**  
**(As Amended at ARRS, May 9, 2000)**

**907 KAR 1:090. Personal Care Assistance Waiver Services.**

RELATES TO: 42 CFR 441 Subparts B, 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 provisions of Personal Care Assistance Waiver Services.

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

(2) "Business agent" means an entity nominated by an eligible individual to receive Medicaid payment to:

- (a) Disburse to a personal care assistant; and
- (b) 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) **"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.**

(7) "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.

(8) [(7)] "Personal care program coordination services" means an array of services that assist an eligible individual to become an

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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) "PRO" means a peer review organization which is under contract with the department.

(10) "Provider" **is defined in** ~~[means an entity pursuant to]~~ KRS 205.8451(7).

(11) "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 **established in 907 KAR 1:011**.

(2) An individual shall not be eligible to participate in Personal Care Assistance Waiver Services if he:

(a) Is an inpatient of:

1. A hospital;

2. A nursing facility; or

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

(b) Is a recipient of services in another Medicaid waiver program; or

(c) Requires fewer than fourteen (14) hours of personal care assistance services per week.

(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; or

(c) When an individual reapplies for the Personal Care Assistance Waiver Services Program pursuant to Section 3(3)(a) or (c) of this administrative regulation.

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.

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

(a) Terminated if an individual leaves the Personal Care Assistance Waiver Services Program;

(b) Suspended if an individual receives a temporary discharge from the Personal Care Assistance Waiver Services Program pursuant to Section 2(2)(a) of this administrative regulation for not more than sixty (60) consecutive days; or

(c) Resumed if an individual, pursuant to paragraph (b) of this subsection returns to the Personal Care Assistance Waiver Services Program within sixty (60) days.

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 **Cabinet** 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; **and**

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; **and**

2. The services rendered to an eligible individual; **and**

(h) Attend:

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

2. Staff meetings **to monitor and coordinate services to an eligible individual** 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; **and**
  - 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 **equivalents** [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. **a.** At the initial contact with a case manager; and
    - 2. **b.(i)** [2:] Every twelve (12) months thereafter;
    - 3. **(ii)** [3:] More frequently if an individual's condition or needs change; or
    - 4. **(iii)** [4:] When an individual requests readmission to the Personal Care Assistance Waiver Program;
  - 2. [5:] Using the following forms:
    - a. DSS 891-1,2;
    - b. MAP 350 "Long Term Care Facilities and Home and Commu-

- nity Based Program Certification";
- c. "State of Kentucky Aging Services Client Enrollment";
- d. MAP 10-P "Kentucky Medicaid Program, **Personal Care Assistance Waiver Services** [Home and Community Based Services-Waiver]"; and
- e. MAP-24 "Department of Community Based Services" form; **and**
- 3. [6:] 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 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. [a:] The services provided pursuant to this administrative regulation; and
- 2. [b:] Each contact with the eligible individual or on his behalf;
- (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; **and**
- (p) Assure that each case manager shall attend training as follows:
  - 1. Fourteen (14) hours of case-management orientation training; **and**
  - 2. Four (4) hours of in-service training, pertinent to the job function, quarterly.
- (3) 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 Section 5(2)(h)4 of this administrative regulation.

(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 **to the [a]** case manager;

(3) Upon receipt of the PRO's confirmation notice, **the [a]** case manager shall send the following documentation to the PRO:

- (a) A DSS 891-1,2;
- (b) A MAP 350;
- (c) A MAP **10-P** [10H];
- (d) A "State of Kentucky Aging Services Client Enrollment" form;
- (e) A confirmation notice stating that the applicant meets nursing facility level of care requirements; and
- (f) MAP-24 if services resume pursuant to Section 3(3)(c) of this administrative regulation.

(4) Upon receipt of the items listed in subsection (3)[(a) through

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(f)] of this section, the PRO shall generate a document approving or denying the [an] applicant for each homecare waiver service requested.

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

- (a) Each personal care assistance waiver service provider; and
- (b) The applicant.

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

- (a) Verbally notify the [a] case manager of its determination; and
- (b) Send written confirmation of its decision to:
  1. The [A] case manager;
  2. The Department for Community Based Services; and
  3. The [An] applicant, whose 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;
  - (d) [(e)] DSS 891-1.2, The Plan of Care, July 1996 Revision;
  - (e) [(f)] The State of Kentucky, Aging Services Client Enrollment, January 2000 Revision; and
  - (f) [(g)] MAP-24, "Department for Community Based Services" form, 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: February 23, 2000

FILED WITH LRC: March 9, 2000 at 1 p.m.

### CABINET FOR HEALTH SERVICES

#### Department for Medicaid Services

#### Division of Long Term Care

(As Amended at ARRS, May 9, 2000)

### 907 KAR 1:092. 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,
- (e) Sister-in-law;
- (f) Grandparent or grandchild;
- (g) Spouse of grandparent or grandchild;
- (h) Aunt or uncle; or
- (i) 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 1:090 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 1:090, 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

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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 Service, 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; ~~or~~
- (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: February 23, 2000

FILED WITH LRC: March 9, 2000 at 1 p.m.

ADMINISTRATIVE REGULATIONS AMENDED DUE TO  
PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

CABINET FOR HEALTH SERVICES  
Department for Medicaid Services  
Division of Administration and Development  
(Amended After Hearing)

**907 KAR 1:671. Conditions of Medicaid provider participation; withholding overpayments, appeals process, and sanctions.**

RELATES TO: KRS 194.515, 205.510 to 205.990, 42 CFR 431.107, 455, 1002, 1003, 42 USC 1320a-3, a-3a, a-5, a-7, 1395cc, vv, 1396b, d, m, n

STATUTORY AUTHORITY: KRS Chapter 13B, 194.050, 205.520, 205.560, 205.6318, 42 USC 1396a, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services, has responsibility to administer the Medicaid Program. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health Services. KRS 205.8451 through 205.990, 205.624 and 194.515 provide that the Cabinet for Health Services and the Department for Medicaid Services shall be responsible for the control of Medicaid provider fraud and abuse. KRS 205.520 empowers the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes [~~sets forth~~] the provisions relating to Medicaid provider participation.

Section 1. Definitions. (1) "Abuse" means as defined by KRS 205.8451.

(2) "Administrative process" means meeting, review, investigation, hearing, appeal, deliberation or exchange of documents or information between the provider and the department.

(3) "Affiliate" means an individual agency or organization controlled by the provider or associated with the provider under common ownership or control.

(4) "Applicant" means a person or entity who submits an application to become a Medicaid provider.

(5) "Application" means the completion and submission of a Medicaid provider agreement and any required addendum specific to a provider type, which is the contract between the provider and the department for the provision of Medicaid services.

(6) "Billing agent" means a contractor that prepares and submits claims on behalf of the provider.

(7) "Bribes and kickbacks" means soliciting or receiving [any] payment, or offering or making [any] payment whether in cash or goods or services, in return for:

(a) Referring a recipient to a provider for [any] medical care, services or supplies; or

(b) Purchasing, leasing, ordering or recommending [any] medical care, services or supplies, for which payment is claimed under the Medicaid Program.

(8) "Cabinet" means the Cabinet for Health Services.

(9) "Claim" means a [any] request for payment under the Medicaid Program that relates to each individual billing submitted by a provider to the department which details services rendered to a recipient on a specific date [date(s)]. The claim may be either a line item of service or multiple [all] services for one (1) recipient on a bill.

(10) "Conversion" means converting a Medicaid payment, or any part of a payment, to a use or benefit other than for the use and benefit intended by the Medicaid Program.

(11) "Convicted" means as defined in KRS 205.8475, regardless of whether an appeal from that judgment is pending.

(12) "Demand letter" means correspondence to an active or inactive provider stating a dollar amount is owed the program and shall be paid by a given date.

(13) "Department" means the Department for Medicaid Services and its designated agents.

(14) "Disclosing entity" means a Medicaid provider or the fiscal

agent for the department.

(15) "Disclosure" means the provision of information in accordance with the requirements established [shown] in 42 CFR 455, Subpart B.

(16) "Exclusion" means the termination of the participation of a provider or the denial of the enrollment of a provider.

(17) "Factor" means as defined in 42 CFR 447.10.

(18) "False claim" means a claim for:

(a) Unfurnished medical care, services, or supplies; or

(b) Medical care, services, or supplies provided:

1. In excess of accepted standards of practice for the medical service;

2. In excess of established limits which were communicated, in writing, to providers by the department; or

3. Where there is documentation that the provider has knowledge of third-party coverage of the recipient, but the provider knowingly chooses not to bill the third-party payer.

(19) "Fiscal agent" means a contractor that processes or pays provider claims on behalf of the department.

(20) "Full investigation" means the activities of Kentucky's Medicaid Fraud and Abuse Control Unit of the Office of the Attorney General (MFACU) or any other law enforcement or investigative agency utilized to resolve a complaint of Medicaid fraud or abuse.

(21) "Furnish" means to provide medical care, services, or supplies that are:

(a) Provided directly by the provider;

(b) Provided under the supervision of the provider; or

(c) Prescribed by the provider.

(22) "Knowingly" means as defined in KRS 205.8451.

(23) "Managing employee" means the general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who conducts the day-to-day operation of, an institution, organization, or agency.

(24) "Medicaid Fraud and Abuse Control Unit" (MFACU) means a unit in the Office of the Attorney General of Kentucky, certified under the provisions of 42 USC 1396b(q), that [~~MFACU~~] conducts a state-wide program for the investigation and prosecution of violations of [all] state laws regarding fraud and abuse in connection with the Medicaid Program.

(25) "Merit system" means an employee covered by KRS Chapter 18A.

(26) "Preliminary investigation" means the activities of the Office of Inspector General (OIG), MFACU, or the department to determine whether a complaint of Medicaid fraud or abuse has sufficient basis to warrant a full investigation.

(27) "Provider" means as defined by KRS 205.8451.

(28) "Recipient" means as defined by KRS 205.8451.

(29) "Reliable evidence" means:

(a) Preliminary determinations based on a preponderance of evidence as verified by the department by audit, of unacceptable practices or significant overpayments;

(b) Information of an ongoing investigation of a provider based on a preponderance of evidence, as verified by the department, involving fraud or criminal conduct pertaining to the Medicaid Program.

(c) Information based on a preponderance of evidence, as verified by the department, from a state professional medical licensing or certifying agency of an ongoing investigation of a Medicaid provider involving fraud, abuse, professional misconduct, unprofessional conduct, or utilization; or

(d) Information from the department or other sources based on a preponderance of evidence regarding unacceptable practices or program abuse.

(30) "Sanction" means an [any] administrative action taken by the department which limits a person's or a provider's participation in the Medicaid Program or imposes a fiscal penalty against the provider, including the imposition of civil penalties, and interest imposed at the department's discretion and the withholding of future payments.

(31) "Services" means medical care, services, or supplies provided to Medicaid recipients.



(32) "Subcontractor" means an individual, agency, or organization to which a disclosing entity has:

- (a) Contracted or delegated some of its management functions or responsibilities of providing medical care or services to its patients; or
- (b) Has entered into a contract, agreement, purchase order or lease including real property, to obtain space, supplies, equipment or nonmedical services provided under the Medicaid Program.

(33) "Supplier" means an individual, agency, or organization from which a provider purchases goods or services used in carrying out its responsibilities under the Medicaid Program.

(34) "Terminated" means the provider's participation in the Medicaid Program has been ended, and that a contractual relationship no longer exists between the provider and the department for the provision of Medicaid covered services to Medicaid eligible recipients by that individual, entity, or organization.

(35) "Unacceptable practice [practice(s)]" means conduct by a provider which constitutes "fraud" or "provider abuse", as defined in KRS 205.8451(2) or (8), or willful misrepresentation, and includes the following practices:

(a) Knowingly submitting, or causing the submission of false claims, or inducing, or seeking to induce, a [any] person to submit false claims;

(b) Knowingly making, or causing to be made, or inducing, or seeking to induce, a [any] false, fictitious or fraudulent statement or misrepresentation of material fact in claiming a Medicaid payment, or for use in determining the right to payment;

(c) Having knowledge of an [any] event that affects the right of a [any] provider to receive payment [payment(s)] and concealing or failing to disclose the event with the intention that an unauthorized payment [payment(s)] be made or the payment is made in a greater amount than owed;

(d) Conversion;

(e) Soliciting or accepting bribes or kickbacks;

(f) Failing to maintain or to make available, for purposes of audit or investigation, administrative and medical records necessary to fully disclose the medical necessity for the nature and extent of the medical care, services and supplies furnished, or to comply with other requirements established [as contained] in 907 KAR 1:673, Section 4;

(g) Knowingly submitting a claim or accepting payment for medical care, services, or supplies furnished by a provider who has been terminated or excluded from the program;

(h) Seeking or accepting additional payments, for example, gifts, money, donations, or other consideration, in addition to the amount paid or payable under the Medicaid Program for [any] covered medical care, services, or supplies for which a claim is made;

(i) Charging or agreeing to charge or collect a [any] fee from a recipient for covered services which is in addition to amounts paid by the Medicaid Program, except for [any] required copayments; or recipient liability, if any, [as] required by the Medicaid Program;

(j) Engaging in conspiracy, complicity, or criminal syndication;

(k) Furnishing medical care, services, or supplies that fail to meet professionally recognized standards, or which are found to be non-compliant with licensure standards promulgated under KRS Chapter 216B and failing to correct the deficiencies or violation as reported to the department by the Office of Inspector General, Division of Licensure and Regulation, for health care or which are beyond the scope of the provider's professional qualifications or licensure;

(l) Illegally discriminating in the furnishing of medical care, services, or supplies as prohibited by 42 USC 2000(d) [based on a recipient's age, color, creed, disability, ethnicity, gender, marital status, national origin, race, religion, or sexual orientation];

(m) Having payments made to or through a factor, either directly or by power of attorney, as prohibited by 42 CFR 447.10;

(n) Offering or providing a [any] premium or inducement to a recipient in return for the recipient's patronage of the provider or other provider to receive medical care, services or supplies under the Medicaid Program;

(o) Knowingly failing to meet disclosure requirements;

(p) Unbundling; and

(q) An act committed by a nonprovider on behalf of a provider which, if committed by a provider, would result in the termination of the provider's enrollment in the program.

(36) "Unbundling" means submitting multiple claims for constituent parts of services provided which results in enhanced reimbursement to

a provider for a covered service where the claims do not conform with professionally recognized coding standards;

(37) "Withholding" means not paying a provider for claims which have been processed, pending the results of an investigation of a report of fraud or willful misrepresentation based upon receipt of reliable evidence or as a result of provider bankruptcy, failure to submit timely cost reports, or closure or termination of a business.

Section 2. Methods for Recoupment of Overpayments Made by the Medicaid Program. (1) If a determination is made by the department that a provider was overpaid, a demand letter shall be sent to the provider establishing [setting forth] the amount of the overpayment, the period of time involved, and the basis for determining the overpayment exists.

(2) The provider shall within:

(a) Sixty (60) calendar days from the date of the demand letter pay the amount of overpayment in full; or

b. Thirty (30) calendar days from the date of the demand letter submit a written request for a payment plan.

(3) If the amount of overpayment resulted from rate revisions and subsequent recalculations within the Medicaid Management Information System, the department shall apply the rate adjustment against the next payment cycle for the provider prior to notifying the provider of the amount of the overpayment. A provider shall be notified at least sixty (60) calendar days in advance of a [any] payment recalculation resulting from a reimbursement rate revision.

(4) A payment plan may be approved by the department, if a provider documents that payment in full would create an undue hardship. A written declaration of undue hardship shall include the following:

(a) Copies of financial statements which indicate payment in full within sixty (60) calendar days would create an undue hardship; and

(b) Copies of notarized letters from at least two (2) financial institutions indicating the provider's loan request was denied for the overpayment amount.

(5) Payment plans shall not extend beyond a six (6) month period, except as provided for in subsection (6) of this section.

(6) A payment plan approved, in writing, by the Commissioner of the Department for Medicaid with the concurrence of the secretary of the cabinet, in accordance with subsection (4) of this section, may be approved in excess of six (6) months, if the monthly repayment exceeds twenty-five (25) percent of the provider's average monthly Medicaid payment based on the previous twelve (12) month period.

(7) A [All] payment plan [plans] shall include provisions for payments of both principal and interest as provided in KRS Chapter 360. The assessment of interest shall be at the discretion of the department.

(8) If a provider fails to make a payment as specified in the payment plan or takes no action toward repayment, the department shall recoup the amount due from future payments. If a provider has insufficient funds available for recoupment through the payment system in the first payment cycle following the due date, payments shall continue to be recouped and the department may refer the account for collection.

(9) If a provider disputes the amount of overpayment, the provider may submit additional information, request a resolution in accordance with Section 8 of this administrative regulation, and request an administrative hearing in accordance with Section 9 of this administrative regulation. A cost-based provider who disputes the amount of overpayment due to the department, except for circumstances described in Section 4 of this administrative regulation shall follow the administrative process for appeals as outlined in Section 10 of this administrative regulation. Disputing the amount of overpayment shall not relieve the provider of his obligation to submit full payment or to request a payment plan in accordance with subsection (2) of this section.

(a) If the department determines that no adjustments are required as a result of the resolution process, the initial determination shall stand.

(b) If the department determines that the amount of overpayment demand should be reduced, a [any] refund due to the provider shall be refunded to him within thirty (30) calendar days from the date of the final determination letter.

(c) If it is determined that the amount requested should be increased, the additional amount of overpayment due shall be subject to subsection (1) of this section.

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(10) Withholding Medicare payments to recover Medicaid overpayments.

(a) The department may request that the Health Care Financing Administration (HCFA) withhold future Medicare payments to a provider in order to recover Medicaid overpayments to that provider. The requests for withholding shall be accomplished in accordance with the terms and conditions specified in 42 USC 1395vv.

(b) Amounts withheld and forwarded to the department by HCFA which are ultimately determined by the department to be in excess of overpayments due to the Medicaid Program shall be returned to the provider.

(11) Statutory recovery. The department shall not issue payments otherwise due to a provider, if the department has been notified by a state or federal government agency or by a court that a court order exists requiring the department to withhold payments. The payments shall be withheld in accordance with the provisions of the order.

(12) Medicare overpayments. If ordered to do so by HCFA, the department shall recoup the federal share of Medicaid payments as a means to recover Medicare overpayments. The federal share of Medicaid payments is that portion of the payment funded with federal funds.

(13) A [Any] contract for the sale or change of ownership of a provider participating in the Medicaid Program shall specify whether the buyer or seller is responsible for [any] amounts owed to the department by the provider, regardless of whether the amounts have been identified at the time of the sale.

Section 3. Administrative Process for Detection of Unacceptable Practices. (1) A preliminary investigation of alleged unacceptable practice shall be conducted by the department or its agent, if:

(a) A complaint is received by or referred from:

1. The department;
2. The cabinet; or
3. The Office of Attorney General; or

(b) Questionable or unacceptable practices are identified by the department.

(2) If the findings of a preliminary investigation indicate that an incident of fraud or abuse involving substantial allegations or other indication of fraud may have occurred under the Medicaid Program, a referral for a full investigation shall be made to the MFACU or the Office of the United States Attorney, if appropriate.

(3) In order to facilitate a full investigation, the department shall, at the request of the MFACU or the Office of the United States Attorney, provide access to, and free copies of, [any] records, data, or information kept by the department, its contractors, or providers, if authorized, as specified in 907 KAR 1:672, Section 4.

(4) A full investigation shall continue until:

- (a) Appropriate legal action is initiated;
- (b) The investigation is discontinued because of insufficient evidence to support the allegation of unacceptable practice; or
- (c) The case is returned to the department for administrative action.

(5) At any time during a preliminary or full investigation, the department may make an administrative determination that a provider has committed an act of unacceptable practice based on receipt of reliable evidence. The department shall issue a written notice of a determination of unacceptable practice to the provider upon which an exclusion or sanctions are intended to be imposed, as specified in Section 9 of this administrative regulation. The notice shall be mailed to the provider's designated payment or correspondence address or last known address and shall clearly state:

- (a) The determination made;
- (b) The basis and specific reasons for the determination;
- (c) The effect of the [any] action to be taken;
- (d) The amount of overpayment or penalty, if any;
- (e) The effective date of the action; and
- (f) The hearing rights of the provider as outlined in Section 9 of this administrative regulation.

(6) At any time during a preliminary or full investigation, the department may refer the case to the United States Attorney's Office for appropriate action.

(7) The Medicaid Program may, as it deems necessary and reasonable, use random or other statistical sampling methodologies and extrapolate the Medicaid Program's findings based on the sample.

Section 4. Withholding of Payments During Investigation of Fraud or Willful Misrepresentation. (1) The department may withhold Medicaid payments as provided for in 42 CFR 455.23 upon receipt of reliable evidence that the circumstances giving rise to the need for a withholding of payments involve fraud or willful misrepresentation under the Medicaid Program.

(2) The department may withhold payments without first notifying the provider of its intention to withhold payments.

(3) The department shall mail written notice to the provider at the provider's last known address of its withholding of program payments within five (5) calendar days of the date upon which withholding began.

(a) The notice shall establish [set forth] the general allegations of the nature of the withholding action, including the types of payments and payment code sections to which fraud or willful misrepresentation is alleged to have occurred. The notice may not disclose [any] specific information concerning its ongoing investigation.

(b) The notice shall advise the provider:

1. That payments are being withheld in accordance with this administrative regulation;
  2. The statutory and regulatory basis for withholding and the facts upon which the action is taken;
  3. The date upon which withholding began;
  4. That withholding shall be for a temporary period;
  5. The circumstances under which withholding shall be discontinued;
  6. The type of Medicaid claim, as appropriate, to which withholding shall apply;
  7. The provider's right to submit written evidence for consideration by the department; and
  8. The provider's hearing rights in accordance with Section 9 of this administrative regulation.
9. For providers who are reimbursed using a cost-based method, payments withheld pursuant to this section shall be in proportion to the type of claim established [set forth] under this administrative regulation to which withholding shall apply.

(4) A [Any] withholding of payment action under this section shall be temporary and shall not continue after:

(a) The investigation has been discontinued due to insufficient evidence of fraud or willful misrepresentation by the provider;

(b) Legal proceedings related to the provider's alleged unacceptable practice are completed and all related issues have been resolved; or

(c) The matter is resolved between the department and the provider through an administrative determination of unacceptable practice, as specified in Section 3 of this administrative regulation.

(5) Upon completion of the process described in subsection (4)(a) and (b) of this section all moneys due on verified claims shall be promptly disbursed to the provider.

Section 5. Sanctions. (1) The department shall comply with the requirements of 42 CFR 1002.

(2) The department shall impose sanctions as provided in KRS 205.8467 and Sections 3, 4, 5, and 6 of this administrative regulation.

(3) The department may hold, during its administrative determination of unacceptable practice, a provider responsible and liable for the conduct and actions of its affiliates, representatives, employees, or subcontractors. However, conduct may only be imputed to another if the conduct was accomplished within the course of the duties of the provider to be sanctioned; and

(a) The provider knew or reasonably should have known of the conduct; or

(b) The conduct was effected with the knowledge and consent of the provider.

(4) If the department sanctions a provider, it may also sanction any affiliate of the provider. However, the determination to sanction the affiliate shall be made during the process leading to the administrative determination of unacceptable practice, on a case-by-case basis, after full review and consideration of all relevant facts and circumstances leading to the sanction of the provider. The affiliate shall have the same notification and due process rights as the [any] provider.

(5) The sanction process may include the termination of the pro-

vider from the Medicaid Program; if a termination is made the termination notice shall specify the period of exclusion. In determining the sanction, or the duration of exclusion, the department shall consider as appropriate:

- (a) The number and nature of the unacceptable practice incidents;
  - (b) The nature and extent of the [any] adverse impact the violations had on recipients;
  - (c) The amount of damages to the Medicaid Program;
  - (d) Other facts related to the nature and seriousness of the unacceptable practice; and
  - (e) The previous record of violations by the provider under Medicare, Medicaid and any program administered by the cabinet.
- (6) The sanction process shall include liability for civil payments, restitution of overpayments and agency costs as specified in KRS 205.8467.
- (7) The department shall use a lien, as specified in KRS 205.8471 to assure payment of restitution and monetary penalties imposed under the administrative determination of fraud.
- (8) A provider excluded from the Medicare Program shall be excluded from the Medicaid Program for the same period of time.
- (9) The provider shall be notified in writing by the department of any sanctions that are imposed.

Section 6. Provider Participation Termination. (1) Except as provided in subsection (6) of this section, a provider's participation may be terminated by either the provider or the department upon thirty (30) calendar days written notice to the other without cause or as otherwise specified in the provider agreement.

(2) Except as provided in subsection (6) of this section, a provider's participation may be terminated and a period of exclusion imposed, if an administrative determination is made, as established [set forth] in Section 3 of this administrative regulation, that the provider engaged in an unacceptable practice.

(3) Except as provided in subsection (6) of this section and as provided for in 907 KAR 1:672, failure to maintain up-to-date information, or to submit the information within thirty-five (35) calendar days of a request by the department, shall result in termination of the provider's participation in the Medicaid Program.

(4) Except as provided in subsection (6) of this section, a provider's participation shall be terminated immediately, if it is determined that the information provided at the time of application was incorrect, inaccurate or incomplete and where provision of correct, accurate and complete information would have resulted in the denial of the application based upon one (1) or more of the factors established [set forth] in 907 KAR 1:672.

(5) Except as provided in subsection (6) of this section, a provider's participation shall be terminated, if the provider fails or refuses to pay or enter into an agreement to pay the amount of any penalty imposed, including interest, in accordance with Section 5 of this administrative regulation and KRS 205.8467 within sixty (60) calendar days from the date of the department's notice or the date of a hearing decision, if any.

(6) Before the participation of a nursing facility, as defined in 42 USC 1396r(a), or an intermediate care facility for the mentally retarded, as defined in 42 USC 1396d(d), is terminated, it shall have the right to receive a hearing in accordance with Section 9 of this administrative regulation and 42 CFR 431.151 through 431.154.

(7) Except as provided in subsection (6) of this section, a provider's participation in Medicaid shall be terminated, if the provider fails to submit a completed and signed application within thirty-five (35) calendar days from the date of the notice to provide the application.

(8) Except as provided in subsection (6) of this section, a provider's participation in Medicaid shall be terminated and a period of exclusion imposed upon a Medicare or Medicaid related conviction through the judicial process.

(9) A provider's participation in Medicaid shall be terminated in accordance with 42 CFR 1003.105 on the date of termination or suspension from Medicare.

(10) Except as provided in subsection (6) of this section, a provider's participation in Medicaid shall be terminated as of the date of a [any] termination, revocation, or suspension of a [any] registration, certification or license to practice a medical profession, or as required to provide medical care, services or supplies under Medicaid.

(11) Except as provided in subsection (6) of this section, a pro-

vider's participation:

(a) Shall be terminated and a new application required, if the ownership or controlling interest of the provider has substantially changed since the acceptance of its enrollment application, due to one (1) or both of the following actions:

1. The addition or elimination of one (1) or more partners of a provider organized as a partnership; or

2. The sale of the business or assets directly related to the provision of health care, provided the sale results in a change of ownership or control of a [any] provider;

(b) May be terminated and a new application required, if the ownership or controlling interest of the provider has substantially changed since the acceptance of its enrollment application, due to the sale or exchange of capital stock of a provider organized as a corporation; and

(12) A notice advising a provider of the termination and of the requirements to make a new application for enrollment shall be sent to the provider thirty (30) calendar days prior to his [its] termination from the program.

(13) Notice of termination.

(a) A notice of termination shall be in writing, mailed to the provider's last known address, and contain the following information:

1. The reason for the termination, if any;

2. The effective date of the termination;

3. The date the provider may submit an application for re-enrollment, if appropriate; and

4. The provider's hearing rights in accordance with Sections 8 and 9 of this administrative regulation.

(b) If notice has been provided in accordance with Section 3 (5) of this administrative regulation, no additional notice of termination shall be required.

(14) The department may extend participation or waive termination for a [any] provider of covered medical service, if necessary to assure that adequate medical services will be available in the area served by the provider.

(15) The department may terminate a provider immediately, if necessary to protect the health or well-being of Medicaid recipients.

Section 7. Provider Reinstatement or Re-enrollment Following Termination. (1) A provider whose participation has been terminated under the provisions of this administrative regulation may request reinstatement in accordance with the terms established [set forth] in the department's written notice and shall be subject to the enrollment requirements in accordance with 907 KAR 1:672. An application for enrollment under this section shall be identified by the provider as a reinstatement application.

(2) The department may only grant reinstatement from an exclusion based on a program violation, if the provider can demonstrate and assure the department that the violation which led to the sanction is corrected and shall not be repeated.

(3) If the department approves the request for reinstatement after imposition of a sanction in accordance with Section 5 of this administrative regulation, the department shall provide written notice to the provider and to all others who were informed of the sanction, specifying the date on which program participation may resume.

(4) A provider terminated from the Medicaid Program and excluded for a specified period of time shall be eligible for re-enrollment upon the expiration of the period of exclusion. Providers excluded on the basis of a conviction for a program related offense shall not be eligible for re-enrollment until the conviction is final and unappealable.

Section 8. Resolution of Provider Disputes Prior to Hearing. (1) If a provider disagrees with a Medicaid determination [determinations] with regard to an appealable issue [issues] as provided for in Section 9 of this administrative regulation, the provider may request a resolution meeting. The request shall be in writing and made within thirty (30) calendar days of the date of notice. A disagreement [Any disagreements] relating to cost-based reimbursement rates, including the rate, cost reporting, recoupments, withholding, and any other matter relating to the provider's payments and rates, shall be resolved in accordance with Section 10 of this administrative regulation.

(2) The provider's request for a resolution meeting shall clearly:

(a) Identify the disputed issue;

(b) State the basis on which the department's decision is believed

to be erroneous;

(c) Provide documentation or a summary supporting the provider's position; and

(d) State the name, address, and telephone number of individuals who are expected to attend the resolution meeting on the provider's behalf.

(3) The agency shall, within five (5) calendar days of receipt of the request for a resolution meeting, send a written response to the provider identifying the time and place in which the meeting shall be held within thirty (30) days of receipt of the request and identifying the agency's representative [representative(s)] who is [are] expected to attend the meeting. The meeting shall be held within thirty (30) calendar days of receipt of the request.

(4) The resolution meeting shall be conducted in an informal manner as directed by the department's representative. The provider may present [any] evidence or testimony to support his case.

(5) A provider may, within thirty (30) calendar days of the date of the notice, submit [any] information which the provider wishes considered in relation to the department's determination without requesting a resolution meeting. The submission of additional documentation shall not extend the thirty (30) day time period for requesting a resolution meeting.

(6) The department may rescind, modify or take no action with regard to the disputed issue, but shall provide written notice to the provider of the department's decision within thirty (30) calendar days from the date of the resolution meeting, or from the date the information to be considered was presented to the department. The notice issued by the department shall include the determination and the facts upon which it is based with reference to applicable statutes and administrative regulations.

(7) Information submitted for the purpose of informally resolving a provider dispute shall not be considered a request for an administrative hearing.

Section 9. Administrative Hearing Process. (1) The administrative hearing shall be conducted by a hearing officer who is knowledgeable of Medicaid policy. The hearing officer shall be appointed by the secretary of the cabinet.

(2) The administrative hearing process shall be used in the following situations, except as specified in Section 10 of this administrative regulation:

(a) If the provider's participation is terminated as specified in Section 6 (2), (3), (4), (5), (6), (7), (8), (10), (11) and (14) of this administrative regulation or if a provider alleges discrimination as prohibited by 42 USC 2000(d) ~~on the basis of age, color, creed, disability, ethnicity, gender, marital status, national origin, race, religion, or sexual orientation~~; or

(b) If the agency imposes a fiscal sanction; or

(c) If the agency requires the repayment of an overpayment or restitution; or

(d) If the provider's payments are being withheld in accordance with Section 4 of this administrative regulation.

(3) A written request for an administrative hearing shall be received by the department within thirty (30) calendar days of the date of the department's notice of a determination or a resolution decision if a resolution meeting determination was requested. This request shall be sent to the Office of the Commissioner, Department for Medicaid Services, Cabinet for Health Services, 275 East Main Street, 6th [3rd] Floor, Frankfort, Kentucky 40621.

(4) The department shall forward to the hearing officer an administrative record which shall include the notice of action taken, the statutory or regulatory basis for the action taken, the department's decision following the resolution process, and any documentary evidence provided by the appellant to the department.

(5) The hearing officer shall schedule the hearing within thirty (30) calendar days of the receipt of the request from the provider and the hearing shall not be held later than thirty (30) calendar days thereafter. At least twenty (20) calendar days prior to the date of the hearing, written notice shall be sent by the hearing officer to the parties and their designated representatives. The notice shall inform them of:

(a) The date, time and place of the hearing. All hearings shall be held in Frankfort, Kentucky;

(b) The provider's right to request a continuance, including the manner and means by which a postponement may be requested and

granted;

(c) The issues which are the subject of the hearing, including a citation to specific statutes and administrative regulations relating to those issues;

(d) The manner in which the hearing shall be conducted;

(e) The right of each party to:

1. Be represented by legal counsel or if not a corporation may represent himself;

2. Testify;

3. Produce witnesses;

4. Present documentary evidence;

5. Examine opposing witnesses; and

6. Examine, prior to the hearing, information, including exculpatory information, evidence to be heard at the hearing, if any, in the agency's possession.

(f) The provider's right to request a prehearing conference or exchange of information and documents; and

(g) The date of the prehearing exchange between the provider and department, if requested;

(h) The name, official title, address and telephone number of:

1. The hearing officer;

2. All parties to the hearing, including the counsel for the cabinet; and

3. The Commissioner of Medicaid.

(i) A statement that a [any] party who fails to attend or participate at any stage of the hearing may be held in default.

(6) If a [Any] prehearing conference is requested, it shall be held at least seven (7) calendar days in advance of the hearing date. Conduct of the prehearing conference shall comply with KRS 13B.070. Each party shall disclose the evidence that the party intends to introduce at the hearing, including documentary evidence and identification of witnesses.

(7) A request for a hearing shall be considered to be abandoned, if the provider does not appear at the hearing on the scheduled date and the hearing has not been previously rescheduled. A hearing request shall be withdrawn only under the following circumstances:

(a) The hearing officer receives a written statement from the provider stating that the request is withdrawn; or

(b) The provider makes a statement on the record at the hearing that he is withdrawing his request for the hearing.

(8) Documentary evidence to be used at the hearing shall be made available in accordance with the following:

(a) If copies of the documentary evidence which the provider intends to produce at the hearing have not been provided to the department, the documents shall be made available for examination by the department, upon request; and

(b) If copies of the documentary evidence which the department intends to produce at the hearing have not been provided to the provider or the provider's representative [representative(s)], the documents shall be made available for examination by the provider, upon request.

(9) Information relating to the selection of the provider for audit, investigation notes or other material which may reveal auditor investigation techniques, material prepared for submission to a law enforcement or prosecutorial agency, information concerning law enforcement investigations, or judicial proceedings or confidential sources or confidential information shall not be revealed.

(10) The hearing officer shall preside over the hearing and shall conduct the hearing in accordance with KRS 13B.080 and 13B.090.

(11) The individuals who may be present at the hearing, include:

(a) The provider;

(b) The provider's representative or counsel;

(c) Representatives of the department or state;

(d) An interpreter, if the appellant is deaf or hearing impaired or an interpreter has been requested, because English is not the first language of the provider or witness;

(e) Witnesses for both parties subject to conditions imposed by the hearing officer;

(f) Members of the public, admitted at the discretion of the hearing officer, shall be entitled to be present at the hearing.

(12) The issues and documentation considered at the hearing shall be limited to issues directly relating to the determination.

(a) The department shall show the facts, circumstances, administrative regulations, or statutes on which the determination was based.

The provider shall have the burden of showing that the determination of the department was incorrect.

(b) If the determination is based upon an alleged failure of the provider to comply with applicable generally accepted business, accounting, professional or medical practices or standards of health care, the department shall establish the existence of the practice or standard.

(c) The department shall be responsible for notifying the hearing officer of previous relevant violations by the provider under Medicare, Medicaid, and any program administered by the Cabinet for Health Services which the department wishes the hearing officer to consider in his deliberations.

(13) The hearing officer shall consider the facts as presented at the hearing, including supplementary material, if requested, and prepare a recommendation based on the record consistent with Medicaid policy as expressed in statutes and administrative regulations.

(a) The hearing officer shall prepare a hearing report to be issued within sixty (60) calendar days of the conclusion of the hearing or the closing of the record, and sent to each of the parties or their designated representatives.

(b) The hearing report shall include:

1. Findings of fact;
2. Conclusions of law;
3. Determination of issues; and
4. The hearing officer's recommendation and reasons for the determination.

(c) The hearing officer's recommendation shall be submitted to the secretary of the cabinet and to the department. The department or provider shall have fifteen (15) calendar days within which to file with the secretary exceptions to the hearing officer's recommendation. The secretary shall make the final decision of the cabinet pursuant to KRS 13B.120, supported by findings of fact and conclusions of law.

(d) In the correspondence transmitting the decision, clear reference shall be made to the availability of judicial review pursuant to KRS 13B.140 and 13B.150.

(e) The department shall maintain an official record of the hearing in compliance with KRS 13B.130.

(14) The hearing officer may grant an extension of [any] time frames specified in this section, except the requirement that the request for a hearing be filed in a timely manner, if determined necessary for the efficient administration of the hearing process or to prevent an obvious miscarriage of justice with regard to the provider. An [Any] extension of time for completion of the recommended order shall comply with the requirements of KRS 13B.110(2) and (3).

Section 10. Administrative Hearing Process for Use in Appeals Relating to Providers Subject to Cost-based Reimbursement. A participating provider [providers] reimbursed using a cost-based method shall have the right to appeal [at] issues relating to his [their] rates, cost reporting, recoupments, withholding, except as described in Section 4 of this administrative regulation, and any other matters, except termination, relating to the provider's payments and rates utilizing the process described in this section.

(1) Type of review. This section provides for a program review by the department and an administrative hearing held by an administrative hearing officer.

(2) Program review requirements and processes.

(a) Upon receipt of the department's determination with regard to rates, cost reports, withholding, recoupment, or other issues relating to payment rates a provider electing to request a program review shall request the review and the department shall review the request prior to thirty (30) calendar days, from date of notice by the department, of the determination. The department's determination on cost reports shall include the basis for the determination.

(b) The request for review shall be in writing and identify the following:

1. The specific aspects of the determination with which the provider is dissatisfied; and
2. The specific reason the provider believes the determination is incorrect.

(c) The request shall be accompanied by [any] documentary evidence which the provider considers necessary to support his [its] position.

(d) The department may issue a decision in lieu of holding a pro-

gram review meeting, based on information and documentation received from the provider. The department shall immediately notify the provider, in writing, of the decision and shall provide guidelines for requesting an administrative hearing.

(e) If a program review meeting is determined necessary, the department shall schedule the program review to be held within thirty (30) calendar days after receipt of the request from the provider.

(f) If an audited cost report (including cost reports that have been desk reviewed) or rate of reimbursement is not appealed in accordance with paragraph (a) of this subsection and subsection (3)(a) of this section. The provider's appeal rights shall terminate for that cost report or reimbursement rate and the cost report or reimbursement rate shall not be subject to reopening unless the department determines that there was suspected fraud or misrepresentation by the provider or that an error has been made by the department which should be corrected. Reopening of a cost report or rate of reimbursement for suspected fraud or misrepresentation by the provider or an error made by the department shall not extend [any] previous appeal limitations, except that a [any] change made as a result of the reopening may be appealed.

(g) A request for program review of a reimbursement rate, desk review, or audited cost report which does not specify the exact item [item(s)] being appealed shall not be accepted.

(h) A program review meeting, when determined necessary by the department, shall be conducted in the following manner:

1. The program review meeting shall be conducted by the director or his designee. The proceedings shall be recorded and a transcription made. If transcribed by the department, a copy shall be made available to the provider upon payment of the usual fee for copied material; if transcribed for the department by a court reporter, the provider may obtain a copy from the court reporter upon payment of the court reporter's usual fee for a copy.

2. During the program review meeting the provider shall provide [any] testimony or documentation which he desires in support of the provider's contention that the department's decision should be amended or nullified. Department staff who are employed under the state merit system and are knowledgeable of the issue, shall explain the department's position and present [any] evidence the staff feels will support the department's position.

3. Staff employed under the state merit system who are participating in the program review shall prepare and submit to the department a written opinion and recommendation with findings of fact, and supporting documentation. The department shall make a decision with regard to the issue within thirty (30) calendar days of the program review meeting either by adopting the recommendation of staff employed under the state merit system, or, if the department's decision is different from the recommendation [recommendation(s)] of state merit system staff, the department shall document the decision and provide, for the record, justification for that decision.

(h) The department may extend [any-of] the time frames that are specified in subsection (2) of this section, except for a request that a program review be held, if determined necessary for the efficient administration of the program review process or to prevent an obvious miscarriage of justice with regard to the provider.

(3) Administrative hearing requirements and processes.

(a) Upon receipt of the program review decision of the department, the provider may appeal the decision by mailing or delivering a request for appeal to the Office of the Commissioner, Department for Medicaid Services, Cabinet for Health Services, 6th [Third] Floor, 275 East Main Street, Frankfort, Kentucky 40621. The request for a hearing shall be received by the Office of the Commissioner not later than thirty (30) calendar days from the date of the program review notification. If a request for an administrative hearing is not received prior to thirty (30) calendar days from the date of program review decision notice by the department of the determination the decision of the department shall be final.

(b) The request shall be in writing and include the following:

1. The specific aspect [aspect(s)] of the department's decision with which the provider is dissatisfied;
2. The specific reason [reason(s)] the provider believes the decision is incorrect; and

3. The documentary evidence previously introduced to the department which the provider considers necessary to support his position.

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(c) The Secretary of the Cabinet for Health Services shall appoint a hearing officer who is knowledgeable of Medicaid administrative regulations and policies. The hearing officer shall schedule a hearing on the record not later than thirty (30) calendar days after the receipt by the department of the provider's request for a hearing. The hearing shall not be held later than thirty (30) days after the receipt of the request. At least twenty (20) calendar days prior to the date of the hearing, written notice shall be mailed by the hearing officer to the parties and their designated representatives. The notice shall comply with KRS 13B.050.

(d) The hearing officer shall restrict the scope of the hearing to the same issues considered during the program review hearing.

(e) The hearing shall be conducted in accordance with KRS 13B.080 and 13B.090.

(f) The hearing officer's recommendation shall comply with KRS 13B.110.

1. The hearing officer's recommendation shall be submitted to the Secretary of the Cabinet for Health Services. Either party shall have fifteen (15) calendar days within which to file exceptions to the hearing officer's decision, with the secretary. The secretary shall make the final decision of the agency pursuant to KRS 13B.120 supported by findings of fact and conclusions of law.

2. In the correspondence transmitting the decision, reference shall be made to the availability of judicial review pursuant to KRS 13B.140 and 13B.150.

(g) Except for a request that an administrative hearing be held, the hearing officer may grant an extension of [any] time frames specified in subsection (3) of this section, if determined necessary for the efficient administration of the hearing process or to prevent an obvious miscarriage of justice. An [Any] extension of time for completion of the recommended order shall comply with the requirements of KRS 13B.110(2) and (3).

DENNIS BOYD, Commissioner

JOHN H. WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 3, 2000

FILED WITH LRC: May 4, 2000 at 9 a.m.

### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Karen Doyle or Sharon Rodriguez

(1) Type and number of entities affected: None

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments were received during the NOI process.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments were received during the NOI process.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: These technical and clarification changes will be budget neutral.

(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:

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

(8) Assessment of expected benefits: None

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky:

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

(c) If detrimental effect would result, explain detrimental effect:

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

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

### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Pursuant to 42 USC 1396a et seq., the Commonwealth of Kentucky has exercised the option to establish a Medicaid Program for indigent Kentuckians. Having elected to offer Medicaid coverage, the state must comply with federal requirements contained in 42 USC 1396 et seq.

2. State compliance standards. This administrative regulation does not set compliance standards.

3. Minimum or uniform standards contained in the federal mandate. This administrative regulation does not set minimum or uniform standards.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation does not set stricter requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. No additional standard or responsibilities are imposed.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. N/A

3. State the aspect or service of local government to which this administrative regulation relates: None

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: None



## PROPOSED AMENDMENTS RECEIVED THROUGH NOON, MAY 15, 2000

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY  
Division of Student Services  
(Amendment)

## 11 KAR 3:100. Administrative wage garnishment.

RELATES TO: KRS 164.744(1), 164.748(4), (10), (19)  
164.753(2), 34 CFR 682.410(b)(10), 20 USC 1095a

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(2), 20  
USC 1095(a)

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 164.744(1) and 164.748(2), the Kentucky Higher Education Assistance Authority has entered into agreements with the secretary to provide loan guarantees in accordance with 20 USC 1071 through 1087-2. 20 USC 1095a permits a student loan guarantee agency to garnish the disposable pay of a borrower to recover a loan guaranteed pursuant to 20 USC 1071 through 1087-2, notwithstanding a provision of state law. That section also permits the student loan guarantee agency to establish procedures for requesting and conducting a hearing related to the wage garnishment. KRS 164.748(19) authorizes the authority to collect from borrowers loans on which the authority has met its guarantee obligation, and KRS 164.748(10) authorizes the authority to conduct administrative hearings, exempt from KRS Chapter 13B, pertaining to wage garnishment. This administrative regulation establishes the procedures for implementing wage garnishment in accordance with requirements of the federal act.

Section 1. (1) Following payment of a claim by the authority to a participating lender by reason of the borrower's default in repayment of an insured student loan, the authority, acting through its executive director or other designee, may issue an administrative order for the withholding of the debtor's disposable pay, which order shall conform to the requirements of this section.

(2) This administrative regulation shall apply to a debtor who is either a borrower or an endorser of an insured student loan.

(3) An order for withholding of disposable pay shall not be issued under this section nor become effective less than thirty (30) days after the authority provides a written notice to the debtor by personal service or mail, addressed to the debtor at the residence or employment location last known to the authority. The notice shall include at least the following information:

- (a) The name and address of the debtor;
- (b) The amount of the debt determined by the authority to be due;
- (c) Information sufficient to identify the basis for the debt;
- (d) A statement of the intention of the authority to issue an order for withholding of disposable pay;
- (e) A statement of the right to dispute the existence or amount of the debt or the terms of a proposed repayment schedule under the garnishment order (other than a repayment schedule agreed to in writing pursuant to paragraph (g) of this subsection);
- (f) A statement of the right to inspect and copy any records relating to the debt open to inspection in accordance with KRS 61.870 through 61.884;
- (g) A statement of the opportunity to enter into a written agreement with the authority, on terms satisfactory to the authority, establishing a schedule for repayment of the debt;
- (h) A statement that, unless there is good cause determined by the authority for the debtor's failure to timely request a hearing, the debtor's acquiescence to the withholding of disposable pay shall be presumed; and
- (i) A statement that if the debtor requests a hearing, but fails to appear without good cause determined by the hearing officer, the hearing officer shall affirm the issuance of an order for withholding of disposable pay.

(4) An amount shall not be withheld from the disposable pay of an individual during the first twelve (12) consecutive months of reemployment commenced within twelve (12) months following an involuntary separation from employment.

(5) Establishment of a written repayment schedule in accordance with subsection (3)(g) of this section shall be deemed, for purposes of subsection (3)(e) of this section, conclusive acknowledgement by the

debtor of the existence and amount of debt agreed to be paid.

(6) Service of the notice required by subsection (3) of this section shall be conclusively presumed to be effected five (5) days after mailing of the notice by the authority, unless the notice is returned to the authority undelivered by the postal service. The date of service of the notice shall otherwise be evidenced by affidavit of a person executing personal service or a delivery receipt.

Section 2. (1)(a) A hearing shall be provided if the debtor, on or before the 15th day following the date of service of the notice required by Section 1(3) of this administrative regulation, files with the authority a written request for a hearing in accordance with procedures prescribed by this administrative regulation. The timely filing of a request for a hearing (evidenced by a legibly dated U.S. Postal Service postmark or mail receipt) shall automatically stay further collection activity under this administrative regulation pending the outcome of the hearing.

(b) If the debtor requests a hearing, but the request is not timely filed, a hearing shall be provided, but the request shall not stay further action pending the outcome of the hearing.

(c) A hearing officer, appointed by the authority (who shall not be an individual under the supervision or control of the board other than an administrative law judge), shall conduct the hearing.

(d) A hearing officer shall voluntarily disqualify himself and withdraw from a case in which he cannot afford a fair and impartial hearing or consideration.

1. A party shall request the disqualification of a hearing officer by filing an affidavit, upon discovery of facts establishing grounds for a disqualification, stating the particular grounds upon which he claims that a fair and impartial hearing cannot be accorded.

2. The request for disqualification and the disposition of the request shall be a part of the official record of the proceeding.

3. Grounds for disqualification of a hearing officer shall include the following:

a. Participating in an ex parte communication which would prejudice the proceedings;

b. Having a pecuniary interest in the outcome of the proceeding; or

c. Having a personal bias toward a party to a proceeding which would cause a prejudgment on the outcome of the proceeding.

(e) A dispute hearing shall be conducted in Franklin County or another location agreed to by the parties.

(f) In lieu of an in-person hearing, upon request of the debtor, a hearing may be conducted by telephone or the hearing officer may conduct a review based solely upon submission of written material by both the debtor and the authority. An in-person or telephonic hearing shall be mechanically, electronically or stenographically recorded.

(g) Unless required for the disposition of an ex parte matter specifically authorized by this administrative regulation, a hearing officer shall not communicate off the record with a party to the hearing concerning a substantive issue, while the proceeding is pending.

(2)(a) The hearing officer's decision, reason therefore and an explanation of the appeal process shall be rendered in writing no more than sixty (60) days after receipt by the authority of the request for the hearing. The decision shall establish the debtor's liability, if any, for repayment of the debt and the amount to be withheld from the debtor's disposable pay.

(b) Subject to subsection (3)(b) of this section, the hearing officer's decision shall be final and conclusive pertaining to the right of the authority to issue an administrative order for the withholding of the debtor's disposable pay.

(c) A person, upon request, shall receive a copy of the official record at the cost of the requester. The party requesting a recording or transcript of the hearing shall be responsible for transcription costs. The official record of the hearing shall consist of:

- 1. All notices, pleadings, motions, and intermediate rulings;
- 2. Any prehearing order;
- 3. Evidence received and considered;
- 4. A statement of matters officially noticed;
- 5. Proffers of proof and objections and rulings thereon;
- 6. Ex parte communications placed upon the record by the

hearing officer;

7. A recording or transcript of the proceedings; and

8. The hearing officer's decision or an order of the hearing officer issued pursuant to Section 3(2)(e) of this administrative regulation.

(3)(a) Following the issuance of the hearing officer's decision, the debtor or the authority may petition the board to review the decision.

(b) An adverse decision by the hearing officer shall be appealed in writing to the board not later than twenty (20) calendar days after the date of the hearing officer's decision. A petition for review of the hearing officer's decision shall be timely filed if received by the executive director within twenty (20) calendar days after the date of the hearing officer's decision. If there is no appeal to the board within twenty (20) days, the findings of the hearing officer shall be conclusive and binding upon the parties.

(c) A petition for review of the hearing officer's decision shall not stay a final order pending the outcome of the review. If the debtor's liability is established by the hearing officer's decision, an administrative order for withholding of disposable pay shall be issued by the authority within sixty (60) days after the date of the hearing officer's decision. If the debtor petitions the board to review the hearing officer's decision and obtains reversal, modification or remand of the hearing officer's decision, the authority shall return to the debtor any money received pursuant to the withholding order contrary to the final order of the board.

(d) The respondent may, within ten (10) calendar days from the date the petition was received by the executive director, provide a brief statement to the board responding to the petition for review. The response shall be timely filed if received by the executive director within ten (10) calendar days from receipt by the executive director of the petition for review.

(e) A petition for review of the hearing officer's decision shall contain the following information:

1. A concise statement of the reason that the petitioner asserts as the basis pursuant to paragraph (g) of this subsection for reversing, modifying or remanding the hearing officer's decision or an order of the hearing officer issued pursuant to Section 3(2)(e) of this administrative regulation;

2. A statement specifying the part of the official record that the petitioner relies upon to support reversing, modifying or remanding the hearing officer's decision pursuant to paragraph (g) of this subsection; and

3. A statement of whether the petitioner believes that oral argument to the board is necessary.

(f) The board shall review the hearing officer's decision at its next regularly scheduled meeting convened at least thirty (30) days after the petition for review of the hearing officer's decision is received or at a special meeting convened for that purpose within ninety (90) days after receipt of the petition for review of the hearing officer's decision, whichever first occurs.

(g) The board shall decide the dispute upon the official record, unless there is fraud or misconduct involving a party, and may consider oral arguments by the debtor and the authority. The board shall:

1. Not substitute its judgment for that of the hearing officer as to the weight of the evidence on questions of fact; and

2.a. Uphold the hearing officer's decision unless it is clearly unsupported by the evidence and the applicable law;

b. Reject or modify, in whole or in part, the hearing officer's decision; or

c. Remand the matter, including an order of the hearing officer issued pursuant to Section 3(2)(e) of this administrative regulation, in whole or in part, to the hearing officer for further proceedings as appropriate if it finds the hearing officer's final order is:

(i) In violation of constitutional or statutory provisions;

(ii) In excess of the statutory authority of the agency;

(iii) Without support of substantial evidence on the whole record;

(iv) Arbitrary, capricious, or characterized by abuse of discretion; or

(v) Based on an ex parte communication which substantially prejudiced the rights of a party and likely affected the outcome of the hearing.

(h) The final order of the board shall be in writing. If the final order differs from the hearing officer's decision, it shall include sepa-

rate statements of findings of fact and conclusions of law.

(4) The remedies provided in this section shall not:

(a) Preclude the use of other judicial or administrative remedies available to the authority under state or federal law; and

(b) Be construed to stay the use of another remedy.

Section 3. Hearing Procedure. (1) The debtor shall have the right to be heard by the hearing officer, be represented by counsel, present evidence, cross examine, and make both opening and closing statements.

(2)(a) Upon request of a party, the hearing officer may issue subpoena for the production of a document or attendance of a witness.

(b)1. Not more than ten (10) business days after the date of filing the request for a hearing or a review of written material, the debtor shall submit to the counsel for the authority a written statement specifically stating the basis of dispute.

2. Not less than fifteen (15) business days prior to the hearing, the parties shall:

a. Confer and jointly stipulate the issues that are in controversy to be resolved by the hearing officer;

b. Discuss the possibility of informal resolution of the dispute;

c. Exchange a witness list of the names, addresses, and phone numbers of each witness expected to testify at the hearing and a brief summary of the testimony of each witness that the party expects to introduce into evidence; and

d. Exchange an exhibit list identifying documents to be admitted into evidence at the hearing and provide a legible copy of all exhibits.

3.a. If the debtor is unavailable or otherwise fails to confer and jointly stipulate the issues pursuant to subparagraph 2 of this paragraph, the authority shall serve upon the debtor proposed stipulation of issues. If within five (5) calendar days, the debtor fails to respond to the proposed stipulation of issues, the debtor shall be precluded from raising an additional issue not identified in the proposed stipulation of issues.

b. If the debtor is unavailable or otherwise fails to cooperate in a timely manner for the exchange of the witness or exhibit lists, the debtor shall be precluded from admitting the information as part of the evidence at the hearing.

4. The authority shall provide to the hearing officer the documentation submitted in accordance with subparagraph 1 of this paragraph and shall report to the hearing officer the results of the discussions between the parties described in subparagraphs 2 and 3 of this paragraph.

5. Additional time for compliance with the requirements of this paragraph may be granted by the hearing officer, upon request, if it does not prejudice the rights of the authority or delay the rendering of a hearing decision within the time prescribed in subsection (2) of this section.

6. If the debtor requests a hearing, but the debtor's written statement and supporting documentation, considered from a viewpoint most favorable to the debtor, does not reflect a genuine issue of fact or prima facie defense to the legal enforceability of the authority's claim, the hearing officer, on petition of the authority and notice to the debtor, may enter an order dismissing the request for a hearing and authorizing issuance of the order described in Section 5 of this administrative regulation.

(c) Facts recited in the authority's notice pursuant to Section 1(3) of this administrative regulation that are not denied shall be deemed admitted. Each party shall remain under an obligation to disclose new or additional items of evidence or witnesses which may come to their attention as soon as practicable.

(d)1. Either party, without leave of the hearing officer, may depose a witness, upon reasonable notice to the witness and the opposing party, and submit to the opposing party interrogatories or request for admissions.

2. The party receiving interrogatories or request for admissions shall respond within fifteen (15) calendar days.

3. Each matter of which an admission is requested shall be deemed admitted unless, within fifteen (15) days after service of the request or a shorter or longer time that the hearing officer may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter.



(e) Noncompliance with the requirements of this subsection, including failure of the authority to timely appoint a hearing officer or respond to a request for inspection of records or failure of the debtor to submit information in accordance with paragraph (b) of this subsection in a timely manner sufficient to permit the debtor, the authority, or the hearing officer to timely perform his obligations shall be sufficient grounds for entry of an appropriate order by the hearing officer, including postponement, exclusion of evidence, dismissal of the appeal, quashing the withholding order, or vacating the stay.

(3) Order of proceeding.

(a) The hearing officer shall:

1. Convene an in-person or telephonic hearing;
2. Identify the parties to the action and the persons participating;
3. Admit into evidence the notice required by Section 1(3) of this administrative regulation and the debtor's statement and the stipulations required by subsection (2)(b)1 and 2 of this section;
4. Solicit from the parties and dispose of any objections or motions;

5. Accept into evidence any documentary evidence not objected to;

6. Solicit opening statements; and
7. Proceed with the taking of proof.

(b) The taking of proof shall commence first by the debtor and then by the authority, with opportunities for cross-examination, rebuttal, and closing statements.

(4) Rules of evidence.

(a) All testimony shall be made under oath or affirmation.

1. The hearing officer shall not admit evidence that is excludable as a violation of an individual's constitutional or statutory rights or a privilege recognized by the courts of the Commonwealth.

2. Statutes or judicial rules pertaining to the admission of evidence in a judicial proceeding shall not apply to a hearing under this section.

3. The hearing officer may receive evidence deemed reliable and relevant, including evidence that would be considered hearsay if presented in court, except that hearsay evidence shall not be sufficient in itself to support the hearing officer's decision.

4. A copy of a document shall be admissible if:

(a) There is minimal authentication to establish a reasonable presumption of its genuineness and accuracy; or

(b) It is admitted without objection.

5. The hearing officer may exclude evidence deemed unreliable, irrelevant, incompetent, immaterial, or unduly repetitious.

(b) An objection to an evidentiary offer may be made by any party and shall be noted in the record.

(c) The hearing officer:

1. May take official notice of:

- a. Statutes and administrative regulations;
- b. Facts which are not in dispute; and
- c. Generally-recognized technical or scientific facts;

2. Shall notify all parties, either before or during the hearing of a fact so noticed and its source; and

3. Shall give each party an opportunity to contest facts officially noticed.

(d) At the discretion of the hearing officer, the parties may be allowed up to fifteen (15) days following the hearing to submit written arguments or briefs.

(5) Upon request of either party, the record of the hearing shall be transcribed, and shall be available to the parties at their own expense.

(6) Burden of proof.

(a) The authority shall have the burden to establish the existence and amount of the debt.

(b) The debtor shall have the burden to establish an affirmative defense.

(c) The party with the burden of proof on an issue shall have the burden of going forward and the ultimate burden of persuasion as to that issue. The ultimate burden of persuasion shall be met by a prima facie establishment of relevant, uncontroverted facts or, if relevant facts are disputed, a preponderance of evidence in the record.

(d) Failure to meet the burden of proof shall be grounds for a summary order from the hearing officer.

Section 4. Defenses. (1) Except as provided in subsection (2) of this section, a debtor may assert a defense to the issuance of an

administrative order to withhold the debtor's disposable pay, legal or equitable, pertaining to the existence or amount of the debt or the terms of a proposed repayment schedule under the garnishment order (other than a repayment schedule agreed to in writing pursuant to Section 1(3)(g) of this administrative regulation).

(2) The hearing officer shall not consider as a defense a question of law or fact that has previously been adjudicated by a court of competent jurisdiction or by an independent third-party trier of fact in an administrative proceeding involving the debtor and the authority pertaining to the existence, amount, or the debtor's liability on the particular debt in question or the terms of a prior repayment schedule.

(3) If the debtor asserts as a defense a question of law or fact that was previously raised in an administrative proceeding before the authority pursuant to 11 KAR 4:030 or 11 KAR 4:050, the hearing officer:

(a) Shall:

1. Consider the matter; and
2. Give deference to the prior decision by the authority in the same manner that a court would give deference in reviewing the decision of an administrative agency; and

(b) May reverse the prior decision if the debtor presents evidence that:

1. Circumstances have changed or new information is available; or

2. The prior decision:

- a. Substantially disregarded or ignored the defense; or
- b. Was arbitrary, capricious, not supported by the facts or made through fraud.

(4) If the debtor asserts as a defense a claim of entitlement to discharge of the particular debt pursuant to 34 CFR 682.402, except for reason of bankruptcy, but has not previously sought discharge by the authority for that specific reason, the hearing officer shall stay the hearing for a period sufficient to permit the debtor to submit documentation to the authority for a determination of eligibility for entitlement to the discharge. At the expiration of the period of stay, the hearing officer shall review the circumstances and:

(a) Uphold the right of the authority to issue an order of wage withholding if the debtor has failed to submit documentation to the authority for review of entitlement to discharge;

(b) Dismiss the request for hearing if the debtor has submitted documentation and the authority has approved discharge of the debt; or

(c) Proceed with the hearing if the debtor submitted documentation and the authority denied discharge, except that the hearing officer shall consider the defense of entitlement to discharge in accordance with subsection (3) of this section.

(5) If the debtor asserts as a defense a claim that the debt was dischargeable in a previous bankruptcy pursuant to 20 USC 523(a)(8)(B), but the debtor did not previously seek discharge by the bankruptcy court, the hearing officer shall stay the hearing for a period sufficient to permit the debtor to reopen the bankruptcy case. At the expiration of the period of stay, the hearing officer shall review the circumstances and:

(a) Uphold the right of the authority to issue an order of wage withholding if the debtor has failed to obtain the bankruptcy court's permission to reopen the bankruptcy case to seek discharge of the particular debt; or

(b) Dismiss the request for hearing if the bankruptcy court has reopened the bankruptcy case to consider discharge of the particular debt.

(6)(a) If the debtor asserts as a defense a claim that withholding of his disposable pay would constitute an extreme financial hardship, the debtor shall submit documentation of all available resources and actual expenses and shall have the burden of demonstrating the necessity of actual expenses.

(b) The hearing officer shall compare the debtor's available resources and the necessary expenses and current debt obligations of the debtor and debtor's dependents. The hearing officer shall determine that extreme financial hardship exists if the debtor currently is not able to provide at least minimal subsistence for the debtor and debtor's dependents that could be claimed on a federal income tax return. The hearing officer shall consider as available resources of the debtor income of the debtor, the debtor's spouse, and debtor's

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dependents from all sources, including nontaxable income and government benefits, expenses paid on behalf of the debtor by another person, and the cash value of any current liquid assets, such as bank accounts and investments. The hearing officer shall consider the claim of extreme financial hardship in accordance with the following presumptions.

1. Withholding of an amount of disposable pay shall constitute an extreme financial hardship if:

a. The debtor resides in the District of Columbia or a state other than Alaska or Hawaii and the debtor's available resources do not exceed the applicable poverty guideline, multiplied by 125 percent, based on the debtor's family size:

Size of family unit	Poverty guideline
1	\$8,350
2	\$11,250
3	\$14,150
4	\$17,050
5	\$19,950
6	\$22,850
7	\$25,750
8	\$28,650
Each additional person	Add \$2,900

Size of family unit	Poverty guideline
1	\$8,240
2	\$11,060
3	\$13,880
4	\$16,700
5	\$19,520
6	\$22,340
7	\$25,160
8	\$27,980
Each additional person	add \$2,800

b. The debtor resides in Alaska and the debtor's available resources do not exceed the applicable poverty guideline, multiplied by 125 percent, based on the debtor's family size:

Size of family unit	Poverty guidelines
1	\$10,430
2	\$14,060
3	\$17,690
4	\$21,320
5	\$24,950
6	\$28,580
7	\$32,210
8	\$35,840
Each additional person	Add \$3,630

Size of family unit	Poverty guideline
1	\$10,320
2	\$13,840
3	\$17,360
4	\$20,880
5	\$24,400
6	\$27,920
7	\$31,440
8	\$34,960
Each additional person	add \$3,500

c. The debtor resides in Hawaii and the debtor's available resources do not exceed the applicable poverty guideline, multiplied by 125 percent, based on the debtor's family size:

Size of family unit	Poverty guidelines
1	\$9,590
2	\$12,930
3	\$16,270
4	\$19,610
5	\$22,950
6	\$26,290
7	\$29,630
8	\$32,970
Each additional person	Add \$ 3,340

Size of family unit	Poverty guideline
1	\$9,490
2	\$12,730
3	\$15,970
4	\$19,210
5	\$22,450
6	\$25,690
7	\$28,930
8	\$32,170
Each additional person	add \$3,220

2.a. If the debtor resides in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, or Vermont, except for a metropolitan area listed in clause b of this subparagraph, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

Debtor's Available Resources	Less Than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
Annual Expenditures									
Owned dwelling	1,341	1,037	2,214	2,205	3,177	3,397	5,073	6,719	11,348
Rented dwelling	2,518	2,423	2,648	2,899	2,549	3,231	2,129	1,832	1,442
Other lodging	152	138	275	306	211	333	378	621	1,674
Utilities, fuels, and public services	1,166	1,333	1,770	2,046	2,340	2,439	2,676	2,963	3,685
Household services	145	103	395	235	313	315	387	624	1,149
Housekeeping and miscellaneous supplies	165	260	366	266	351	449	530	633	739
Household furnishing and equipment	672	1,125	937	843	909	1,567	1,922	2,059	3,585
Vehicle purchases (net out-	803	719	978	849	1,537	3,066	3,559	3,336	4,564

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lay)									
Gasoline and motor oil	406	336	478	581	712	973	1,115	1,348	1,607
Vehicle maintenance and repairs	168	182	289	475	586	607	571	804	1,089
Vehicle insurance	239	221	403	506	610	887	916	1,130	1,564
Vehicle lease, license and other charges	183	144	221	268	306	469	524	651	1,549
Public transportation	310	224	305	339	419	580	588	543	1,359

{Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>									
Owned dwelling	917	1,070	1,829	2,579	2,835	3,170	5,185	6,775	10,690
Rented dwelling	2,325	2,311	2,713	2,514	2,679	2,917	2,213	1,564	1,507
Other lodging	164	101	118	326	216	355	396	555	1,586
Utilities, fuels, and public services	1,137	1,482	1,841	2,151	2,266	2,484	2,719	2,919	3,711
Household services	107	107	327	212	261	467	431	683	1,231
Housekeeping and miscellaneous supplies	214	242	274	332	353	420	554	666	762
Household furnishing and equipment	629	628	502	974	741	1,431	1,363	2,216	3,178
Vehicle purchases (net outlay)	243	555	753	693	1,662	3,161	2,805	2,769	3,676
Gasoline and motor oil	349	321	483	609	783	1,033	1,165	1,459	1,621
Vehicle maintenance and repairs	149	159	307	412	510	575	686	792	1,225
Vehicle insurance	197	201	349	507	634	905	925	1,159	1,507
Vehicle lease, license, and other charges	195	109	200	364	248	471	567	724	1,631
Public transportation	301	200	272	349	406	501	534	631	1,392]

b. If the debtor resides in one (1) of the following metropolitan areas, actual annual expenditures by the debtor's family that exceed the applicable amount for a category shall be presumed unnecessary:

	New York	Philadelphia	Boston	Pittsburgh
Owned dwellings	5,777	6,774	5,815	3,247
Rented dwellings	3,409	1,735	2,436	1,692
Other lodging	525	918	1,120	390
Utilities, fuels, and public services	2,501	2,821	2,536	2,609
Household services	561	425	648	502
Housekeeping, and miscellaneous supplies	440	400	349	517
Household furnishings and equipment	1,940	1,638	1,896	2,213
Vehicle purchases (net outlay)	2,030	2,978	2,274	2,909
Gasoline and motor oil	870	1,015	1,020	946
Other vehicle expenses (repairs, insurance, lease, license, and other charges)	2,431	2,708	2,212	2,285

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Public transportation	961	457	638	432
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	[New York	Philadelphia	Boston	Pittsburgh
Owned dwellings	5,463	5,466	5,049	3,442
Rented dwellings	3,367	1,785	2,528	1,613
Other lodging	437	816	800	425
Utilities, fuels, and public services	2,470	2,637	2,514	2,724
Household services	562	401	592	498
Housekeeping, and miscellaneous supplies	455	371	407	435
Household furnishings and equipment	1,480	1,218	1,727	1,830
Vehicle purchases (net outlay)	1,225	1,755	2,656	3,108
Gasoline and motor oil	847	1,016	1,056	1,061
Other vehicle expenses (repairs, insurance, lease, license, and other charges)	2,269	2,497	2,334	2,160
Public transportation	861	464	653	440]

3.a. If the debtor resides in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, or Wisconsin, except for a metropolitan area listed in clause b of this subparagraph, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,000	\$70,000 and over
Annual Expenditures									
Owned dwelling	1,809	816	1,500	1,917	2,299	3,448	4,232	5,798	9,014
Rented dwellings	1,482	1,707	1,726	2,040	1,919	1,893	1,520	1,009	585
Other lodging	296	139	172	200	242	216	413	525	1,060
Utilities, fuels, and public services	1,377	1,619	1,857	2,114	2,238	2,423	2,593	2,860	3,317
Household operations services	262	119	244	224	269	302	493	750	1,308
Housekeeping and miscellaneous supplies	230	255	282	324	414	523	551	706	865
Household furnishings and equipment	966	487	680	989	1,087	1,257	1,642	2,052	3,946
Vehicle purchases (net outlay)	1,400	838	1,454	1,925	2,226	3,067	3,194	3,701	5,466
Gasoline and motor oil	540	418	590	772	903	1,179	1,344	1,504	1,708
Vehicle maintenance and repairs	423	233	461	433	559	641	688	975	1,233
Vehicle insurance	385	217	417	543	606	750	835	1,009	1,124
Vehicle lease, license, and other charges	110	82	158	224	327	359	511	898	1,285
Public transportation	237	99	141	199	178	210	292	387	972

Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
Annual Expenditures									
Owned dwelling	1,710	861	1,382	1,822	2,162	3,153	4,401	5,851	8,691
Rented dwelling	1,369	1,705	1,613	1,846	1,872	1,897	1,363	982	613
Other lodging	369	142	108	199	238	313	412	553	1,205

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Utilities, fuels, and public services	1,503	1,596	1,916	2,171	2,264	2,513	2,602	2,876	3,344
Household operations services	381	135	187	192	339	307	470	690	1,300
Housekeeping and miscellaneous supplies	190	275	272	367	478	468	584	719	808
Household furnishings and equipment	588	421	505	887	1,110	1,365	1,643	1,801	3,212
Vehicle purchases (net outlay)	1,047	1,125	1,191	2,057	2,195	3,354	3,085	4,079	5,663
Gasoline and motor oil	577	441	586	836	962	1,220	1,383	1,559	1,824
Vehicle maintenance and repairs	458	282	375	518	584	688	765	959	1,268
Vehicle insurance	290	253	383	546	632	742	837	940	1,151
Vehicle lease, license, and other charges	113	119	179	189	298	329	437	826	1,196
Public transportation	204	140	97	181	199	241	286	520	1,184

b. If the debtor resides in one (1) of the following metropolitan areas, actual annual expenditures by the debtor's family that exceed the applicable amount for a category shall be presumed unnecessary:

	Chicago	Detroit	Milwaukee	Minneapolis St. Paul	Cleveland	Cincinnati	St. Louis	Kansas City
<b>Annual Expenditures</b>								
Owned dwelling	5,184	4,828	5,657	5,599	4,293	4,291	4,093	3,754
Rented dwelling	2,076	1,561	2,071	1,907	1,490	2,143	1,488	1,935
Other lodging	436	420	386	630	562	351	330	347
Utilities, fuels, and public services	2,598	2,505	2,224	2,292	2,604	2,389	2,789	2,667
Household services	559	492	418	736	468	822	604	643
Housekeeping and miscellaneous supplies	592	404	478	572	476	398	423	444
Household furnishings and equipment	1,627	1,580	2,099	3,030	1,829	1,698	1,431	1,544
Vehicle purchases (net outlay)	2,557	2,629	2,599	4,117	3,030	2,704	2,859	3,005
Gasoline and motor oil	982	1,055	1,036	1,258	939	1,109	1,064	1,144
Other vehicle expenses (repairs, insurance, lease, license, and other charges)	1,766	2,915	2,048	3,168	2,331	2,226	2,503	2,279
Public transportation	554	470	493	585	359	441	268	258

	Chicago	Detroit	Milwaukee	Minneapolis St. Paul	Cleveland	Cincinnati	St. Louis	Kansas City
<b>Annual Expenditures</b>								
Owned dwelling	5,222	4,190	4,913	5,164	3,779	3,943	3,463	3,557
Rented dwelling	2,012	1,552	2,008	1,830	1,551	2,134	1,493	1,706
Other lodging	451	448	433	759	497	378	336	282
Utilities, fuels, and public services	2,617	2,507	2,141	2,329	2,672	2,271	2,796	2,597
Household services	646	459	345	594	738	533	608	636
Housekeeping and miscellaneous supplies	560	453	450	490	506	423	476	483
Household furnishings and equipment	1,379	1,533	1,479	1,771	1,735	1,890	1,561	1,374

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Vehicle purchases (net outlay)	2,454	2,240	1,926	3,241	2,828	3,339	2,640	2,399
Gasoline and motor oil	1,045	1,132	996	1,374	997	1,036	1,070	1,139
Other vehicle expenses (repairs, insurance, lease, license, and other charges)	1,865	2,902	1,868	3,337	2,491	2,139	2,220	2,269
Public transportation	804	413	461	609	326	456	273	310

4.a. If the debtor resides in Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, or West Virginia, except for a metropolitan area listed in clause b of this subparagraph, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
Owned dwelling	1,108	975	1,347	1,696	2,073	3,048	3,772	4,944	8,292
Rented dwelling	1,907	1,534	1,662	1,886	2,019	1,981	1,716	1,438	1,006
Other lodging	200	64	133	159	145	224	325	486	1,185
Utilities, fuels, and other charges	1,645	1,755	1,937	2,205	2,298	2,483	2,771	3,044	3,606
Household services	161	273	302	318	369	408	634	812	1,485
Housekeeping and miscellaneous supplies	182	216	267	340	358	449	519	641	833
Household furnishings and equipment	495	635	690	829	1,331	1,413	1,844	2,226	3,138
Vehicle purchases (net outlay)	1,147	754	1,766	2,486	2,719	3,238	4,216	6,060	5,764
Gasoline and motor oil	623	487	699	868	1,002	1,178	1,369	1,470	1,699
Vehicle maintenance and repairs	387	269	419	471	586	776	770	956	1,199
Vehicle insurance	300	248	377	551	665	778	969	1,074	1,318
Vehicle lease, license, and other charges	83	142	99	209	221	315	462	523	848
Public transportation	95	114	142	153	184	180	311	385	761

Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>									
Owned dwelling	945	981	1,334	1,871	2,139	2,896	3,785	5,057	8,113
Rented dwelling	1,709	1,412	1,559	1,734	1,889	1,835	1,518	1,519	1,109
Other lodging	224	71	107	156	167	196	307	493	1,265
Utilities, fuels, and other charges	1,585	1,745	1,950	2,239	2,306	2,491	2,818	3,069	3,600
Household services	184	246	303	351	333	439	687	801	1,419
Housekeeping and miscellaneous supplies	290	228	282	362	386	458	496	588	828
Household furnishings and equipment	566	540	697	805	1,151	1,264	1,790	2,310	3,254
Vehicle purchases (net outlay)	2,358	1,149	1,389	2,327	3,199	3,373	4,566	5,618	5,952
Gasoline and motor oil	647	525	727	921	1,068	1,237	1,512	1,624	1,811
Vehicle maintenance and repairs	317	256	468	480	642	719	807	966	1,252
Vehicle insurance	239	280	389	637	670	823	931	1,092	1,312

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Vehicle lease, license, and other charges	129	164	92	225	242	293	526	494	856
Public transportation	144	103	169	181	180	174	232	435	772]

b. If the debtor resides in one (1) of the following metropolitan areas, actual annual expenditures by the debtor's family that exceed the applicable amount for a category shall be presumed unnecessary:

	Washington D.C.	Baltimore	Atlanta	Miami	Tampa	Dallas Forth Worth	Houston
<b>Annual Expenditures</b>							
Owned dwelling	7,056	4,921	5,070	4,412	3,764	3,965	3,539
Rented dwelling	2,907	1,980	2,116	3,087	1,601	2,831	2,605
Other lodging	902	402	529	316	396	404	392
Utilities, fuels, and public services	2,732	2,361	3,040	2,662	2,430	2,907	2,802
Household services	954	501	793	841	672	862	727
Housekeeping and miscellaneous supplies	512	412	339	354	464	497	457
Household furnishings and equipment	2,067	1,372	1,592	1,239	1,637	1,849	1,710
Vehicle purchases (net outlay)	3,318	2,236	4,287	2,819	2,686	4,701	4,657
Gasoline and motor oil	1,112	952	1,158	952	911	1,290	1,254
Other vehicle expenses (repairs, insurance, lease, license, and other charges)	2,593	1,956	2,970	2,810	2,173	2,630	2,829
Public transportation	698	349	372	393	352	364	378

	Washington D.C.	Baltimore	Atlanta	Miami	Tampa	Dallas- Fort Worth	Houston
<b>Annual Expenditures</b>							
Owned dwelling	7,034	4,737	5,073	3,694	3,739	3,616	3,586
Rented dwelling	2,903	1,742	2,114	2,896	1,440	2,599	2,462
Other lodging	990	246	559	266	418	442	318
Utilities, fuels, and public services	2,769	2,377	2,961	2,381	2,476	2,842	2,638
Household services	1,112	386	959	536	729	877	705
Housekeeping and miscellaneous supplies	557	442	382	422	488	476	452
Household furnishings and equipment	2,040	1,328	1,615	1,127	1,770	1,606	1,649
Vehicle purchases (net outlay)	3,184	2,401	3,235	1,815	2,931	5,814	4,225
Gasoline and motor oil	1,179	947	1,173	924	1,016	1,385	1,334
Other vehicle expenses (repairs, insurance, lease, license, and other charges)	2,690	1,884	2,799	1,978	2,565	2,683	2,657
Public transportation	927	290	397	327	446	306	375]

5.a. If the debtor resides in Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, or Wyoming, except for a metropolitan area listed in clause b of this paragraph, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,000	\$30,000 to \$39,999	\$40,000 to \$49,000	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>									



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Owned dwelling	1,189	1,182	2,000	1,859	2,259	3,675	4,551	6,690	12,220
Rented dwelling	2,265	2,371	3,151	2,974	3,441	3,252	3,406	2,228	1,834
Other lodging	286	98	189	229	304	228	370	435	1,571
Utilities, fuels, and public services	1,189	1,310	1,467	1,779	1,934	2,148	2,232	2,607	3,305
Household services	191	330	272	331	428	430	451	603	1,817
Housekeeping and miscellaneous supplies	286	227	405	391	408	492	558	698	930
Household furnishings and equipment	773	590	776	897	1,118	1,549	1,681	2,394	3,792
Vehicle purchases (net outlay)	967	1,163	1,392	1,359	2,382	2,485	3,579	3,492	5,432
Gasoline and motor oil	611	553	643	842	974	1,085	1,243	1,556	1,725
Vehicle maintenance and repairs	281	284	494	493	622	756	908	1,081	1,443
Vehicle insurance	311	274	453	590	716	881	929	1,137	1,369
Vehicle lease, license, and other charges	266	113	170	220	304	451	703	943	1,847
Public transportation	229	247	181	249	411	380	377	593	1,266

Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>									
Owned dwelling	1,367	1,022	1,783	1,601	2,261	3,548	4,803	6,800	12,076
Rented dwelling	2,181	2,489	2,801	2,902	3,342	3,157	3,045	2,100	1,800
Other lodging	245	163	163	187	282	291	445	462	1,438
Utilities, fuels, and public services	1,251	1,250	1,532	1,796	1,926	2,062	2,270	2,650	3,277
Household services	175	207	265	325	531	478	563	678	1,936
Housekeeping and miscellaneous supplies	314	222	383	523	417	455	620	620	1,116
Household furnishings and equipment	820	476	810	877	1,045	1,420	1,548	2,392	3,705
Vehicle purchases (net outlay)	1,407	1,043	987	1,646	1,991	3,322	3,758	2,942	5,606
Gasoline and motor oil	591	611	684	856	1,026	1,182	1,342	1,571	1,770
Vehicle maintenance and repairs	290	317	463	540	711	856	878	1,007	1,546
Vehicle insurance	307	247	426	507	634	793	953	1,084	1,380
Vehicle lease, license, and other charges	277	128	191	243	350	442	626	856	1,687
Public transportation	187	415	208	234	324	397	466	572	1,216

b. If the debtor resides in one (1) of the following metropolitan areas, actual annual expenditures by the debtor's family that exceed the applicable amount for a category shall be presumed unnecessary:

	Los Angeles	San Francisco	San Diego	Portland	Seattle	Honolulu	Anchorage	Phoenix	Denver
<b>Annual Expenditures</b>									
Owned dwelling	5,750	5,851	5,846	5,235	6,665	6,290	5,458	4,426	6,027
Rented dwelling	3,659	3,983	3,528	2,458	2,294	3,602	3,748	2,406	2,171
Other lodging	669	633	663	381	678	341	599	645	536

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Utilities, fuels, and public services	2,321	2,276	1,990	2,044	2,272	2,011	2,557	2,577	2,128
Household services	874	933	1,145	707	772	419	855	722	744
Housekeeping and miscellaneous supplies	503	505	505	508	578	540	570	437	611
Household furnishings and equipment	1,786	1,871	1,711	1,982	2,051	1,571	2,519	1,745	2,781
Vehicle purchases (net outlay)	2,870	2,799	2,394	3,559	3,306	2,394	4,152	3,277	2,781
Gasoline and motor oil	1,185	1,179	1,091	993	1,221	1,111	1,284	1,025	1,099
Other vehicle expenses (repairs, insurance, lease, license, and other charges)	3,034	2,999	2,722	2,176	2,717	2,427	3,091	2,405	3,341
Public transportation	607	777	507	538	635	913	1,090	528	624

	Los Angeles	San Francisco	San Diego	Portland	Seattle	Honolulu	Anchorage	Phoenix	Denver
<b>Annual Expenditures</b>									
Owned dwelling	5,500	5,785	5,772	5,302	5,969	5,458	5,591	4,275	5,332
Rented dwelling	3,677	3,584	3,669	2,099	2,241	3,584	3,619	2,198	2,269
Other lodging	500	541	486	547	609	929	499	551	488
Utilities, fuels, and public services	2,267	2,217	1,974	2,131	2,199	1,975	2,427	2,682	2,066
Household services	907	916	1,129	729	688	387	774	603	687
Housekeeping and miscellaneous supplies	557	491	525	413	469	526	484	402	544
Household furnishings and equipment	1,543	1,540	1,510	1,716	2,051	1,379	2,879	2,003	1,831
Vehicle purchases (net outlay)	2,270	2,684	1,967	3,598	3,521	3,521	5,136	2,833	3,286
Gasoline and motor oil	1,238	1,164	1,052	1,037	1,169	1,046	1,206	1,110	1,137
Other vehicle expenses (repairs, insurance, lease, license, and other charges)	2,785	2,758	2,428	2,250	2,476	2,357	2,931	2,626	3,116
Public transportation	634	695	446	524	545	1,032	1,186	476	599

6. If the debtor is the only member of the household, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,000	\$20,000 to \$29,999	\$30,000 to \$39,000	\$40,000 to \$49,999	\$50,000 to \$69,000	\$70,000 and over
<b>Annual Expenditures</b>									
Food	1,857	1,929	2,168	2,521	2,830	3,248	3,788	4,479	5,960
Apparel	703	576	639	851	1,078	1,453	1,705	1,839	2,437
Health insurance	223	555	750	681	529	548	573	805	720
Medical services	163	191	349	490	415	493	475	540	1,204
Prescription drugs	133	295	375	267	213	224	131	181	326
Medical supplies	29	56	86	68	87	63	69	101	113
Personal care products and services	126	179	250	227	358	350	275	522	626

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Education	890	412	367	332	342	366	351	311	647
Life and other personal insurance	41	90	137	131	178	209	194	459	593

[Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>									
Food	1,720	1,899	2,227	2,658	2,841	3,350	3,490	4,455	7,146
Apparel	567	586	678	1,035	1,006	1,315	1,354	2,151	1,827
Health insurance	219	546	744	636	518	537	519	805	725
Medical services	160	220	386	469	439	497	414	448	1,272
Prescription drugs	128	308	310	257	227	231	171	139	290
Medical supplies	36	57	90	60	71	77	103	80	205
Personal care products and services	160	191	294	324	405	437	434	442	481
Education	964	416	389	291	261	408	270	373	338
Life and other personal insurance	50	89	153	99	169	198	213	491	475]

7. If the debtor's household consists of two (2) persons, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,000	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>									
Food	3,764	3,375	3,255	3,798	4,282	4,831	5,286	5,456	7,247
Apparel	1,440	888	710	805	1,243	1,571	1,880	2,197	3,043
Health insurance	669	911	1,244	1,423	1,397	1,222	1,037	1,121	1,127
Medical services	332	418	396	666	548	450	635	621	1,025
Prescription drugs	340	402	596	714	608	531	511	409	430
Medical supplies	73	100	99	175	118	156	176	135	165
Personal care products and services	534	374	305	313	390	569	470	519	757
Education	431	357	102	237	312	270	479	568	788
Life and other personal insurance	314	180	255	316	344	353	678	568	867

[Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>									
Food	3,512	3,247	3,377	3,891	4,261	4,875	5,396	5,516	7,249
Apparel	1,216	844	739	1,046	1,390	1,486	1,726	2,325	3,363
Health insurance	698	802	1,175	1,370	1,286	1,099	1,086	1,123	1,068
Medical services	294	467	366	636	564	505	720	590	774
Prescription drugs	324	438	608	571	581	477	418	375	342
Medical supplies	53	94	106	126	137	143	138	142	160

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Personal care products and services	354	302	361	399	515	657	652	719	899
Education	468	248	133	195	222	248	478	609	683
Life and other personal insurance	175	180	248	298	359	336	433	510	858]

8. If the debtor's household consists of three (3) persons, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>									
Food	3,819	3,519	3,740	4,518	4,622	5,142	5,756	6,364	8,580
Apparel	1,107	1,456	1,078	1,676	1,427	1,910	1,859	2,491	3,395
Health insurance	541	415	495	753	931	936	1,101	1,070	1,306
Medical services	480	329	278	356	402	507	565	682	946
Prescription drugs	211	221	289	353	280	338	338	277	391
Medical supplies	63	32	72	71	97	105	100	110	199
Personal care products and services	364	318	291	340	298	408	450	522	853
Education	249	285	233	454	518	457	362	868	1,539
Life and other personal insurance	444	137	143	212	350	316	390	541	948

Debtor's Available Resources	Less than \$5,000	\$5,000 to \$9,999	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>									
Food	3,485	3,451	4,092	4,443	4,561	4,848	5,226	6,615	8,096
Apparel	1,127	1,198	968	1,645	1,761	1,615	1,632	2,759	3,677
Health insurance	490	399	481	750	903	890	1,036	1,095	1,276
Medical services	459	380	204	389	433	718	569	706	1,017
Prescription drugs	184	193	307	340	321	286	326	286	382
Medical supplies	28	40	51	60	95	119	114	110	206
Personal care products and services	289	363	420	459	481	603	610	662	988
Education	216	149	340	179	454	349	342	706	1,404
Life and other personal insurance	171	120	193	231	322	318	415	623	933]

9. If the debtor's household consists of four (4) persons, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

Debtor's Available Resources	Less than \$10,000	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>								
Food	4,204	4,508	4,603	4,852	6,430	6,307	7,573	9,116
Apparel	1,046	1,345	1,527	1,769	2,045	1,890	2,872	3,779
Health insurance	441	347	473	718	844	1,135	1,103	1,227
Medical services	243	151	358	472	461	773	779	1,022
Prescription drugs	177	193	218	290	232	367	321	278

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Medical supplies	<u>54</u>	<u>41</u>	<u>23</u>	<u>69</u>	<u>95</u>	<u>121</u>	<u>139</u>	<u>212</u>
Personal care products and services	<u>234</u>	<u>329</u>	<u>224</u>	<u>334</u>	<u>421</u>	<u>429</u>	<u>631</u>	<u>737</u>
Education	<u>158</u>	<u>83</u>	<u>161</u>	<u>302</u>	<u>567</u>	<u>693</u>	<u>821</u>	<u>1,650</u>
Life and other personal insurance	<u>125</u>	<u>84</u>	<u>182</u>	<u>293</u>	<u>336</u>	<u>414</u>	<u>547</u>	<u>1,058</u>

{Debtor's Available Resources	Less than \$10,000	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
<b>Annual Expenditures</b>								
Food	4,829	4,607	4,560	4,899	6,148	6,669	7,167	8,874
Apparel	1,009	1,228	1,419	1,568	2,294	2,310	2,786	3,737
Health insurance	386	342	431	616	950	1,090	1,096	1,110
Medical services	248	153	333	524	568	708	689	1,012
Prescription drugs	94	175	215	346	279	303	317	296
Medical supplies	37	31	32	75	99	110	153	187
Personal care products and services	333	338	394	463	549	662	703	1,120
Education	224	165	206	328	424	651	898	1,693
Life and other personal insurance	150	130	227	292	343	422	630	1,035

10. If the debtor's household consists of five (5) persons, actual annual expenditures by the debtor's family that exceed the applicable amount for a category, based on the debtor's available resources, shall be presumed unnecessary:

Debtor's Available Resources	Less than \$10,000	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
Food	5,315	4,793	5,412	5,534	6,611	7,147	8,280	10,878
Apparel	1,672	1,419	1,762	1,936	2,302	2,476	2,750	4,222
Health insurance	410	292	324	636	823	1,091	1,039	1,321
Medical services	366	213	450	376	518	650	829	957
Prescription drugs	142	181	249	294	225	305	312	398
Medical supplies	57	82	42	76	107	132	117	219
Personal care products and services	368	245	244	347	367	518	566	866
Education	276	158	419	431	561	623	931	1,490
Life and other personal insurance	236	138	153	236	338	356	563	973

{Debtor's Available Resources	Less than \$10,000	\$10,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$29,999	\$30,000 to \$39,999	\$40,000 to \$49,999	\$50,000 to \$69,999	\$70,000 and over
Food	5,320	4,972	5,188	5,682	6,795	7,143	7,959	10,261
Apparel	1,868	1,396	1,740	2,029	2,061	2,156	3,349	5,556
Health insurance	431	298	311	668	850	1,025	955	1,236
Medical services	387	274	615	440	580	672	873	1,101
Prescription drugs	121	176	193	286	256	278	257	357
Medical supplies	47	85	55	72	105	115	160	225
Personal care products and services	384	320	423	541	628	712	871	1,126

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Education	297	237	434	428	605	654	1,023	1,339
Life and other personal insurance	194	169	226	283	377	433	508	974

Section 5. (1) An administrative order issued by the authority to withhold disposable pay shall be served upon the debtor's employer personally or by mail. A notice of the issuance of the order shall be provided to the debtor by regular first class mail. The order shall require the withholding and delivery to the authority of not more than ten (10) percent of the debtor disposable pay, except that a greater percentage may be deducted upon the written consent of the debtor.

(2) The order shall state the amount or percentage to be withheld and the amount of the debt, the statutory and regulatory basis therefore, and the time withholding is to begin.

(3) The order shall continue to operate until the debt is paid in full with interest accrued and accruing thereon at the prescribed rate in the promissory note or applicable law and collection costs that may be charged to the borrower under the promissory note or applicable law. The order shall have the same priority as provided to a judicially ordered garnishment prescribed in KRS 425.506.

(4) An employer who has been served with an administrative order for withholding of earnings shall answer the order within twenty (20) days, and shall provide a copy to the debtor the first time that withholding occurs and each time thereafter that a different amount is withheld. The employer shall be liable to the authority for a lawfully due amount which the employer fails to withhold from disposable pay due the debtor following receipt of the order, plus attorneys' fees, costs, and, in the discretion of a court of competent jurisdiction, punitive damages.

(5) A withholding under this section shall not be grounds for discharge from employment, refusal to employ or disciplinary action against an employee subject to withholding under this section.

(6) The employer shall have no liability or further responsibility after properly, completely, and timely fulfilling the duties under this section.

Section 6. (1) Whenever this administrative regulation requires delivery of a notice, subpoena, or other communication by personal service, the service shall be made by:

(a) An officer authorized under KRS 454.140 to serve process; or

(b) A person over the age of eighteen (18) years of age, who shall prove service by affidavit or by the signature of the person being served.

(2) Receipt of a notice or other communication by the debtor shall be rebuttably presumed if the person to be served or another adult with apparent authority at the place of residence or employment last known to the authority signs a receipt or refuses to accept the notice or communication after identification and offer of delivery to the person so refusing.

(3) In the case of an administrative order to withhold disposable pay served upon an employer, receipt shall be rebuttably presumed if:

(a) The person to whom the order is directed signs or refuses to sign a receipt; or

(b) His employee or agent with apparent authority signs or refuses to sign a receipt.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing

or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

## REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: The proposed amendment to this administrative regulation will affect borrowers who are in default on student loans guaranteed by KHEAA and who wish to raise a defense in an administrative hearing that garnishment of 10% of their wages would impose an extreme financial hardship. From March 31, 1999, to March 16, 2000, 71 borrowers in default entered the administrative wage garnishment process and requested a hearing to contest the wage garnishment. From March 31, 1999, to March 16, 2000, 43 borrowers have alleged that administrative wage garnishment would impose an extreme financial hardship.

(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; however, it is anticipated that there will be no appreciable changes in the cost of living and employment in areas where the regulation will be implemented. The proposed amendment to the administrative regulation reflects changes in poverty guidelines and consumer expenditure levels established by the federal government. These levels are used by the hearing officers as presumptions and criteria for determining whether an extreme financial hardship would result from withholding a borrower's wages under an administrative wage garnishment. There may be savings to individual borrowers who can successfully show an extreme financial hardship.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent from the public comments received: No comments were received; however, it is anticipated that there will be no appreciable changes to the cost of doing business in areas where the regulation will be implemented.

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

1. First year following implementation: The proposed regulatory amendment would have no change on the existing compliance, reporting or paperwork requirements of any borrower and is anticipated to have no effect on competition.

2. Second and subsequent years: Same as #1 above.

(3) Effect on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The proposed regulatory amendment creates no change in the existing reporting and paperwork requirements of the promulgating agency.

(4) Assessment of anticipated effect on state and local revenues: The proposed regulatory amendment is anticipated to have no effect on state or local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The authority maintains a federally restricted trust fund pursuant to 20 USC Section 1072b for operation of the insured student loan program.

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

(a) Geographical area in which administrative regulation will be implemented: There is no anticipated economic impact to the geographical area where the amendment to the regulation will be implemented; however, individual borrowers seeking to raise this defense to an administrative wage garnishment may benefit from cur-

rent figures for consumer expenditures and poverty levels.

(b) Kentucky: Same as (a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered as the standardized figures established by the federal government reflect national averages.

(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 proposed regulatory amendment would have no effects on public health and environmental welfare.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: There would be no effect on the environment or public health.

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information of comments: None

(11) Tiering: Was tiering applied? No. This administrative regulation prescribes uniform procedures for administration of the wage garnishment process under the federal law. Accordingly, the notice provisions, hearing procedures and wage withholding requirements need to be uniformly applicable to all those effected. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U. S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY**  
**Division of Student Services**  
**(Amendment)**

**11 KAR 5:001. Definitions pertaining to 11 KAR Chapter 5.**

RELATES TO: KRS 164.740 to 164.785

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 264.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. This administrative regulation defines terms used in 11 KAR Chapter 5 pertaining to the Kentucky Tuition Grant Program and the College Access Program.

Section 1. Definitions. (1) "Academic term" means the fall or spring semester or their equivalence under a trimester or quarter system at a postsecondary education institution and shall not include summer sessions, except a summer quarter at an educational institution that uses a quarter system.

(2) "Academic year" means a period of time, usually eight (8) or nine (9) months, during which a full-time student would normally be expected to complete the equivalent of two (2) semesters, two (2) trimesters, three (3) quarters, 900 clock hours, twenty-four (24) semester hours, or thirty-six (36) quarter hours of instruction.

(3) "Authority" is defined by KRS 164.740(1).

(4) "Business school" is defined by KRS 164.740(3).

(5) "College Access Program" or "CAP" means the program of student financial assistance grants authorized under KRS 164.7535 to assist financially needy part-time and full-time undergraduate students attending an educational institution.

(6) "College" is defined by KRS 164.740(4).

(7) "Correspondence course" means a home study course provided by an educational institution under which the institution provides instructional materials, including examinations on the materials, to students who are not physically attending classes at the in-

stitution:

(a) When a student completes a portion of the instructional materials, the student takes the examinations that relate to that portion of the materials, and return the examinations to the institution for grading.

(b) A home study course that provides instruction in whole or in part through the use of video cassettes or video discs in an academic year shall be considered to be a correspondence course unless the institution also delivers the instruction on the cassette or disc to students physically attending classes at an institution during the same academic year.

(c) If a course is part correspondence and part residential training, the course shall be considered to be a correspondence course.

(8) "Educational expenses" means tuition and fees, books and supplies, room and board or reasonable living expenses, reasonable miscellaneous personal expenses, and reasonable transportation costs for the academic period of the grant application.

(9) "Educational institution" means a participating institution located in Kentucky which:

(a) Offers an eligible program of study;

(b) As a condition of enrollment as a regular student, requires that the person:

1. Have a certificate of graduation from a school providing secondary education, or the equivalent of a certificate; or

2.a. Be beyond the age of compulsory attendance in Kentucky; and

b. Have the ability to benefit from the training offered by the institution; and

(c) 1. For purposes of the College Access Program is, a business school, college, school of nursing or vocational school, and meets the requirements of 20 USC 1070 to 1070c-4 and 1088 to 1099; or

2. For purposes of the Kentucky Tuition Grant Program, is a private college whose institutional programs are not comprised solely of sectarian instruction.

(10) "Eligible noncitizen" means an individual who is:

(a) Either:

1. A U.S. national;

2. A U.S. permanent resident with an Alien Registration Receipt Card (1-151 or 1-551); or

3. A person with a Departure Record (I-94) from the U.S. Immigration and Naturalization Service showing any one (1) of the following designations:

a. "Refugee";

b. "Asylum granted";

c. "Indefinite parole" or "humanitarian parole"; or

d. "Cuban-Haitian entrant"; and

(b) Not in the United States on a:

1. F1 or F2 student visa;

2. J1 or J2 exchange visa; or

3. G series visa.

(11) "Eligible program of study" means an undergraduate program offered by an educational institution which:

(a) Is of at least two (2) academic years duration;

(b) For purposes of the Kentucky Tuition Grant Program, leads to a degree in a field other than theology, divinity or religious education at the institution at which the student is enrolled; and

(c) For purposes of the CAP Grant Program, leads to a certificate, diploma, or degree in a field other than theology, divinity or religious education.

(12) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying the federal methodology established in 20 USC 1087kk through 1087vv to the information that the student and his family provided on the application.

(13) "Federal act" is defined by KRS 164.740(9) and means 20 USC 1001 through 1146a.

(14) "Full-time student" means an enrolled student who is carrying a full-time academic workload, other than by correspondence:

(a) That may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as a full-time student, except that correspondence courses shall not be counted in determining the student's full-time status; and

(b) As determined by the institution under a standard applicable



to all students enrolled in a particular educational program, except that for an undergraduate student, an institution's minimum standard shall equal or exceed one (1) of the following minimum requirements:

1. Twelve (12) semester hours or twelve (12) quarter hours [in each of two (2) quarters] per academic term in an educational program using a semester, trimester, or quarter system;

2. Twenty-four (24) semester hours or thirty-six (36) quarter hours per academic year for an educational program using credit hours but not using a semester, trimester, or quarter system, or the prorated equivalent for a program of less than one (1) academic year;

3. Twenty-four (24) clock hours per week for an educational program using clock hours;

4. In an educational program using both credit and clock hours, any combination of credit and clock hours if the sum of the following fractions is equal to or greater than one (1):

a. For a program using a semester, trimester, or quarter system, the number of credit hours per term divided by twelve (12) and the number of clock hours per week divided by twenty-four (24); or

b. For a program not using a semester, trimester, or quarter system, the number of semester or trimester hours per academic year divided by twenty-four (24) and the number of quarter hours per academic year divided by thirty-six (36) and the number of clock hours per week divided by twenty-four (24);

5. A series of courses or seminars that equals twelve (12) semester hours or twenty-four (24) quarter hours in a maximum of eighteen (18) weeks; or

6. The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic workload of a full-time student.

(15) "Grant" is defined by KRS 164.740(10).

(16) "Kentucky Tuition Grant" or "KTG" means the program of student financial assistance grants authorized by KRS 164.780 and 164.785 for residents of Kentucky who bear the major costs of attending an educational institution and who demonstrate financial need.

(17) "KHEAA grant" means an award of a student financial assistance grant under the College Access Program or the Kentucky Tuition Grant Program or a combination of the two (2).

(18) "KHEAA grant limit" means an aggregate limitation on KHEAA grant awards to an individual which is:

(a) Measured in terms of the number of semesters during which a KHEAA grant is disbursed to a full-time student and not fully refunded; and

(b) Depleted by one (1) semester:

1. For a KHEAA grant disbursed to a full-time student in a semester; or

2. By a CAP grant recipient enrolled less than full time, who receives the cumulative equivalent amount of CAP grant that would have been received by a full-time CAP grant recipient using the then current maximum CAP grant.

(19) "KHEAA grant program officer" or "KGPO" means the official designated on the administrative agreement, pursuant to KRS 164.748(5), to serve as the educational institution's on-campus agent to certify all institutional transactions and activities with respect to the authority's grant programs.

(20) "Overaward" means receipt of financial assistance from all sources in excess of a student's need determined in accordance with 11 KAR 5:120 through 5:145.

(21) "Part-time student" means an enrolled student who is carrying an academic workload:

(a) That may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as at least a half-time student, except that correspondence courses shall not be counted in determining the student's part-time status; and

(b) As determined by the institution under a standard applicable to all students enrolled in a particular educational program, except that for an undergraduate student, an institution's minimum standard shall equal or exceed one (1) of the following minimum requirements:

1. At least six (6) semester hours;

2. Six (6) quarter hours; or

3. Half of the academic workload of a full-time student as deter-

mined by the educational institution.

(22) "Pell Grant" means an award under the federal Pell Grant Program operated by the secretary under the provisions of Title IV Part A, subpart 1 of the federal act.

(23) "Resident of Kentucky" or "resident" means a person who is classified as an in-state student in accordance with the criteria established in 13 KAR 2:045.

(24) "Total cost of education" means an amount determined for an academic year for each applicant by the following formula: normal tuition and fees charged by the institution chosen by the applicant, plus maximum board contract amount, plus minimum room contract amount.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

#### REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: This regulation defines or references certain statutory definitions of terms commonly used in the administration of the KHEAA Grant Program. Under the Kentucky Tuition Grant Program, 9,450 students attending 20 postsecondary institutions received grants for the 1998-99 academic year. Under the College Access Program, 33,310 students attending 79 postsecondary institutions received grants in 1998-99.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The administrative regulation itself merely defines terms commonly used in administration of the KHEAA grant programs. Therefore it has no direct or indirect cost or savings respecting the cost of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The amendment is anticipated to have no impact on the cost of doing business of any entity.

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

1. First year following implementation: The amendment affects no change in the compliance, reporting or paperwork requirements of any participating institution or student and is anticipated to have no effect upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effects on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: The administrative regulation itself merely defines terms commonly used in administration of the KHEAA grant programs. Therefore it has no direct or indirect cost or savings respecting the promulgating body. The change in the administrative regulation merely conforms a defined term to a statutory change.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The administrative

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regulation itself merely defines terms commonly used in administration of the KHEAA grant programs. There is no change in the paperwork or reporting requirements for the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: None. The administrative regulation itself merely defines terms commonly used in administration of the KHEAA grant programs.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The administrative regulation itself merely defines terms commonly used in administration of the KHEAA grant programs. Therefore, no revenue is necessary to implement this particular administrative regulation. However, grants for students under the College Access Program and Kentucky Tuition Grant Program are funded by appropriations from the General Fund and administrative costs are borne by the authority through receipts of the authority.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments were received. The amendment simply revises the definitions used in 11 KAR Chapter 5 KHEAA Grant Programs. Students that receive grants under the programs will experience an economic impact to the extent that funds may be used by the student for postsecondary education related expenses, thus enabling the student to pursue higher education and potentially increase their lifelong earning capacity.

(b) Kentucky: Same as (a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered. The proposed amendment merely modifies defined terms to make administration of the state funded grant programs more consistent with administration of federal student financial assistance programs.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no effect upon public health or the environment resulting from the amendment of this administrative regulation.

(b) State whether a detrimental effect on the environment or public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The equal protection and due process clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY  
Division of Student Services  
(Amendment)

11 KAR 5:034. CAP grant student eligibility.

RELATES TO: KRS 164.744(2), 164.753(4), 164.7535 [1994 Ky. Acts ch. 36]

STATUTORY AUTHORITY: KRS 164.748(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. KRS 164.7535 authorizes [The Kentucky Higher Education Assistance Authority administers grant programs of student financial assistance, including federal funds under the state student incentive grant program. 1994 Ky. Acts ch. 36 authorized and directed] the authority to provide grants to assist financially needy part-time and full-time undergraduate students to attend educational institutions in Kentucky. [That Act also authorized the authority to promulgate administrative regulations pertaining to administration of those grants, to use appropriated funds to match federal funds, and to conform those administrative regulations to federal law for full participation in the state student incentive grant program.] This administrative regulation establishes student eligibility requirements for the college access program. [This amendment is necessary to reflect legislation.]

Section 1. In order to qualify for disbursement of a college access program grant, a student shall:

(1) Be a resident of Kentucky;

(2) Be enrolled at an educational institution for at least six (6) semester hours or half-time as determined by the educational institution, whichever is greater, in an eligible program of study and not have previously earned a first baccalaureate or professional degree;

(3) Demonstrate financial need in accordance with 11 KAR 5:120 through 5:145 for CAP grant assistance;

(4) Have remaining KHEAA grant limit. For purposes of a CAP grant, a student enrolled as a full-time student in each academic term of a two (2) year eligible program of study [institution] shall be limited to five (5) semesters of CAP [KHEAA] grant program eligibility. A student enrolled as a full-time student in each academic term of a four (4) year eligible program of study [institution] shall be limited to nine (9) semesters of CAP [KHEAA] grant program eligibility (including any KHEAA grant limit used in [at] a two (2) year eligible program of study [institution]);

(5) Not receive financial assistance in excess of need to meet educational expenses;

(6) Maintain satisfactory progress in an eligible program of study according to the published standards and practices of the educational institution at which the student is enrolled;

(7) Satisfy all financial obligations to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 and to any educational institution, except that ineligibility for this reason may be waived by the executive director of the authority, at the recommendation of a designated staff review committee, for cause;

(8) Be a citizen of the United States or an eligible noncitizen; [and]

(9) Be receiving full-time credit at an educational institution in an eligible program of study and paying full-time tuition and fees to that institution, if the student is studying abroad or off-campus; and

(10) Be enrolled as a full-time student in at least one (1) quarter or as at least a part-time student in two (2) quarters of the fall academic term to receive a disbursement in the fall and be enrolled as a full-time student in at least one (1) quarter or as at least a part-time student in two (2) quarters of the spring academic term to receive a disbursement in the spring.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 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 tran-

script is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

# REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: Under the College Access Program, 33,310 students attending 79 postsecondary institutions received grants in 1998-99.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments have been received. This administrative regulation is amended to codify longstanding interpretations. The first policy is that two academic quarters in a program of study at an institution using an academic quarter are the equivalent of a semester. Therefore, a student enrolled less than full-time in two quarters must be enrolled at least half-time in two quarters for the fall or the spring to receive a CAP grant for the respective terms. The second policy codified in the amendment is that the time limit on receipt of CAP grants by full-time students is measured in number of semesters; while the limit for students enrolled less than full-time but at least half-time is measured instead by the monetary value equivalent of grants they might receive for full-time enrollment. Since this amendment codifies prior interpretation and does not change current practice, it does not expand or decrease the number of students who may receive CAP grants. Therefore it has no direct or indirect cost or savings respecting the cost of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The amendment is anticipated to have no impact on the cost of doing business of any entity.

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

1. First year following implementation: The amendment affects no change in the compliance, reporting or paperwork requirements of any participating institution or student and is anticipated to have no effect upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effects on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation is amended to codify longstanding interpretations. The first policy is that two academic quarters in a program of study at an institution using an academic quarter are the equivalent of a semester. Therefore, a student enrolled less than full-time in two quarters must be enrolled at least half-time in two quarters for the fall or the spring to receive a CAP grant for the respective terms. The second policy codified in the amendment is that the time limit on receipt of CAP grants by full-time students is measured in number of semesters; while the limit for students enrolled less than full-time but at least half-time is measured instead by the monetary value equivalent of grants they might receive for full-time enrollment. Since this amendment codifies prior interpretation and does not change current practice, it does not expand or decrease the number of students who may receive CAP grants. Therefore it has no direct or indirect cost or savings respecting the promulgating body.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: There is no change in the paperwork or reporting requirements for the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: None. This administrative regulation is amended to codify longstanding interpretations. Since this amendment codifies prior interpretation and does not change current practice, it does not expand or decrease the number of students who may receive CAP

grants

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: This administrative regulation is amended to codify longstanding interpretations. Since this amendment codifies prior interpretation and does not change current practice, it does not expand or decrease the number of students who may receive CAP grants. Therefore, no revenue is necessary to implement this particular administrative regulation. However, grants for students under the College Access Program and Kentucky Tuition Grant Program are funded by appropriations of net Lottery revenues and administrative costs are borne by the authority through receipts of the authority.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments were received. This administrative regulation is amended to codify longstanding interpretations. Since this amendment codifies prior interpretation and does not change current practice, it does not expand or decrease the number of students who may receive CAP grants. Students that receive grants under the programs will experience an economic impact to the extent that funds may be used by the student for postsecondary education related expenses, thus enabling the student to pursue higher education and potentially increase their lifelong earning capacity.

(b) Kentucky: Same as (a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered. This administrative regulation is amended to codify longstanding interpretations. Since this amendment codifies prior interpretation and does not change current practice, it does not expand or decrease the number of students who may receive CAP grants.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no effect upon public health or the environment resulting from the amendment of this administrative regulation.

(b) State whether a detrimental effect on the environment or public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The equal protection and due process clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

## KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Division of Student Services (Amendment)

11 KAR 5:140. KTG award determination procedure.

RELATES TO: KRS 164.744(2) to 164.753(4), 164.780, 164.785  
STATUTORY AUTHORITY: KRS 13A.100, 164.748(4),

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164.753(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. [The Kentucky Higher Education Assistance Authority administers the Kentucky tuition grant program to provide financial assistance to students to attend Kentucky educational institutions.] This administrative regulation establishes [sets forth] the award determination procedures for the Kentucky tuition grant program. [This amendment is necessary to increase the KTG award amount.]

Section 1. [Definitions. For purposes of this administrative regulation, the terms listed below shall have the following meanings: "Pell grant" means an award under the Pell Grant Program operated by the secretary under the provisions of Title IV Part A, subpart 1 of the federal act.

Section 2. [Kentucky Tuition Grant (KTG) Program Awards. Whether or not the applicant is eligible for a CAP grant award, the application shall be reviewed for determination of eligibility for a KTG.

Section 2. [3.] KTG Need. For each KTG eligible applicant, the KTG need shall be computed according to the following formula: KTG need equals total cost of education minus the sum of:

- (1) Expected Pell grant;
- (2) Expected family contribution; and
- (3) CAP grant.

Section 3. [4.] KTG Award. (1) If an applicant does not qualify for a CAP grant and the KTG need is an amount equal to or greater than \$200, the KTG shall be the lesser of the KTG need or the maximum grant authorized by KRS 164.785(3), except that KTG awards shall be offered only to the extent funds are available.

(2) If an applicant does not qualify for a CAP grant, and the KTG need is an amount less than \$200, no award shall be made.

(3) If an applicant has received a CAP award and KTG need is an amount equal to or greater than fifty (50) dollars, the KTG award shall be the lesser of the KTG need or the maximum grant specified in Section 6 of this administrative regulation except that KTG awards shall be offered only to the extent that funds are available.

(4) A KTG shall not exceed \$1,600 [1,500] for an academic year.

Section 4. [5.] A KHEAA grant shall not exceed the cost of tuition and fees charged to the student during the academic year of the award. A KHEAA grant awarded to an incarcerated individual shall be considered an overaward to the extent that the KHEAA grant, in combination with financial assistance received from other sources, exceeds the student's actual cost for tuition, fees, and books. A semester award shall not exceed tuition and fee charges for that semester. No KHEAA grant award shall be made for a summer academic term.

Section 5. [6.] In no event shall the KHEAA grant award exceed the applicant's total cost of education less expected family contribution and other anticipated student financial assistance. The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from other sources in combination with the KHEAA grant exceeds the educational institution's determination of financial need for that student. The KHEAA grant program officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

Section 6. [7.] If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a KHEAA grant that has already been offered, but not disbursed, the grant shall be revoked. If the student is determined to be ineligible after the KHEAA grant has been disbursed, the student shall repay to the authority the entire amount of the KHEAA grant for which the student was ineligible.

Section 7. [8.] If the authority receives revised data that, upon recomputation, necessitates reduction of the KHEAA grant and the grant has not yet been disbursed, the reduction shall be made to both

the fall and spring disbursements, and the student shall be notified of the reduction. If the grant for the fall academic term has already been disbursed, then the reduction shall be made to the spring disbursement. If both the fall and spring disbursements have been made, the student shall repay the overaward to the authority.

Section 8. [9.] Students requested by the institution to provide verification of data for any financial assistance program shall provide the verification before receiving disbursement of a KHEAA grant. Any student who is awarded a KHEAA grant who fails to provide verification requested by the educational institution shall be deemed ineligible, and the grant shall be revoked.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

### REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: This regulation increases the maximum Kentucky Tuition Grant Program by \$100. Under the Kentucky Tuition Grant Program, 9,450 students attending 20 postsecondary institutions received grants for the 1998-99 academic year.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments were received. This regulation increases the maximum Kentucky Tuition Grant Program by \$100. Therefore it will marginally improve the ability of students to afford the increased cost of attending private postsecondary institutions in Kentucky.

(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 amendment is anticipated to have no impact on the cost of doing business of any entity.

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

1. First year following implementation: The amendment affects no change in the compliance, reporting or paperwork requirements of any participating institution or student and is anticipated to have no effect upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effects on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: This regulation increases the maximum Kentucky Tuition Grant Program by \$100. Therefore it will marginally improve the ability of students to afford the increased cost of attending private postsecondary institutions in Kentucky. The authority will incur no additional administrative burden or expense. Therefore it has no direct or indirect cost or savings respecting the promulgating body. The increased grant maximum is funded from net lottery revenues transferred to the authority for grant and scholarship programs.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: There is no change in the paperwork or reporting requirements for the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: None. This regulation increases the maximum Kentucky Tuition Grant Program by \$100. Therefore it will marginally improve the ability of students to afford the increased cost of attending private postsecondary institutions in Kentucky. The authority will incur no additional administrative burden or expense. The increased grant maximum is funded from net lottery revenues transferred to the authority for grant and scholarship programs.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Grants for students under the Kentucky Tuition Grant Program are funded by appropriations of net lottery revenues and administrative costs are borne by the authority through receipts of the authority.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments were received. This regulation increases the maximum Kentucky Tuition Grant Program by \$100. Therefore it will marginally improve the ability of students to afford the increased cost of attending private postsecondary institutions in Kentucky. The authority will incur no additional administrative burden or expense. The increased grant maximum is funded from net lottery revenues transferred to the authority for grant and scholarship programs. Students that receive grants under the programs will experience an economic impact to the extent that funds may be used by the student for postsecondary education related expenses, thus enabling the student to pursue higher education and potentially increase their lifelong earning capacity.

(b) Kentucky: Same as (a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered. KRS 164.7889 authorizes the authority to increase the amount of grants or increase the number of students eligible to receive grants by changing the need criteria if sufficient funds are available. The authority has evaluated the available funding and the prior usage of grant funds and has elected to increase the maximum grant amounts under the Kentucky Tuition Grant Program and the College Access Program and also to increase the need criteria under the College Access Program.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no effect upon public health or the environment resulting from the amendment of this administrative regulation.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The equal protection and due process clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and

recipients.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY  
Division of Student Services  
(Amendment)

11 KAR 5:145. CAP grant award determination procedure.

RELATES TO: KRS 164.744(2), 164.753(4), 164.7535, 164.7889(3)

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4), 164.7889(3) [1994 Ky. Acts ch. 36]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. KRS 164.7889(3) requires the authority to promulgate an administrative regulation that increases both the maximum amount available under the grant programs, and increases the average income level for qualification for the grant programs if sufficient funds are available. [The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions.] This administrative regulation prescribes the award determination procedures for the CAP grant program. [This amendment is necessary to reflect changes made by 1994 Ky. Acts ch. 36.]

Section 1. Each application shall be reviewed for determination that all eligibility requirements set forth in 11 KAR 5:034 are met. To qualify for a CAP award based on financial need, the applicant's expected family contribution shall be \$3,100 [1,500] or less.

Section 2. CAP Grant Award. (1) Except as provided in subsection (5) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment in an eligible program at a college on a full-time basis as determined by the educational institution shall be the prevailing full-time student tuition charge at publicly supported community colleges in Kentucky at that time.

(2) Except as provided in subsection (5) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment in an eligible program at a college on less than a full-time basis as determined by the educational institution shall be the prevailing tuition charge per semester credit hour at publicly supported community colleges in Kentucky (not in excess of the maximum specified in subsection (1) of this section).

(3) Except as provided in subsection (5) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment in an eligible program at a business school, school of nursing, or vocational school on a full-time basis as determined by the educational institution shall be the prevailing full-time student tuition charge at publicly operated vocational-technical institutions in Kentucky at that time.

(4) Except as provided in subsection (5) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment in an eligible program at a business school, school of nursing, or vocational school on less than a full-time basis, as determined by the educational institution, shall be the prevailing tuition charge applicable to the corresponding enrollment status of the applicant at a publicly operated vocational-technical institution in Kentucky (not in excess of the maximum specified in subsection (3) of this section).

(5)(a) The maximum awards specified in subsections (1) and (2) of this section shall be adjusted by the authority as necessary to conform those maximums to the tuition rate generally charged for attendance at the Commonwealth's publicly supported community colleges, as determined by the Kentucky Community and Technical College System.

(b) [Council on Higher Education:] The maximum awards specified in subsections (3) and (4) of this section shall be adjusted by the authority as necessary to conform those maximums to the tuition rate generally charged for attendance at the Commonwealth's publicly operated vocational-technical institutions as determined by the Kentucky Community and Technical College System.



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(c) For academic year 2000-2001, fifty (50) dollars may be added to the maximum CAP grant specified in subsections (1) through (4) of this section. [Workforce Development Cabinet.]

Section 3. Minimum CAP Grant. The minimum CAP grant awarded to an eligible full-time student in an eligible program at a college shall be the lesser of the prevailing full-time student tuition charge at publicly supported community colleges in Kentucky or the amount of eligibility the student has remaining within the aggregate KHEAA grant limit. The minimum CAP grant awarded to an eligible full-time student in an eligible program at a business school, school of nursing, or vocational school shall be the lesser of the prevailing full-time student tuition charge at publicly operated vocational-technical institutions in Kentucky or the amount of eligibility the student has remaining within the aggregate KHEAA grant limit.

Section 4. A KHEAA grant shall not exceed the cost of tuition and fees charged to the student during the academic year of the award. A KHEAA grant awarded to an incarcerated individual shall be considered an overaward to the extent that the KHEAA grant, in combination with financial assistance received from other sources, exceeds the student's actual cost for tuition, fees, and books. A semester award shall not exceed tuition and fee charges for that semester. No KHEAA grant award shall be made for a summer academic term.

Section 5. In no event shall the KHEAA grant award exceed the applicant's cost of education less expected family contribution and other anticipated student financial assistance. The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from other sources in combination with the KHEAA grant exceeds the determination of financial need for that student. The KHEAA grant program officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

Section 6. If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a KHEAA grant that has already been offered, but not disbursed, the grant shall be revoked. If the student is determined to be ineligible after the KHEAA grant has been disbursed, the student shall repay to the authority the entire amount of the KHEAA grant.

Section 7. If the authority receives revised data that, upon recomputation, necessitates reduction of the KHEAA grant and the grant has not yet been disbursed, the reduction shall be made to both the fall and spring disbursements, and the student shall be notified of the reduction. If the grant for the fall academic term has already been disbursed, then the reduction shall be made to the spring disbursement. If both the fall and spring disbursements have been made, the student shall repay the overaward to the authority.

Section 8. Students requested by the institution to provide verification of data for any financial assistance program shall provide the verification before receiving disbursement of a KHEAA grant. Any student who is awarded a KHEAA grant who fails to provide verification requested by the participating institution shall be deemed ineligible, and the grant shall be revoked.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 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 regu-

lation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

### REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: The amendment to this administrative regulation increases the maximum CAP grant by \$50 above the prevailing tuition rate. It also increases the maximum expected family contribution level necessary to demonstrate financial need from \$1500 to \$3100, making grants available to more students. Under the College Access Program, 33,310 students attending 79 postsecondary institutions received grants in 1998-99.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments were received. The amendment to this administrative regulation increases the maximum CAP grant by \$50 above the prevailing tuition rate. Therefore it will marginally improve the ability of students to afford the increased cost of attending postsecondary institutions in Kentucky. It also increases the maximum expected family contribution level necessary to demonstrate financial need from \$1500 to \$3100, making grants available to more students.

(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 amendment is anticipated to have no impact on the cost of doing business of any entity.

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

1. First year following implementation: The amendment affects no change in the compliance, reporting or paperwork requirements of any participating institution or student and is anticipated to have no effect upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effects on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: The amendment to this administrative regulation increases the maximum CAP grant by \$50 above the prevailing tuition rate. Therefore it will marginally improve the ability of students to afford the increased cost of attending postsecondary institutions in Kentucky. It also increases the maximum expected family contribution level necessary to demonstrate financial need from \$1500 to \$3100, making grants available to more students. The authority will incur no additional administrative burden or expense. Therefore it has no direct or indirect cost or savings respecting the promulgating body. The increased grant maximum is funded from net lottery revenues transferred to the authority for grant and scholarship programs.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: There is no change in the paperwork or reporting requirements for the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: The amendment to this administrative regulation increases the maximum CAP grant by \$50 above the prevailing tuition rate. Therefore it will marginally improve the ability of students to afford the increased cost of attending postsecondary institutions in Kentucky. It also increases the maximum expected family contribution level necessary to demonstrate financial need from \$1500 to \$3100, making grants available to more students. The authority will incur no additional administrative burden or expense. The increased grant maximum is funded from net lottery revenues transferred to the authority for grant and scholarship programs.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Grants for students under the College Access Program are funded from net lottery revenues transferred to the authority for grant and scholarship programs and administrative costs are borne by the authority through receipts of the authority.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments were received. The amendment to this administrative regulation increases the maximum CAP grant by \$50 above the prevailing tuition rate. Therefore it will marginally improve the ability of students to afford the increased cost of attending postsecondary institutions in Kentucky. It also increases the maximum expected family contribution level necessary to demonstrate financial need from \$1500 to \$3100, making grants available to more students. Students that receive grants under the programs will experience an economic impact to the extent that funds may be used by the student for postsecondary education related expenses, thus enabling the student to pursue higher education and potentially increase their lifelong earning capacity.

(b) Kentucky: Same as (a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: CAP grants are currently limited by statute, KRS 164.7535, to the prevailing tuition rates and public community colleges and public vocational/technical institutions. However, KRS 164.7889 provides that if sufficient funds are available, the authority may, by administrative regulation, increase the maximum grant amount above the statutory limit up to the tuition rate at public universities or increase the limit on financial need to expand the population that may receive grants or a combination of the two methods. The authority has evaluated the estimates of funds available for the program and the prior usage of grant funds and has elected to employ a combination of increasing the maximum grant amount and increasing the maximum expected family contribution level necessary to demonstrate financial need from \$1500 to \$3100, making grants available to more students.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no effect upon public health or the environment resulting from the amendment of this administrative regulation.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The equal protection and due process clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY**  
**Division of Student Services**  
**(Amendment)**

**11 KAR 5:160. Disbursement procedures.**

RELATES TO: KRS 164.7535 [~~164.740 to 164.764~~], 164.780, 164.785

STATUTORY AUTHORITY: KRS 13A.100, 164.748(4),

164.753(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. [~~The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions.~~] This administrative regulation establishes [sets forth] the disbursement procedures for KHEAA grant programs. [~~This amendment is necessary to change the method of disbursement at educational institutions that use the academic quarter system.~~]

Section 1. Eligibility Verification. (1) The KHEAA grant program eligibility verification roster shall be forwarded to the KGPO at each educational institution prior to the beginning of each semester.

(2) The KGPO shall certify the eligibility of KHEAA grant recipients and return the roster to the authority according to instructions attached to the roster. If the KGPO fails to properly certify the roster or fails to return the roster to the authority by the deadline established in the instructions, the authority shall disburse no KHEAA grant funds in the next succeeding academic term until the roster for that academic term is properly certified and returned.

Section 2. Disbursement of Funds. (1) KHEAA grant funds shall be disbursed by the authority twice during an academic year to educational institutions for subsequent delivery to eligible students.

(a) Except as provided in Section 1(2) of this administrative regulation, a [The first] disbursement [of KHEAA grant funds] by the authority to educational institutions of one-half (1/2) of the KHEAA grant funds indicated on the eligibility verification roster shall be made in August for subsequent delivery by the institution to eligible students enrolled for a semester or quarters beginning not earlier than June 1 and not later than December 31. The KGPO shall return to the authority, according to instructions attached to the roster, all funds advanced that remain undisbursed to eligible students. Upon receipt of the properly certified eligibility verification roster, for that academic term the authority shall transfer additional funds, if necessary, to the KGPO.

(b) Except as provided in Section 1(2) of this administrative regulation, a [The second] disbursement [of KHEAA grant funds] by the authority to educational institutions of one-half (1/2) of the KHEAA grant funds indicated on the eligibility verification roster shall be made in January for subsequent delivery by the institution to eligible students enrolled for a semester or quarters beginning not earlier than January 1 and not later than June 30. The KGPO shall return to the authority, according to instructions attached to the roster, all funds advanced that remain undisbursed to eligible students. Upon receipt of the properly certified eligibility verification roster, the authority shall transfer additional funds, if necessary, to the KGPO. [The KGPO shall return to the authority, according to instructions attached to the roster, all funds advanced that remain undisbursed to eligible students.]

(2) The instructions accompanying the eligibility verification roster shall specify:

(a) Conditions under which a KHEAA grant shall be disbursed to the benefit of the KHEAA grant recipient;

(b) Conditions under which KHEAA grant funds shall be returned to the authority; and

(c) The date by which the roster and any undisbursed funds shall be returned to the authority.

(3) An institution which has not returned an eligibility verification roster or completed it according to instructions shall not receive additional KHEAA grant funds until it has satisfied the requirements in subsection (2) of this section. Furthermore, the authority, in its sole discretion, may withhold any services and funds from the educational institution from the due date until the roster and all funds advanced, that remain undisbursed to eligible students, are received by the authority.

Section 3. Alternative Disbursement. In lieu of the processes respecting the disbursement of KHEAA grant funds pursuant to Section 2 of this administrative regulation, the authority, in its sole discretion, may enter agreements on such terms as the authority deems appro-



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prate to provide alternative methods for economical and efficient disbursement of KHEAA grants.

Section 4. (1) If the student submits to the authority a written request to receive the maximum KTG for which he is eligible during the fall semester and that request is received by the authority not later than the latter of August 1 or ten (10) work days following the date on which the authority notifies the student of the award for the fall academic term [preceding the fall academic term] for which a KTG is awarded, the entire amount of the KTG, up to the amount of tuition and fees charged for the fall academic term, may be disbursed for that academic term. Otherwise, a KTG awarded for the academic year shall be disbursed in the amount of one-half (1/2) for the fall academic term and one-half (1/2) for the spring academic term.

(2) An educational institution that uses an academic quarter system shall apply to the student's account or deliver to the student a KTG for an academic term so that the first disbursement occurs in the second quarter of enrollment as a full-time student and the second disbursement occurs in the third quarter of enrollment as a full-time student.

Section 5. (1) A CAP grant awarded for the academic year shall [always] be disbursed in the amount of one-half (1/2) for the fall academic term and one-half (1/2) for the spring academic term for enrollment in each academic term as a full-time student.

(2) A CAP grant for an academic year shall be divided by the number of semesters, trimesters or quarters in the academic year and the amount of CAP grant disbursed in an academic term shall be adjusted for enrollment as a part-time student during an academic term.

(3) An educational institution that uses an academic quarter system shall apply to the student's account or deliver to the student a CAP grant for an academic term so that the disbursement occurs in the second quarter of enrollment as at least a part-time student in the fall and spring academic terms. The maximum CAP grant amount that may be applied by the educational institution to a student's account or delivered to a student attending a business school, school of nursing, or vocational school in one (1) quarter shall not exceed one-half (1/2) of the tuition charges for one (1) academic term at publicly operated vocational-technical schools in the Commonwealth.

Section 6. [5:] KHEAA grants [shall be] disbursed by the authority to eligible students enrolled at an educational institution that uses a short winter term in combination with longer fall and spring [winter] terms shall be applied by the institution to the student's account or delivered to the student so that the first disbursement shall be in the fall academic term and the second disbursement shall be in the spring academic term. Enrollment during the shorter winter academic term shall not qualify a student for KHEAA grant assistance for that academic term. However, credit hours for which the student is enrolled during the short winter academic term may be added to credit hours for which the student enrolls in the fall and spring academic terms to establish enrollment as a full-time student during those academic terms.

Section 7. [6:] The educational institution shall be responsible for proper disbursement of KHEAA grants. The educational institution shall not make KHEAA grant funds available to the grant recipient nor apply such funds to the recipient's account prior to the date that the recipient has completed the registration requirements (except for the payment of tuition and fees) at the institution for each academic semester or quarter for which the KHEAA grant is awarded. [The maximum CAP grant amount that can be disbursed in one (1) quarter to recipients attending business schools, schools of nursing, or vocational schools cannot exceed the tuition charges for one (1) quarter at publicly operated vocational-technical schools in the Commonwealth.] The institution shall be liable for disbursement to the wrong individual or to an ineligible student, and shall make restitution to the authority of any amount improperly disbursed. Failure of the institution to make restitution when required shall, without precluding other remedies, be deemed cause for limitation, suspension or termination of the participation of the institution in accordance with 11 KAR 4:020.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

### REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: The amendment of this administrative regulation pertains to disbursement of both Kentucky Tuition Grants and College Access Program grants. Under the Kentucky Tuition Grant Program, 9,450 students attending 20 postsecondary institutions received grants for the 1998-99 academic year. Under the College Access Program, 33,310 students attending 79 postsecondary institutions received grants in 1998-99.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments were received. The amendments to this administrative regulation specify the manner and time in which grant funds will be disbursed by the authority and the responsibilities of the educational institution in delivering the funds to the student or applying the funds to the institutional charges on the student's account. The amendments are intended to clarify the timing of disbursement of grant funds for institutions using an academic calendar other than the traditional two semesters per academic year. The amendment does not expand or decrease the number of students who may receive Kentucky Tuition Grants or CAP grants. Therefore it has no direct or indirect cost or savings respecting the cost of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The amendment is anticipated to have no impact on the cost of doing business of any entity.

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

1. First year following implementation: The amendment affects no change in the compliance, reporting or paperwork requirements of any participating institution or student and is anticipated to have no effect upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effects on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: The amendments to this administrative regulation specify the manner and time in which grant funds will be disbursed by the authority and the responsibilities of the educational institution in delivering the funds to the student or applying the funds to the institutional charges on the student's account. The amendment does not alter the current practice of the authority of disbursing funds essentially twice per academic year by initially remitting part of the grant funds to the institution at the beginning of the academic term and then reconciling the need for any additional funds later in the academic term. The amendments are intended to clarify the timing of disbursement of grant funds for institutions using an academic calendar other than the traditional two semesters per academic year. The amendment does not expand or decrease the number of

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students who may receive Kentucky Tuition Grants or CAP grants. Therefore it has no direct or indirect cost or savings respecting the promulgating body.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The amendment does not alter the current practice of the authority of disbursing funds essentially twice per academic year by initially remitting part of the grant funds to the institution at the beginning of the academic term and then reconciling the need for any additional funds later in the academic term. There is no change in the paperwork or reporting requirements for the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: The amendments to this administrative regulation specify the manner and time in which grant funds will be disbursed by the authority and the responsibilities of the educational institution in delivering the funds to the student or applying the funds to the institutional charges on the student's account. The amendments are intended to clarify the timing of disbursement of grant funds for institutions using an academic calendar other than the traditional two semesters per academic year. The amendment does not expand or decrease the number of students who may receive Kentucky Tuition Grants or CAP grants. Therefore, there is no anticipated effect on state and local revenue.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Grants for students under the College Access Program and Kentucky Tuition Grant Program are funded by appropriations of net Lottery revenues and administrative costs are borne by the authority through receipts of the authority.

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

(a) Geographical area in which administrative regulation will be implemented: No public comments were received. The amendments to this administrative regulation specify the manner and time in which grant funds will be disbursed by the authority and the responsibilities of the educational institution in delivering the funds to the student or applying the funds to the institutional charges on the student's account. The amendments are intended to clarify the timing of disbursement of grant funds for institutions using an academic calendar other than the traditional two semesters per academic year. The amendment does not expand or decrease the number of students who may receive Kentucky Tuition Grants or CAP grants. Students that receive grants under the programs will experience an economic impact to the extent that funds may be used by the student for postsecondary education related expenses, thus enabling the student to pursue higher education and potentially increase their lifelong earning capacity.

(b) Kentucky: Same as (a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered. The amendments to this administrative regulation specify the manner and time in which grant funds will be disbursed by the authority and the responsibilities of the educational institution in delivering the funds to the student or applying the funds to the institutional charges on the student's account. The amendments are intended to clarify the timing of disbursement of grant funds for institutions using an academic calendar other than the traditional two semesters per academic year. This amendment is intended to ensure that students attending institutions under different academic calendars are not disadvantaged, but are treated equivalently in the disbursement of grants while retaining the authority's current practice of disbursing grants twice per academic year.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no effect upon public health or the environment resulting from the amendment of this administrative regulation.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The equal protection and due process clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

### KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Division of Student Services (Amendment)

#### 11 KAR 8:030. Teacher scholarships.

RELATES TO: KRS 164.744(2), 164.753(3), 164.769

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(3), 164.769(5), (6)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.744(2) authorizes the authority to provide scholarships, and KRS 164.753(3) requires the Kentucky Higher Education Assistance Authority to promulgate administrative regulations pertaining to standards for scholarship programs. KRS 164.769 establishes a teacher scholarship program and requires the Kentucky Higher Education Assistance Authority to establish the terms and conditions for the award, cancellation, and repayment of teacher scholarships, awarded under KRS 164.769 and under prior teacher scholarship programs administered by the Kentucky Higher Education Assistance Authority. This administrative regulation establishes selection criteria, disbursement procedures, cancellation of repayment procedures and repayment obligations related to scholarships provided under the program.

Section 1. Definitions. (1) "Authority" is defined in KRS 164.740(1).

(2) "Critical shortage area" is defined in KRS 164.769(2)(a).

(3) "Eligible program of study" is defined in KRS 164.769(2)(b).

(4) "Expected family contribution" is defined in KRS 164.769(2)(c).

(5) "Participating institution" is defined in KRS 164.769(2)(d).

(6) "Public school" means the common schools of the Commonwealth providing preschool, elementary, middle school, and secondary instruction.

(7) "Qualified teaching service" is defined in KRS 164.769(2)(e).

(8) "Semester" is defined in KRS 164.769(2)(f).

(9) "Summer term" is defined in KRS 164.769(2)(g).

(10) "Teaching" means performing classroom instruction in a position for which teacher certification is a prerequisite to perform such instruction.

#### Section 2. Eligibility of Renewal Applicants and Selection Process.

(1) Eligibility of renewal applicants.

(a) A person who previously received a loan or scholarship pursuant to KRS 156.611, 156.613, 164.768, 164.769 or 164.770 prior to July 1, 1996 shall be eligible to apply for and be awarded a renewal teacher scholarship without consideration of expected family contribution if, at the time of application and disbursement, the renewal applicant has made satisfactory progress toward completion of the eligible program of study in accordance with standards prescribed by the participating institution.

(b) A person who previously received a loan or scholarship pursuant to KRS 164.769 after July 1, 1996, shall be eligible to apply for and be considered for a renewal teacher scholarship if, at the time of

application and disbursement, the renewal applicant has made satisfactory progress toward completion of the eligible program of study in accordance with standards prescribed by the participating institution.

(2) After awards are made to all qualified renewal applicants, applicants shall be considered and teacher scholarships shall be awarded to recipients in the following order until funds are depleted:

(a) Initial applicants who meet the standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 and have been unconditionally admitted to a teacher education program shall be ranked in ascending order by expected family contribution.

(b) Initial applicants who have not yet been admitted to a teacher education program but who meet the standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program shall be ranked in ascending order by expected family contribution.

(c) Otherwise eligible initial applicants seeking admission to a teacher education program shall be ranked in ascending order by expected family contribution.

Section 3. Award Maximums. (1) The amount of a teacher scholarship award shall be calculated by determining the student's total cost of education minus expected family contribution and the amount of financial aid received or expected to be received during the academic period. The amount of financial aid received or expected to be received during the academic period shall not include any amounts available from any student loan or work-study programs.

(2) The maximum teacher scholarship award for a student classified as a junior, senior, postbaccalaureate, or graduate shall be \$1,250 for a summer session, \$2,500 for a semester, and \$5,000 for an academic year (exclusive of a summer session).

(3) The maximum teacher scholarship award for a student classified as a freshman or sophomore student shall be \$325 for a summer session, \$625 for a semester, and \$1,250 for an academic year (exclusive of a summer session).

(4) The maximum award to an eligible student enrolled less than full time in the last semester or summer term during which a baccalaureate, postbaccalaureate or master's degree will be completed shall be:

(a) \$210 per credit hour if the student is enrolled during a regular semester; or

(b) \$105 per credit hour if the student is enrolled in a summer term.

Section 4. Disbursements. (1) Disbursement of a teacher scholarship shall be made at the beginning of each semester or summer session and each disbursement shall be evidenced by a promissory note, prescribed by the authority, in which the scholarship recipient shall agree to repay the scholarship funds or render qualified teaching service in lieu thereof.

(2) The monies awarded under the Teacher Scholarship Program shall be transmitted directly to the participating institution on behalf of all students eligible to receive the scholarship by electronic funds transfer.

(3) The authority shall send to the participating institution a disbursement roster containing each recipient's name and Social Security number.

(4) The participating institution shall hold the funds solely for the benefit of the student eligible to receive the scholarship and the authority until the recipient has registered for classes for the period of enrollment for which the scholarship is intended.

(5) Upon the recipient's registration, the participating institution shall immediately credit the recipient's account and notify the recipient in writing that it has so credited that account, and deliver to the recipient any remaining scholarship proceeds.

(6) The participating institution shall indicate on the disbursement roster the date funds were either credited to the student's account or disbursed to the student, the name of a recipient for whom funds are being returned, the amount being returned, and the reason funds are being returned.

(7) If a recipient does not register for the period of enrollment for which the scholarship was awarded, or a registered student with-

draws or is expelled prior to the first day of classes of the period of enrollment for which the scholarship is awarded, the school shall return the proceeds to the authority by electronic funds transfer within ten (10) days of the recipient's withdrawal, expulsion, or failure to register.

(8) The school shall retain a copy of the disbursement roster for its records and forward the original roster and any undisbursed scholarship funds to the authority not later than thirty (30) days following receipt of the roster and the funds.

(9)(a) If a recipient subsequently refuses to repay the scholarship on grounds that he was unaware of or did not receive delivery of the scholarship proceeds from the school, upon written request from the authority, the school shall promptly provide documentary evidence to the authority that the recipient received or had funds credited to his student account and was notified of this transaction.

(b) The school shall otherwise reimburse the authority for any amount of the scholarship that is unenforceable absent that documentary evidence.

(c) The obligation of the school to provide the documentary evidence specified in paragraph (a) of this subsection shall continue until the recipient's obligations for repayment of the scholarship is paid in full or otherwise discharged.

Section 5. Cancellation. (1) A recipient rendering qualified teaching service in a designated critical shortage area shall remain eligible for the critical shortage credit provided by KRS 164.769(6)(c) if:

(a) The authority determines that an area is no longer a critical shortage area; and

(b) The recipient continues to render qualified teaching service in the area.

(2) A recipient who received a teacher scholarship prior to July 1, 1996, in return for agreeing to obtain the appropriate recertification and to teach in a critical shortage area upon completion of the recertification program shall receive cancellation of the repayment obligation if the recipient renders qualified teaching service in that area or in another critical shortage area.

(3) If a recipient has received loans or scholarships from more than one (1) program administered by the authority, which require a period of qualified teaching service for repayment or cancellation, the teaching requirements shall not be fulfilled concurrently. Unless the authority determines otherwise for cause, loans or scholarships from more than one (1) program shall be repaid or cancelled by qualified teaching service in the same order in which they were received. If a recipient has received a loan or scholarship pursuant to KRS 156.611, 156.613, 164.768, 164.769 or 164.770 during the same semester as receiving a scholarship pursuant to KRS 161.165, the loan or scholarship received pursuant to KRS 156.611, 156.613, 164.768, 164.769 or 164.770 shall be repaid or cancelled by qualified teaching service prior to the scholarship received pursuant to KRS 161.165.

(4) Verification of qualified teaching service shall be submitted to the authority in writing, signed by the local school district superintendent or building principal.

Section 6. Repayment. (1) A recipient failing to attain certification after completion of the eligible program of study or to commence rendering qualified teaching service within the six (6) month period following completion of the eligible program of study shall immediately become liable to the authority to pay the sum of all promissory notes and accrued interest thereon, unless the authority grants a deferment for cause.

(2) The interest rate applicable to repayment of a teacher scholarship under this section shall be twelve (12) percent per annum.

Section 7. Notifications. A recipient shall notify the authority within thirty (30) days of:

(1) Change in enrollment status;

(2) Cessation of full-time enrollment in an eligible program of study;

(3) Employment in a qualified teaching service position; or

(4) Change of name or address.

Section 8. Repayment Schedule. Written notification of demand for repayment shall be sent by the authority to the scholarship recipient's last known address and shall be effective upon mailing. The

authority may agree, in its sole discretion, to accept repayment in installments in accordance with a schedule established by the authority. Payments shall first be applied to interest and then to principal on the earliest unpaid promissory note.

Section 9. Records. A participating institution shall maintain complete and accurate records pertaining to the eligibility, enrollment and progress of each student receiving aid under this program and the disbursement of funds and institutional charges as may be necessary to audit the disposition of these funds. The institution's records shall be maintained for at least five (5) years after the student ceases to be enrolled at the institution.

Section 10. Refunds. A participating institution shall refund to the authority, within forty (40) days of a recipient's last date of attendance, any amount attributable to this program which is determined to be due under the institution's published refund policy.

Section 11. Information Dissemination and Recruitment. The authority shall disseminate information through high school principals, counselors, and school superintendents about this program to potential recipients. The participating institution shall provide assurances that program information will be disseminated to students enrolled at the institution. The participating institution shall actively recruit students from minority population groups for participation in this program.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

#### REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: This administrative regulation delineates selection criteria, disbursement procedures, cancellation of repayment procedures and repayment obligations related to scholarships provided under the Teacher Scholarship Program. During fiscal year 2000 there will be 304 initial and 201 renewal scholarships awarded under this program, for a total dollar amount of \$1,528,000.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There will be minimal savings to the public. This administrative regulation only delineates selection criteria, scholarship calculation disbursement procedures, cancellation of repayment procedures and repayment obligations related to scholarships provided under the Teacher Scholarship Program. The program reduces the direct out-of-pocket expenditure by residents of the Commonwealth who wish to attend participating institutions of postsecondary education and to teach in the Commonwealth.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent from the public comments received: The proposed amendment to this administrative regulation will have no effect on the cost of doing business for any entity.

ness for any entity.

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

1. First year following implementation: The proposed amendment to this administrative regulation will have no effect on reporting and paperwork requirements for the teacher scholarship program.

2. Second and subsequent years: Same as above

(3) Effect on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: The amendment to this administrative specifies that a person who previously received a teacher scholarship pursuant to KRS 164.769 after July 1, 1996, shall be eligible to apply for and be considered for a renewal teacher scholarship if, at the time of application and disbursement, the renewal applicant has made satisfactory progress toward completion of the eligible program of study in accordance with standards prescribed by the participating institution. This merely corrects an unintended omission in the regulation in dealing with a segment of renewal applicants. The proposed amendment to this administrative regulation is anticipated to have no indirect or direct costs or savings to the authority.

2. Continuing costs or savings: The proposed amendment to this administrative is anticipated to have no indirect or direct costs or savings to the authority.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The proposed amendment to this administrative regulation will have no effect on the reporting and paperwork requirements of the authority.

(4) Assessment of anticipated effect on state and local revenues: The proposed will have no effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The revenue for the implementation and enforcement of this administrative regulation is provided by three sources: the General Fund, Special Deposit Trust Fund, consisting of money collected from previous recipients, and net lottery proceeds transferred from a Student Financial Aid and Advancement Fund.

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

(a) Geographical area in which administrative regulation will be implemented: It is anticipated that there will be no economic impact as the result of the proposed amendment to this administrative regulation.

(b) Kentucky: It is anticipated that there will be no economic impact as the result of the proposed amendment to this administrative regulation.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered as KRS 164.769 contemplates that all teacher scholarships after 1996 will be based on financial need and satisfactory academic progress.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no effect on public health and environmental welfare.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: There is no effect on public health and environmental welfare.

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no known conflicts.

(a) Necessity of proposed regulation if in conflict: There are no known conflicts.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There are no known conflicts.

(10) Any additional information of comments: None

(11) Tiering: Was tiering applied? No. This administrative regulation prescribes uniform procedures for administration of the Teacher Scholarship program. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the authority. The "equal protection"

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and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

### KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Kentucky Educational Savings Plan Trust (Amendment)

#### 11 KAR 12:010. Definitions for 11 KAR Chapter 12.

RELATES TO: KRS 164A.300 to 164A.380

STATUTORY AUTHORITY: KRS 164A.325(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164A.325(9) authorizes the board to promulgate administrative regulations to implement the Kentucky Educational Savings Plan Trust. This administrative regulation establishes the definitions for 11 KAR Chapter 12.

Section 1. Definitions. (1) "Academic period" means one (1) semester or one (1) quarter or an equivalent period for a vocational technical institution.

(2) "Account" means the account in the program fund established and maintained under the trust for a beneficiary.

(3) "Account balance" means the fair market value of an account as of the accounting date.

(4) "Accounting date" means the date, not later than the last business day of each quarter as determined by the program administrator.

(5) "Administrative fund" is defined in KRS 164A.305(2).

(6) "Beneficiary" is defined in KRS 164A.305(3).

(7) "Benefits" is defined in KRS 164A.305(4).

(8) "Board" is defined by KRS 164A.305(5).

(9) "Dependent person" means a person who is unable to meet the criteria for an independent person as defined in subsection (12) of this section.

(10) "Designated date" means the date on which each beneficiary is eligible to be designated in a participation agreement.

(11) "Domicile" or "legal residence" means a person's true, fixed, and permanent home and is the place where the person intends to remain, and to which the person expects to return if absent without intending to establish a new domicile elsewhere.

(12) "Effective date" means the date which a participant may enter into a participation agreement with the trust, which is on or after July 1, 1989.

(13) "Higher education costs" is defined by KRS 164A.305(7).

(14) "Independent" means a person:

(a) Who has not been claimed by his parent as a dependent on a federal or state income tax return for the tax year preceding the date of application for reclassification of residency status;

(b) Who demonstrates no financial dependence upon a parent; and

(c) Whose parent's income is not taken into account by a private or governmental agency furnishing educational financial assistance to the person, including a scholarship, loan, or other assistance.

(15) "Institution of higher education" is defined in KRS 164A.305(8).

(16) "Kentucky ties" means a participant or beneficiary who has contact or ties with the Commonwealth, including current or former residence or employment in the Commonwealth, or a family member with current or former residence in the Commonwealth.

(17) "Notice to authorize payroll deduction" means the participant's written instruction to the participant's employer to deduct payments from the participant's earnings and forward that amount to the trust.

(18) ~~"Notice to delay benefits under participation agreement" means the participant's written instruction to the program administrator of the trust to delay benefits under a participation agreement, after the beneficiary has attained the age of eighteen (18).~~

(19) ~~"Notice to extend payments under participation agreement" means the participant's written instruction to the program administrator of the trust to extend payments under a participation agreement beyond the beneficiary's age of eighteen (18).~~

(20) "Notice to increase or decrease payments under participation agreement" means the participant's written instruction to the program

administrator of the trust to increase or decrease payments under a participation agreement.

(19) "Notice to preauthorize debit" means the participant's written instruction to the participant's financial institution to debit or charge the participant's checking or savings account for payments due under the participation agreement.

(20) "Notice to substitute beneficiary" means the participant's written instruction to the program administrator of the trust to substitute a beneficiary.

(21) "Notice to terminate the participation agreement" means the participant's written instruction to the program administrator of the trust to terminate a participation agreement under the trust.

(22) "Notice to use trust benefits" means the participant's written instruction to the program administrator of the trust to notify the trust of the date benefits are to begin and level of benefits paid.

(23) "Parent" means one (1) of the following:

(a) A person's father or mother; or

(b) A court-appointed legal guardian if the guardianship was not established primarily to confer Kentucky residency on the person.

(24) "Participant" is defined in KRS 164A.305(10).

(25) "Participation agreement" is defined in KRS 164.305(11).

~~(26) "Payment book" means the book which contains individual coupons, designating the amount and due date of each payment.~~

(26) "Payments" means the money paid by the participant to the trust under the participation agreement.

(27) "Program administrator" is defined in KRS 164A.305(12).

(28) "Program fund" is defined in KRS 164A.305(13).

(29) "Property settlement agreement" or "decree of dissolution by the court" means the agreement or judgment approved or entered by a court of competent jurisdiction which sets forth the participant's right, if any, to the participant's interest in the participation agreement.

(30) "Trust year" means the fiscal year beginning July 1 and ending the following June 30 of each year for purposes of the calculation of benefits.

(31) "Vested participation agreement" is defined in KRS 164A.305(15).

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

#### REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: The regulation affects anyone who chooses to participate in the Kentucky Educational Savings Plan Trust. Qualifying participants or beneficiaries would be those having "Kentucky ties". The extent of those who will be participants and beneficiaries is unknown. There are currently over 2600 accounts established and all will eventually be affected by this amendment.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The proposed amendments will impose no new costs or provide savings to partici-

pants.

(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 amendments will have no impact on the cost of doing business of any entity.

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

1. First year following implementation: The amendments affect no change in the compliance, reporting or paperwork requirements of any participant or beneficiary and is anticipated to have no effect upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effects on the promulgating 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. Reporting and paperwork requirements: This amendment does not affect any change in the reporting or paperwork of the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: None. Funds held in the trust are contributed and owned by the participant until utilization for the benefit of the beneficiary.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funds held in the trust are contributed and owned by the participant until utilization for the benefit of the beneficiary.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: These amendments conform the administrative regulations to statutory changes.

(8) Assessment of expected benefits:

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

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

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The Equal protection and Due process clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY  
Kentucky Educational Savings Plan Trust  
(Amendment)

11 KAR 12:030. Eligibility of beneficiary and participant.

RELATES TO: KRS 164A.330

STATUTORY AUTHORITY: KRS 164A.325(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164A.325(9) authorizes the board to promulgate administrative regulations necessary for the administration of the savings plan trust, KRS 164A.380 provides that this act shall be construed liberally in order to effectuate its legislative intent and the powers granted shall be broadly interpreted to effectuate such intent and purposes. [KRS 164A.330(4) provides that a beneficiary in a participation agreement may be designated from date of birth through age fourteen (14).] This administrative regulation establishes the eligibility criteria for a beneficiary and a participant [and the proof of age required for a beneficiary] to participate in the participation agreement. [This amendment is necessary to eliminate definitions common to multiple administrative regulations, which definitions are being added to a separate administrative regulation.]

Section 1. Beneficiary Eligibility. A beneficiary may be a resident of any state who, on the designation date, has "Kentucky ties" if the participant does not, and has not attained the age of fifteen (15) years].

Section 2. [Proof of Age. A participant shall, on signing a participation agreement, provide the program administrator with proof of the beneficiary's age, in the form of a birth certificate or such other record as the trust may require:

Section 3.] Participant Eligibility. A participant may be a resident of any state who, on signing the participation agreement, has "Kentucky ties" if the beneficiary does not.

Section 3. (1) [4.] In order to participate in the Kentucky educational savings plan trust, a participant shall submit to the program administrator a signed participation agreement, incorporated herein by reference, and valid Social Security number [numbers] of the beneficiary and the valid Social Security number or federal identification number of the participant.

(2) A state or local government agency or instrumentality or an organization described in 26 USC 501(c)(3) that establishes an account as part of a scholarship program shall submit to the program administrator the Social Security number of the recipient upon designation of the scholarship recipient.

WAYNE STRATTON, Chairman  
RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey



## VOLUME 26, NUMBER 12 – JUNE 1, 2000

(1) Type and number of entities affected: The regulation affects anyone who chooses to participate in the Kentucky Educational Savings Plan Trust. Qualifying participants or beneficiaries would be those having "Kentucky ties." The extent of those who will be participants and beneficiaries is unknown. There are currently over 2600 accounts established and all will eventually be affected by this amendment.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The proposed amendments will impose no new costs or provide savings to participants.

(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 amendments will have no impact on the cost of doing business of any entity.

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

1. First year following implementation: The amendments affect no change in the compliance, reporting or paperwork requirements of any participant or beneficiary and is anticipated to have no effect upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effects on the promulgating 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. Reporting and paperwork requirements: This amendment does not affect any change in the reporting or paperwork of the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: None. Funds held in the trust are contributed and owned by the participant until utilization for the benefit of the beneficiary.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funds held in the trust are contributed and owned by the participant until utilization for the benefit of the beneficiary.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: These amendments conform the administrative regulations to statutory changes.

(8) Assessment of expected benefits:

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

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

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The Equal protection and Due process clauses of the

Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

### KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Kentucky Educational Savings Plan Trust (Amendment)

#### 11 KAR 12:040. Residency classification for Kentucky Educational Savings Plan Trust vested participation agreements.

RELATES TO: KRS 164A.305(15), 164A.330(9)

STATUTORY AUTHORITY: KRS 164A.325(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164A.325(9) authorizes the board to promulgate administrative regulations to implement the Kentucky Educational Savings Plan Trust. KRS 164A.330(9) requires that each participation agreement provide that for a vested participation agreement, the beneficiary shall be considered a resident of the Commonwealth for tuition purposes if the beneficiary enrolls in an institution of higher education in Kentucky [prior to enrollment in another educational institution]. This administrative regulation establishes the standards for proof of residency of a beneficiary for a vested participation agreement

Section 1. Residency Requirement. (1) A person who has been a resident of the Commonwealth of Kentucky for at least eight (8) continuous years and was designated as a beneficiary under a participation agreement that is in full force and effect for that entire eight (8) year period, shall be deemed to have a vested participation agreement, even if the beneficiary leaves the state prior to enrollment in an institution of higher education.

(2) For purposes of subsection (1) of this section, a participation agreement shall be deemed to be in full force and effect if, at the end of the eight (8) year period, the total contributions of principal to the account that remain in the account balance equals \$2400 and the participation agreement has not been cancelled at the time that the beneficiary first enrolls in an institution of higher education.

Section 2. Proof of Residency. (1) Following the expiration of the period of eight (8) years of continuous residency by the beneficiary, either the participant or the beneficiary shall submit to the program administrator evidence of the residency to establish a vested participation agreement. Evidence submitted on behalf of a dependent person shall pertain to the domicile of either parent during the claimed period of residency. An individual who enrolls in college immediately following graduation from high school and remains enrolled shall:

(a) Be treated as a dependent person unless the contrary is evident from the information submitted; and

(b) Have his domicile inferred from the student's permanent address, parent's mailing address, or location of high school of graduation.

(2) A person claiming independent status shall document independent status under subsection (4) of this section and shall demonstrate by clear and convincing evidence that domicile in Kentucky has been established by that person's acts.

(3) The determination of residency shall be based upon verifiable circumstances or actions. A single fact shall not be paramount, and each situation shall be evaluated to identify those facts which are essential to the determination of domicile.

(4) The following facts, although not conclusive, shall have probative value in support of a claim for resident classification:

(a) Full-time employment in Kentucky or transfer to an employer in contiguous area while maintaining domicile in Kentucky;

(b) Filing of Kentucky resident income tax return for each applicable calendar year of claimed residency status;

(c) Attendance as a full-time, nonresident student at an out-of-state institution of higher education while determined to be a resident of Kentucky;

(d) Abandonment of a former domicile and establishing domicile in Kentucky with attendance at an institution of higher education following and incidental to the change in domicile;

(e) Payment of occupational taxes in Kentucky;



- (f) Payment of real property taxes in Kentucky;
- (g) Payment of intangible personal property taxes in Kentucky;
- (h) Ownership of real property in Kentucky, if the property was used as a residence during the claimed period of residency status;
- (i) Long-term lease of housing during the claimed period of residency status;
- (j) Kentucky automobile registration during the claimed period of residency;
- (k) Kentucky driver's license during the claimed period of residency status;
- (l) Registration as a Kentucky voter during the claimed period of residency; or
- (m) Corroborating affidavit of a nonrelative.
- (5) The determination of residency shall be based upon verifiable circumstances or actions and authenticated copies of relevant documentation. The program administrator may request additional documentation to clarify circumstances and shall formulate a decision that considers all relevant facts.

Section 3. Nontransferability of Vested Participation Agreement. Although the participant may freely substitute beneficiaries under a participation agreement, the residency status acquired by a beneficiary of a vested participation agreement shall not be used to confer residency status on a substituted beneficiary, nor shall the residency of one (1) beneficiary be taken into account in the establishment of a vestment period of substituted beneficiary.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

#### REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: The regulation affects anyone who chooses to participate in the Kentucky Educational Savings Plan Trust. Qualifying participants or beneficiaries would be those having "Kentucky ties." The extent of those who will be participants and beneficiaries is unknown. There are currently over 2600 accounts established and all will eventually be affected by this amendment.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The proposed amendments will impose no new costs or provide savings to participants.

(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 amendments will have no impact on the cost of doing business of any entity.

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

1. First year following implementation: The amendments affect no change in the compliance, reporting or paperwork requirements

of any participant or beneficiary and is anticipated to have no effect upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effects on the promulgating 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. Reporting and paperwork requirements: This amendment does not affect any change in the reporting or paperwork of the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: None. Funds held in the trust are contributed and owned by the participant until utilization for the benefit of the beneficiary.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funds held in the trust are contributed and owned by the participant until utilization for the benefit of the beneficiary.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: These amendments conform the administrative regulations to statutory changes.

(8) Assessment of expected benefits:

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

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

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The Equal protection and Due process clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

#### KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Kentucky Educational Savings Plan Trust (Amendment)

##### 11 KAR 12:050. Substitution of a beneficiary.

RELATES TO: KRS 164A.325(5), 164A.330(7), (8)

STATUTORY AUTHORITY: KRS 164A.325(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS

164A.325(9) authorizes the board to promulgate administrative regulations for the administration of the Kentucky Educational Savings Plan Trust. KRS 164A.330(7) and (8) establishes the statutory framework for the substitution of a beneficiary. KRS 164A.325(5) authorizes the board to promulgate, impose, and collect administrative fees and charges for trust transactions. This administrative regulation establishes the requirements for the substitution of a beneficiary [and an

## VOLUME 26, NUMBER 12 – JUNE 1, 2000

~~administrative fee for multiple substitutions, and permits a participant with more than one (1) account and beneficiaries to substitute a beneficiary from one (1) account to another in lieu of canceling one (1) of the accounts].~~

Section 1. Substitution. (1) A participant may substitute a beneficiary at any time subject to KRS 164A.330(7). If a participant desires to substitute the beneficiary, then a participant shall give written notice to the program administrator by submitting a "notice to substitute beneficiary." ~~[An administrative fee shall not be charged for the first two (2) substitutions of beneficiary.]~~

~~(2) [Multiple. If a participant substitutes a beneficiary under a participation agreement more than twice, the trust shall require the participant to pay an administrative fee of twenty-five (25) dollars per substitution.~~

~~(3)]~~ In order for a substitution of beneficiary to be effective, the substituted beneficiary shall be already designated as a beneficiary on another account or eligible, pursuant to 11 KAR 12:030, on the date that the notice to substitute beneficiary is submitted.

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

### REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

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1. First year following implementation: The amendments affect no change in the compliance, reporting or paperwork requirements of any participant or beneficiary and is anticipated to have no effect upon competition.

2. Second and subsequent years: Same as #1 above.

(3) Effects on the promulgating 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. Reporting and paperwork requirements: This amendment does not affect any change in the reporting or paperwork of the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: None. Funds held in the trust are contributed and owned by the participant until utilization for the benefit of the beneficiary.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Funds held in the trust are contributed and owned by the participant until utilization for the benefit of the beneficiary.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: These amendments conform the administrative regulations to statutory changes.

(8) Assessment of expected benefits:

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

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

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

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### KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Kentucky Educational Savings Plan Trust (Amendment)

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

RELATES TO: KRS 164A.310(8), 164A.330(5), 164A.335, 26 USC 529

STATUTORY AUTHORITY: KRS 164A.325(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164A.325(9) authorizes the board to promulgate administrative regulations to implement the Kentucky Educational Savings Plan Trust. [KRS 164A.310(8), 164A.330(5) and 164A.335 establish the statutory framework for payment of benefits from the program fund.] This administrative regulation establishes the maximum benefits payable in an academic period, the duration of the payments, the payment of benefits for a beneficiary residing off campus and the notice provisions for a refund of the payments for nonuse or unused benefits from the program fund.

Section 1. Distribution of Benefits. (1) Upon submission of a notice to use trust benefits, the participant shall specify the level of benefits to

be paid. The participant shall elect distribution of an allotment of the account balance, calculated by dividing the account balance by the number of academic periods in the beneficiary's program of study, or a higher amount, which shall not exceed the beneficiary's higher education costs for each academic period. The participant may adjust the level of benefits paid in an academic period by notifying the program administrator in writing.

(2) Distribution of benefits shall begin after receipt by the program administrator of a notice to use trust benefits and shall continue throughout the beneficiary's period of enrollment at an institution of higher education, or until the account balance has been exhausted, whichever occurs first.

(3) If a participant transfers ownership rights pursuant to KRS Chapter 385, Uniform Transfers to Minors Act, notwithstanding KRS 385.202(1), which mandates the transfer of custodial property to the minor upon attainment of age eighteen (18), the property shall be distributed for postsecondary educational purposes in accordance with the terms of the participation agreement during each academic period of the beneficiary's educational program.

**Section 2. Beneficiary Residing Off Campus.** If a beneficiary resides off campus, upon written request of the participant, the program administrator shall pay to the beneficiary, for room and board for an academic period, that portion of higher education costs not paid to the institution that shall not exceed the amount of the beneficiary's higher education costs permitted for room and board pursuant to 26 USC 529.

**Section 3. [Nonenrollment.]** ~~The program administrator shall refund the balance of payments and the earnings from the investments in the program fund remaining in the account in accordance with KRS 164A.350 if:~~

~~(1) The trust does not receive a completed notice to use trust benefits or a notice to delay trust benefits by the first academic period of the academic year, beginning July 1 and ending June 30 of the following year, that begins after the beneficiary attains the age of eighteen (18); or~~

~~(2)(a) The beneficiary interrupts enrollment (other than normal intersemester vacation periods); and~~

~~(b) The trust does not receive a notice to delay benefits.~~

**Section 4.] Unused Benefits.** (1) During academic period. If a beneficiary's higher education costs are less than the benefits due for an academic period, that portion of the unused benefits shall accumulate to the beneficiary's account. The unused benefits plus the beneficiary's entitlement in the program fund in an academic period not exceeding the higher education costs may be paid for the beneficiary in the next succeeding academic period.

(2) After graduation. If the beneficiary graduates from an institution of higher education, and a balance remains in the beneficiary's account, the program administrator shall pay, upon the written request of the participant, the balance of the payments and the earnings from the investments in the program fund remaining in the account to the participant pursuant to KRS 164A.350. ~~[The refund shall be made unless the beneficiary plans to continue at a higher education institution and the participant submits a completed notice to delay benefits or notice to use trust benefits.]~~

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

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(a) Direct and indirect costs or savings:

1. First year: None

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(a) Necessity of proposed regulation if in conflict: There is no known conflict.

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**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY**  
**Division of Student Services**  
**(Amendment)**

**11 KAR 15:060. Kentucky Educational Excellence [Commonwealth-Merit] Scholarship overpayment [overaward] and refund and repayment procedure.**

RELATES TO: KRS 164.7871 to 164.7885 [34-GFR-668-22; 1998-Ky. Acts ch. 575, sec. 4 to 6]

STATUTORY AUTHORITY: KRS 164.748(4), 164.7885(7) [34-GFR-668-22; 1998-Ky. Acts ch. 575, sec. 6(7)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.7885(7) [1998-Ky. Acts ch. 575, sec. 6(7)] authorizes the authority to promulgate administrative regulations for the administration of the Kentucky Educational Excellence [Commonwealth-Merit] Scholarship Program. This administrative regulation establishes the conditions and procedures for refund or repayment of Kentucky Educational Excellence [Commonwealth-Merit] Scholarship funds.

Section 1. (1) If a [an-eligible] student who earned a Kentucky Educational Excellence Scholarship or supplemental award fails to enroll, the participating institution shall refund [withdraws, or changes enrollment status, and a refund of monies paid to the institution is owed to the student by the participating institution in accordance with the participating institution's refund and repayment policy relative to financial aid funds, the amount of the refund attributable to the Commonwealth-Merit Scholarship Program shall be determined in accordance with the participating institution's policy and shall be paid] to the authority the entire award amount for that academic term.

(2) If a student who earned a Kentucky Educational Excellence Scholarship or supplemental award withdraws or reduces his enrollment, and this occurs before the participating institution applies the funds to the student's account or disburses the funds to the student, the participating institution shall apply the funds to the student's account for charges owed to the institution in accordance with the participating institution's refund and repayment policy relative to financial aid funds and shall disburse remaining funds to the student. The participating institution shall refund to the authority none of the award amount for that academic term.

(3) If a student earned a Kentucky Educational Excellence Scholarship or supplemental award and the participating institution applies the funds to the student's account or disburses the funds to the student, and the student subsequently withdraws or reduces enrollment status, the student shall not owe a repayment to the authority of award funds for that academic term. If the participating institution owes a refund of institutional charges in accordance with the participating institution's refund and repayment policy relative to financial aid funds, the institution shall remit to the student that part of the refund attributable to the Kentucky Educational Excellence Scholarship or supplemental award funds.

Section 2. (1) If a student earned a Kentucky Educational Excellence Scholarship or supplemental award but did not earn the entire amount of award funds the participating institution applies to

the student's account or disburses to the student for an academic term, the participating institution and the student shall be jointly and severally liable to repay to the authority the amount of the overpayment.

(2) If a student did not earn a Kentucky Educational Excellence Scholarship or supplemental award and the participating institution applies to that student's account or disburses to that student Kentucky Educational Excellence Scholarship or supplemental award funds for an academic term, the participating institution and the student shall be jointly and severally liable to repay to the authority the entire amount of Kentucky Educational Excellence Scholarship and supplemental award funds applied to that student's account and disbursed to that student. [The participating institution's policy shall be published and consistently administered.

(3) The policy shall be filed with the authority and the participating institution shall notify the authority in writing of a change in the policy.

Section 2. Absent error by the authority or the participating institution or misrepresentation by a person that results in delivery of Commonwealth-Merit Scholarship Program funds to a person who is not an eligible student at the time of the delivery of funds, a repayment of Commonwealth-Merit Scholarship Program funds shall not be owed to the authority by an eligible student that withdraws or changes enrollment status.]

Section 3. If a refund is due from the participating institution or a repayment is due from a student who receives an overpayment or who did not earn a Kentucky Educational Excellence Scholarship or supplemental award [person who is not an eligible student at the time of delivery of funds], the participating institution shall transmit to the authority the refund [and a notice of repayment due from the person that is not an eligible student,] and shall report the student's name and Social Security number, the reason for the refund or repayment, date of enrollment status change, academic term and award period, and the calculation used for determining the refund or repayment. Failure of the institution to make restitution when required shall, without precluding other remedies, be deemed cause for limitation, suspension or termination of the participation of the institution in accordance with 11 KAR 4:020.

[Section 4. (1) The participating institution's refund and repayment policy relative to financial aid funds shall be adopted by the participating institution in accordance with 34-GFR-668-22.

(2) The subject matter of this administrative regulation is governed by 34-GFR-668-22, published in 53 FR 49147, December 6, 1988; 58 FR 32202, June 8, 1993; 59 FR 21866, April 26, 1994; 59 FR 22436, April 29, 1994; 59 FR 32657, June 24, 1994; 59 FR 34964, July 7, 1994; 59 FR 61180, November 29, 1994; 60 FR 34431, June 30, 1995; 60 FR 42408, August 15, 1995; 60 FR 61810, December 1, 1995; 61 FR 60396, November 27, 1996 and in effect July 1, 1997, adopted by the authority without change.]

WAYNE STRATTON, Chairman

RICHARD F. CASEY, General Counsel

APPROVED BY AGENCY: March 31, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Wednesday, June 21, 2000 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, June 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 attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, (800) 693-8211, FAX # (502) 696-7293.

## REGULATORY IMPACT ANALYSIS

Agency Contact: Richard F. Casey

(1) Type and number of entities affected: The current administrative regulation provides that participating educational institutions shall apply their established refund and repayment policies, applicable to all student financial aid programs, to return KEES funds to the authority if the student withdraws or changes enrollment status or fails to enroll. The amendments to this administrative regulation provide that participating institutions shall only be required to return KEES funds to the authority in situations where the student failed to enroll or received more KEES funds than the student earned (i.e. an error in disbursement or disbursement to the wrong student). In all other cases where the student withdraws after initial enrollment or reduces enrollment status while continuing to attend the institution, the amendments require the participating institution to proceed to apply all KEES funds provided by the authority to the student's account or deliver the money to the student. Approximately \$8.2 million has been awarded to 18,000 KEES recipients for the current year. The approximate average scholarship was \$461. Approximately \$40,000 has been returned to the authority as refunds under institutional refund and repayment policies.

(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. The amendments to this administrative regulation provide that participating institutions shall only be required to return KEES funds to the authority in situations where the student failed to enroll or received more KEES funds than the student earned (i.e. an error in disbursement or disbursement to the wrong student). In all other cases where the student withdraws after initial enrollment or reduces enrollment status while continuing to attend the institution, the amendments require the participating institution to proceed to apply all KEES funds provided by the authority to the student's account or deliver the money to the student. Essentially, the student that changes enrollment status will nevertheless receive all funds awarded for that academic term based on the initial enrollment status certified by the participating institution. The student will correspondingly use one semester of eligibility for KEES funds. This will negligibly assist the student in meeting the cost of living, but will have no impact on employment in the geographical area.

(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 amendment is anticipated to have no impact on the cost of doing business of any entity.

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

1. First year following implementation: The amendments will relieve participating institutions of the necessity of re-verifying enrollment status at the point that KEES funds are received from the authority and further relieve the participating institutions of returning funds to the authority in certain circumstances. However, the participating institution will not be allowed to retain funds not owed by the student. Accordingly, the participating institution will be required to apply its established refund and repayment policy and provide KEES funds to the student following a change in enrollment status if the funds exceed amounts owed to the institution.

2. Second and subsequent years: Same as #1 above.

(3) Effects on the promulgating body:

(a) Direct and indirect costs or savings:

1. First year: The amendments to this administrative regulation provide that participating institutions shall only be required to return KEES funds to the authority in situations where the student failed to enroll or received more KEES funds than the student earned (i.e. an error in disbursement or disbursement to the wrong student). In all other cases where the student withdraws after initial enrollment or reduces enrollment status while continuing to attend the institution, the amendments require the participating institution to proceed to apply all KEES funds provided by the authority to the student's account or deliver the money to the student. Essentially, the student that changes enrollment status will nevertheless receive all funds awarded for that academic term based on the initial enrollment

status certified by the participating institution. The student will correspondingly use one semester of eligibility for KEES funds. It is anticipated that this will reduce the amount of funds returned by the educational institution to the authority. However, the rate of refund experienced thus far has been negligible (approximately 0.5%), so no appreciable impact on the authority is anticipated.

2. Continuing costs or savings: Same as #1 above

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: There is no change in the paperwork or reporting requirements for the promulgating body.

(4) Assessment of anticipated effect on state and local revenues: The amendments to this administrative regulation provide that participating institutions shall only be required to return KEES funds to the authority in situations where the student failed to enroll or received more KEES funds than the student earned (i.e. an error in disbursement or disbursement to the wrong student). In all other cases where the student withdraws after initial enrollment or reduces enrollment status while continuing to attend the institution, the amendments require the participating institution to proceed to apply all KEES funds provided by the authority to the student's account or deliver the money to the student. Essentially, the student that changes enrollment status will nevertheless receive all funds awarded for that academic term based on the initial enrollment status certified by the participating institution. The student will correspondingly use one semester of eligibility for KEES funds. The authority expects that the student would retain these funds for use in subsequent semesters of attendance. It is anticipated that this will reduce the amount of funds returned by the educational institution to the authority. However, the rate of refund experienced thus far has been negligible (approximately 0.5%). KEES awards are funded by net lottery revenues transferred to the authority for grant and scholarship programs.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: KEES awards are funded by net lottery revenues transferred to the authority for grant and scholarship programs.

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

(a) Geographical area in which administrative regulation will be implemented: The amendments to this administrative regulation provide that participating institutions shall only be required to return KEES funds to the authority in situations where the student failed to enroll or received more KEES funds than the student earned (i.e., an error in disbursement or disbursement to the wrong student). In all other cases where the student withdraws after initial enrollment or reduces enrollment status while continuing to attend the institution, the amendments require the participating institution to proceed to apply all KEES funds provided by the authority to the student's account or deliver the money to the student. Essentially, the student that changes enrollment status will nevertheless receive all funds awarded for that academic term based on the initial enrollment status certified by the participating institution. The student will correspondingly use one semester of eligibility for KEES funds. It is anticipated that this will reduce the amount of funds returned by the educational institution to the authority. However, the rate of refund experienced thus far has been negligible (approximately 0.5%). This will have negligible economic impact on the geographic area.

(b) Kentucky: Same as (a) above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The current administrative regulation provides that participating educational institutions shall apply their established refund and repayment policies, applicable to all student financial aid programs, to return KEES funds to the authority if the student withdraws or changes enrollment status or fails to enroll. The amendments to this administrative regulation provide that participating institutions shall only be required to return KEES funds to the authority in situations where the student failed to enroll or received more KEES funds than the student earned (i.e., an error in disbursement or disbursement to the wrong student). In all other cases where the student withdraws after initial enrollment or reduces enrollment status while continuing to attend the institution, the amendments require the participating institution to proceed to apply all

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KEES funds provided by the authority to the student's account or deliver the money to the student. This change will relieve participating institutions of the necessity of re-verifying enrollment status at the point that KEES funds are received from the authority and further relieve the participating institutions of returning funds to the authority in certain circumstances.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: There is no effect upon public health or the environment resulting from the amendment of this administrative regulation.

(b) State whether a detrimental effect on the environmental or public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: None

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

(a) Necessity of proposed regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information or comments: None

(11) Tiering: Was tiering applied? No. The concept of tiering is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters prescribed by statute, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The equal protection and due process clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

### KENTUCKY BOARD OF BARBERING (Amendment)

**201 KAR 14:180. License fees, examination fees, renewal fees and expiration fees.**

RELATES TO: 1998 Ky. Acts ch. 193, sec. 2

STATUTORY AUTHORITY: 1998 Ky. Acts ch. 193

NECESSITY, FUNCTION, AND CONFORMITY: 1998 Ky. Acts ch. 193, sec. 1 requires the Board of Barbering to establish fees for licenses within the limits established by 1998 Ky. Acts ch. 193, sec. 2. This administrative regulation establishes fees relating to barbering licenses.

Section 1. Initial licensing fees shall be as follows:

- (1) Apprentice license: forty (40) [thirty (30)] dollars.
- (2) Barber license: forty (40) [thirty (30)] dollars.
- (3) Barber shop license: fifty (50) [thirty (30)] dollars.
- (4) Barber school license: \$150.
- (5) Teacher of barbering license: fifty (50) dollars.

Section 2. Examination fees shall be as follows:

- (1) Apprentice examination: \$125 [+\$0].
- (2) Barber examination: \$125 [+\$0].
- (3) Teacher of barbering examination: \$125 [+\$0].

Section 3. Renewal fees shall be:

- (1) Apprentice renewal: forty (40) [thirty (30)] dollars.
- (2) Barber renewal: forty (40) [thirty (30)] dollars.
- (3) Teacher of barbering renewal: forty (40) [thirty (30)] dollars.
- (4) Barber shop renewal: forty (40) [thirty (30)] dollars.
- (5) Barber school renewal: forty (40) [thirty (30)] dollars.

Section 4. (1) The late fee for renewal of a license that has been expired for more than thirty-one (31) days and not more than five (5)

years from the expiration date of last license issued by the board shall be as follows:

- (a) Apprentice late fee: twenty-five (25) dollars.
- (b) Barber late fee: twenty-five (25) dollars.
- (c) Teacher of barbering late fee: twenty-five (25) dollars.
- (d) Barber shop late fee: twenty-five (25) dollars.
- (e) Barber school late fee: twenty-five (25) dollars.

(2) The total cost of renewal of a license governed by subsection

(1) of this section shall include the renewal fee and the:

- (a) Late fee established by subsection (1) of this section; and
- (b) Lapse fee defined by KRS 317.44-10(6) and authorized by 1998 Ky. Acts ch. 193, sec. 2(9).

C. IVAN PAYNE, Chair

CHERYL LALONDE-MOONEY, Assistant Attorney General

APPROVED BY AGENCY: February 28, 2000

FILED WITH LRC: May 10, 2000 at noon

PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on June 26, 2000, at 10 a.m., at the State Board's office, 9114 Leesgate Road, Suite 6, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 19, 2000, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Bill Maggard, Jr., Administrator, Kentucky Board of Barbering, 9114 Leesgate Road, Suite 6, Louisville, Kentucky 40222-5055, Phone (502) 429-8841, Fax (502) 429-5223.

### REGULATORY IMPACT ANALYSIS

Contact person: Bill Maggard, Jr.

(1) Type and number of entities affected: Approximately 3240 barbers and 1,223 shops in Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No direct or indirect costs or savings on the cost of living and employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: This is the first increase in fees in eight years. It will cost an additional \$10 for all licenses except initial shop license which increase \$20 because of expenses for initial inspection. Examination fees will increase \$25.

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

1. First year following implementation: No direct or indirect costs or savings on the compliance, reporting, and paperwork requirements for the first year following implementation.

2. Second and subsequent years: No direct or indirect cost or savings on the compliance, reporting, and paperwork requirements for the second and subsequent years.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No direct or indirect cost or savings for the first year.

2. Continuing costs or savings: No continuing cost or savings.

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

(a) Geographical area in which administrative regulation will be implemented: No economic impact is anticipated in the geographical area.

(b) Kentucky: No economic impact is anticipated in Kentucky.

(7) Assessment of alternative methods; reasons why alternatives were rejected: No other alternatives were deemed appropriate. 1998 Ky. Acts ch. 193, sec. 1 requires that the Kentucky Board of Barbering establish fees for licenses within the limits established by 1998 Ky. Acts ch. 193, sec. 2. This increase is the first since 1992-1993, and is needed to support the activity of the Board of Barbering.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No effects are anticipated on public health and environmental welfare.

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

(c) If detrimental effect would result, explain detrimental effect: No detrimental effect would result.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: Regulation is not in conflict.

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

(10) Any additional information or comments: This is the first fee increase in 8 years. Because of expenses added for MARS (the state computer program for all of state government) and the cost for inspections of shops the agency need more income to cover cost.

(11) TIERING: Is tiering applied? Tiering was applied because we have fees for apprentice barbers, barbers, instructors, schools, and shops.

# KENTUCKY BOARD OF LICENSURE OF MARRIAGE AND FAMILY THERAPISTS (Amendment)

## 201 KAR 32:030. Fees.

RELATES TO: KRS 335.330, 335.340(1), (3) [(a)]

STATUTORY AUTHORITY: KRS 335.330, 335.320(4) [(7)], 335.340(1), (3) [(a)]

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation sets all fees for licenses as a marriage and family therapist and marriage and family therapist associate. KRS 335.330 requires the board to promulgate an administrative regulation establishing the initial fee for licensure [certification] required to be paid by an applicant for licensure [certification] and requires an applicant to pass a written examination prescribed by the board. KRS 335.340(1) [(a)] requires that all licenses issued under KRS 335.330 shall be renewed annually, and that the board [te] promulgate an administrative regulation establishing the fee for licensure [a certification] renewal. KRS 335.320(4) [(7)] authorizes the board to promulgate administrative regulations necessary to implement KRS Chapter 335. KRS 335.340(3) requires the board to promulgate an administrative regulation establishing the last renewal fee. KRS 335.340(3) requires the board to establish procedures for reinstatement of expired licenses. [This administrative regulation establishes those fees.]

Section 1. Initial Application [Certification] Fee. [(1)] The initial application [certification] fee for licensure [certification] as a marriage and family therapist shall be fifty (50) dollars [\$200].

[(2) If an application for certification is denied, the board shall refund \$150 of the initial certification fee.]

Section 2. Initial Licensure Fee. The initial fee for licensure as a

marriage and family therapist shall be \$150.

Section 3. Examination Fee. The fee for taking the licensure [certification] examination shall be \$195.

Section 4. [(3)] Renewal Fee. The fee for renewal of licensure as a marriage and family therapist [certification] shall be \$110 annually [250 for a three (3)-year period].

Section 5. Late Renewal Fees. Any licensee who renews his license during the ninety (90) day grace period provided by KRS 335.340(3) shall pay a late renewal fee of fifty (50) dollars in addition to the payment of the renewal fee as set forth in Section 4 of this administrative regulation.

Section 6. Reinstatement of Expired License. (1) An expired license may be reinstated by:

(a) Submitting a completed "License Reinstatement form";

(b) Payment of the renewal fee as set forth in Section 4 of this administrative regulation for each year since the date of last active licensure;

(c) Payment of a reinstatement fee of \$100; and

(d) Meeting all other requirements of this section.

(2) The applicant for reinstatement of an expired license shall submit proof of completion of fifteen (15) hours of continuing education for each year since the date of last active licensure.

Section 7. Incorporation by Reference. "License Reinstatement form", (2000 Edition), Kentucky Board of Licensure for Marriage and Family Therapists, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Kentucky Board of Licensure for Marriage and Family Therapists, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN P. SOHAN, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: May 1, 2000

FILED WITH LRC: May 3, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000, at 10 a.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 14, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

## REGULATORY IMPACT ANALYSIS

Agency contact: Nancy Black

(1) Type and number of entities affected: Approximately 400 licensed marriage and family therapists.

(2) Direct and indirect costs or savings to those affected: The direct costs associated with this regulation are the initial application fee of \$50, the initial licensure fee of \$150, the examination fee of \$195, the annual renewal fee of \$110, the late renewal fee of \$50, and the reinstatement fee of \$100. The initial licensure fee and the examination fee remain unchanged, and are the same amount that was initially charged for certification. The renewal fee is revised to reflect the fact that it is now done on an annual basis. The annual renewal fee has increased. The late renewal fee and the reinstatement fee have remained the same.



ment fees are newly created statutory items.

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received.

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

1. First year following implementation: No change.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body: None

(a) Direct or indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None anticipated.

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Board funds received from licensure fees.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on: No comments received.

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation does not affect economic activity.

(b) Kentucky: None

(7) Assessment of alternative methods, reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits: Brings the administrative regulation into conformity with the statutory requirements.

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

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

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: Board is not aware of any statute, regulation or government policy that may be in conflict or is duplicated by this proposed regulation.

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

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

(10) Any additional comments: None

(11) TIERING: Is tiering applied? No

**TOURISM DEVELOPMENT CABINET**  
**Department of Fish and Wildlife Resources**  
**(Amendment)**

**301 KAR 1:130. Live bait for personal use.**

RELATES TO: KRS 150.010, 105.025, 150.170, 150.175, 150.340, 150.450

STATUTORY AUTHORITY: KRS 13A.350, 150.025

NECESSITY, FUNCTION, AND CONFORMITY: It is necessary to regulate the manner of taking of bait species in order to utilize and conserve the populations. This amendment is necessary in order to allow the use of larger cast nets at Cumberland Lake.

Section 1. Definitions. (1) Live bait includes minnows, shad, herring, crayfish, salamanders, all frogs except bullfrogs, all tadpoles, native lampreys, Asiatic clams (*Corbicula* sp.) and aquatic organisms except mussels.

(2) "Minnows" means all fishes under six (6) inches in length, except basses (largemouth, small mouth or Kentucky), rock bass or goggle-eye, trout, crappie, walleye, sauger, pikes, white bass, yellow

bass, rockfish (saltwater striped bass) and muskellunge, or any hybrids of the above.

Section 2. Live bait may be taken with the following gear for personal use only, and any other species except live bait taken with this gear shall be returned immediately to the water:

(1) Seines: Maximum size ten (10) ft. long, four (4) ft. deep, one-fourth (1/4) in. mesh, legal statewide; maximum size thirty (30) ft. long, six (6) ft. deep, one-fourth (1/4) in. mesh, legal in Ohio and Mississippi Rivers and Kentucky and Barkley Lakes only.

(2) Minnow traps: Maximum size three (3) ft. long, eighteen (18) in. diameter, one (1) in. openings for catching, legal statewide.

(3) Dip nets: Maximum size three (3) ft. diameter, legal in Ohio, Tennessee and Mississippi Rivers, Cumberland River below Barkley Dam, Kentucky River below Lock #14, and all lakes over 1,000 acres.

(4) Sport cast nets: Effective March 1, 2001, the maximum size shall be twenty (20) foot [nine-(9)-ft.] diameter, one (1) inch bar [three-eighths (3/8)-in.] mesh, legal statewide except for the following waters:

1. Trout streams and tailwaters as listed in the Kentucky Department of Fish and Wildlife's publication Kentucky Trout Waters 2000;

2. Lakes with a surface area of less than 500 acres; and

3. In Crocus and Marrowbone Creeks, Cumberland County, the mesh size shall be in one (1) inch bar mesh only. Crocus Creek shall be closed to cast nets for an area extending from its mouth to fifty (50) yards upstream. [in Tennessee, Ohio and Mississippi Rivers, Cumberland River below Barkley Dam, Kentucky River below Lock #14, and all lakes over 1,000 acres. Maximum size sixteen (16) feet diameter, three-fourths (3/4) inch mesh legal in Cumberland Lake only.]

Section 3. No mussels may be taken for use as bait except Asiatic clams (*Corbicula* sp.). Sport fishermen shall have in their possession no more than:

(1) 500 minnows;

(2) 500 crayfish;

(3) 100 salamanders (spring lizards);

(4) 100 frogs (other than bullfrogs);

(5) 100 tadpoles;

(6) 100 native lampreys (mud eels);

(7) 500 aquatic invertebrates other than mussels;

(8) 500 shad;

(9) 500 herring;

(10) Any number of Asiatic clams (*Corbicula* sp.).

DOUGLAS SCOTT PORTER, Assistant Attorney General

C. THOMAS BENNETT, Commissioner

ANN R. LATTI, Secretary

TOM BAKER, Chairman

APPROVED BY AGENCY: April 13, 2000

FILED WITH LRC: May 12, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 30, 2000 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jennifer Fetter Fields, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4338, FAX (502) 564-6508.

**REGULATORY IMPACT ANALYSIS**

Contact Person: Jennifer Fetter Fields

(1) Type and number of entities affected: Approximately 1 million people hunt and fish in Kentucky. Only a small portion of those use any forms of nets or would be affected by this administrative regula-

tion.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received regarding economic impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received regarding cost of doing business. This administrative regulation will have no significant impact on the cost of doing business.

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

1. First year following implementation: This administrative regulation imposes no new paperwork or reporting requirements.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation imposes no new direct or indirect costs.

2. Continuing costs or savings: Same as for first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: This administrative regulation imposes no new reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation will not impact state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fish and Game Fund.

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

(a) Geographical area in which administrative regulation will be implemented: Should only have a minimal economic impact.

(b) Kentucky: Same for local areas.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative was to not amend the administrative regulation. The amendment gives greater public opportunity and thus was amended.

(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: None

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

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

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

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering was used in setting different locations for use of cast nets. This was necessary because of the biological differences of fisheries in different bodies of water.

**TOURISM DEVELOPMENT CABINET  
Department of Fish and Wildlife Resources  
(Amendment)**

**301 KAR 1:132. Sale of live bait.**

RELATES TO: KRS 150.025, 150.175, 150.180, 150.280, 150.450, 150.485

STATUTORY AUTHORITY: KRS 13A.350, 150.025

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation gives the conditions and provisions under which live bait may be taken, transported, and sold. It is necessary to protect the state's aquatic resources; to more clearly designate licenses needed to take and sell live bait, and to add a more effective method to take Asiatic Clam (*Corbicula fluminea*), a recently recognized live bait.

Section 1. Live bait means minnows; shad; herring; crayfish; salamanders; all frogs, except bull frogs; all tadpoles; native lampreys; *Corbicula* and aquatic invertebrate organisms. Live bait refers to the condition of the animal when taken even though it may eventually be sold as a part no longer living.

Section 2. Live bait may be sold by a licensed live fish and bait dealer if purchased from a legal source as specified in this administrative regulation. Live bait can be sold by a licensed commercial fisherman only if taken in accordance with this administrative regulation. *Corbicula* may be taken and sold as bait by a licensed mussel fisherman. The source of live bait is legal if:

(1) They were hatched and reared by a licensed propagator in standing private water (ponds or lakes) or commercial hatchery raceways within the boundaries of Kentucky.

(2) They were purchased from legal commercial sources located in states other than Kentucky; however, licensed live fish and bait dealers doing business in Kentucky having possession of live bait obtained from sources outside of Kentucky must have a bill of sale showing the date and number of each kind of organism purchased or obtained.

(3) Purchased from a licensed mussel fisherman, *Corbicula* may, if taken by means of a legal bail, be resold as bait. No other species of mussel may be sold for bait.

(4) Purchased from a licensed commercial fisherman, *Corbicula* taken by means of a tagged commercial bait rake may be resold as bait as specified in Section 3 of this administrative regulation.

(5) Purchased from a licensed commercial fisherman. Shad, herring, and other live bait may be sold in whole or part if taken as specified in Section 3 of this administrative regulation.

Section 3. Live bait may not be harvested by any method from any public stream for commercial purposes except as specified in this section.

(1) Licensed commercial fishermen may sell live bait taken in legally set commercial fishing gear.

(2) Licensed commercial fishermen may take and sell shad and herring only if taken by use of a dip net of a diameter of three (3) feet or less made of any type material or cast net ~~twenty (20)~~ [nine (9)] feet maximum diameter with one (1) [three-eighths (3/8)] inch maximum bar mesh in the Tennessee River, Kentucky River downstream from Lock #14, Ohio River, Cumberland River below Barkley Dam, Mississippi River and in all lakes 1,000 acres or larger.

(3) Licensed commercial fishermen may sell live bait if taken from the Mississippi and Ohio rivers only by the use of a one-fourth (1/4) inch mesh seine no more than thirty (30) feet long and six (6) feet deep.

(4) Licensed commercial fishermen may take and sell *Corbicula* by use of a tagged commercial live bait rake in commercial waters only.

(a) The rake may be no more than twenty (20) inches wide, have tines no longer than five (5) inches, the tines may be set no more than one (1) inch apart, and the basket of any material may be no larger than eight (8) inches by twenty (20) inches by ten (10) inches with a rigid handle no longer than twenty (20) feet. A commercial gear tag must be permanently attached to the handle.

(b) The rake must be operated with the handle in hand. No bridle to permit dragging is allowed.

(c) All mussels taken other than *Corbicula* must be immediately returned to the water unharmed.

(d) It shall be illegal to have a commercial live bait rake in a boat that also has a mussel bail aboard or attached to the boat regardless of what type licenses the occupants possess.

Section 4. Possession of live bait by a licensed live fish or bait dealer obtained in any other manner than those specified in Section 2 of this administrative regulation is prohibited.

Section 5. All individuals, corporations, or other business entities transporting, selling, or possessing live bait for sale in Kentucky are required to have an appropriate live fish and bait dealers license issued in the name of the individual, corporation, or other business entity that is transacting business in this commonwealth. This license or exact copy thereof must be in the possession of the persons who are

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transporting, selling, or possessing these organisms in Kentucky. This license is not in lieu of a propagation or transportation permit if they also are applicable to the operation.

Section 6. Those individuals, corporations, or other business entities transporting live bait from one state to another state through Kentucky without conducting any type of business in this commonwealth are not required to have a live fish and bait dealers license, but must have a valid transportation permit.

Section 7. Those individuals, corporations, or other business entities who sell any of the organisms above mentioned for food in establishments licensed by another state agency to sell retail or wholesale food stuffs are not required to have a live fish and bait dealers license.

DOUGLAS SCOTT PORTER, Assistant Attorney General  
C. THOMAS BENNETT, Commissioner  
ANN R. LATTI, Secretary  
TOM BAKER, Chairman

APPROVED BY AGENCY: April 13, 2000

FILED WITH LRC: May 12, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 30, 2000 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jennifer Fetter Fields, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4338, FAX (502) 564-6508.

### REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Fetter Fields

(1) Type and number of entities affected: Approximately 1 million people hunt and fish in Kentucky. Only a small portion of those use any forms of nets or would be affected by this administrative regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received regarding economic impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received regarding cost of doing business. This administrative regulation will have no significant impact on the cost of doing business.

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

1. First year following implementation: This administrative regulation imposes no new paperwork or reporting requirements.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation imposes no new direct or indirect costs.

2. Continuing costs or savings: Same as for first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: This administrative regulation imposes no new reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation will not impact state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fish and Game Fund.

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

(a) Geographical area in which administrative regulation will be implemented: Should only have a minimal economic impact.

(b) Kentucky: Same for local areas.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative was to not amend the administrative regulation. The amendment gives greater public opportunity and thus was amended.

(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: None

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

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

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

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering was used in setting different locations for use of cast nets. This was necessary because of the biological differences of fisheries in different bodies of water.

### TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources (Amendment)

#### 301 KAR 1:140. Special commercial fishing permit.

RELATES TO: KRS 150.025(1), 150.450(2)

STATUTORY AUTHORITY: KRS 150.025(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to regulate the size or type of devices and methods used to take wildlife, including rough fish and the places where they may be taken. This administrative regulation is necessary to specify the waters open to, and other restrictions on the use of, gill and trammel nets.

Section 1. Definitions. (1) "Bar mesh size" means the distance between two (2) knots on a line of a net.

(2) "Permit" means a special commercial fishing permit.

(3) "Rough fish" is defined by KRS 150.010(32).

(4) "Whip set" means a gill net or a trammel net rigged so it is free-floating.

Section 2. A person who has in his possession a valid special commercial fishing permit and a commercial fishing license may use a gill net or a trammel net to take rough fish:

(1) From November 1 through:

(a) March 31 in Kentucky Lake; and

(b) The last day of February in Barkley Lake.

(2) In the portions of Kentucky and Barkley lakes open to commercial fishing as specified in 301 KAR 1:150.

Section 3. A person using a gill net or a trammel net in the waters specified in Section 2 of this administrative regulation shall:

(1) Before fishing, apply for a permit by providing on a form provided by the department his:

(a) Name;

(b) Address;

(c) Telephone number; and

(d) Fish markets he intends to use.

(2) Have the permit in his possession while:

(a) Fishing with a gill net or a trammel net;

(b) Transporting a gill net or a trammel net; or

(c) Selling fish taken with a gill net or a trammel net.

(3) Tag a gill net or a trammel net as specified in KRS

150.175(1)(d).

(4) Not use a gill net or a trammel net with a bar mesh size smaller than three and one-half (3-1/2) inches or larger than four and one-half (4-1/2) inches, except that a whip set may have a minimum bar mesh size of three (3) inches.

(5) Not fish a stationary set net with the top of the net or float line shallower than three (3) feet below the surface.

(6) Tend each net, except whip sets, at least once every twenty-four (24) hours.

(7) Not leave whip sets unattended.

(8) Affix a decal supplied by the department:

(a) To each side of the boat or motor he uses for fishing under the special commercial fishing permit;

(b) So that the decal is clearly visible while the boat is used for fishing with a gill net or a trammel net.

(9) Not release a rough fish.

(10) Fish a minimum of 800 yards [linear-feet] of net for at least one-fourth (1/4) of the season.

Section 4. The permit holder may be accompanied by one (1) unlicensed helper, who shall be:

(1) In the same boat with the permit holder while fishing with a gill net or a trammel net; or

(2) Accompanied by the permit holder while transporting or selling fish taken under the permit.

Section 5. The permit holder shall:

(1) Maintain an accurate record of daily fishing activity and fish sales; and

(2) Submit a weekly report to the department:

(a) On a form provided by the department, providing information on:

1. The number of each species of rough fish taken;

2. How the fish were disposed of; and

3. The average total length of nets fished each day, with separate entries for:

a. Gill nets;

b. Trammel nets; and

c. Whip sets.

(b) Duplicate receipts for fish sold.

Section 6. The department shall:

(1) Not renew the permit of a person who does not submit a report as specified in Section 5 of this administrative regulation.

(2) Revoke the permit of a person found guilty of violating a statute or administrative regulation pertaining to commercial fishing for three (3) years.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Application for a Special Commercial Fishing Permit, 1998.

(b) Permit Fisherman's Daily Catch Report, 1998.

(2) This material may be inspected, copied or obtained at the Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

DOUGLAS SCOTT PORTER, Assistant Attorney General

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

TOM BAKER, Chairman

APPROVED BY AGENCY: April 13, 2000

FILED WITH LRC: May 12, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 30, 2000 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request

for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jennifer Fetter Fields, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4338, FAX (502) 564-6508.

## REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Fetter Fields

(1) Type and number of entities affected: Approximately 1 million people hunt and fish in Kentucky. Only a small portion of those are involved in commercial fishing and thus would be affected by this administrative regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received regarding economic impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received regarding cost of doing business. This administrative regulation will have no significant impact on the cost of doing business.

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

1. First year following implementation: This administrative regulation imposes no new paperwork or reporting requirements.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation imposes no new direct or indirect costs.

2. Continuing costs or savings: Same as for first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: This administrative regulation imposes no new reporting or paperwork requirements.

(4) Assessment of anticipated effect on state and local revenues: This administrative regulation will not impact state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fish and Game Fund.

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

(a) Geographical area in which administrative regulation will be implemented: Should only have no economic impact.

(b) Kentucky: Same for local areas.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative was to not amend the administrative regulation. The amendment corrects an earlier mistake in an administrative regulation.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environmental and public health would result if not implemented: None

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

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

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

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering was used in setting different locations for use of commercial fishing. This was necessary because of the biological differences of fisheries in different bodies of water.

VOLUME 26, NUMBER 12 – JUNE 1, 2000

**TOURISM DEVELOPMENT CABINET**  
**Department of Fish and Wildlife Resources**  
**(Amendment)**

**301 KAR 2:144. Fall wild turkey hunting.**

RELATES TO: KRS 150.175(1)(r), 150.305, 150.360, 150.390, 150.990(11)

STATUTORY AUTHORITY: KRS 150.025(1), 150.390(1), 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) and 150.390(1) authorize the department to promulgate administrative regulations governing wild turkey hunting. This administrative regulation establishes season dates, shooting hours and other requirements for fall gun and archery turkey seasons.

Section 1. A person may take a wild turkey:

(1) From the third Saturday in September through December 31, except during the modern gun deer season:

(a) Using archery equipment as specified in Section 5 of 301 KAR 2:140; and

(b) From one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset.

(2) Beginning in 1998, for five (5) consecutive days beginning on the Wednesday closest to December 1:

(a) Using a firearm as specified in Section 5 of 301 KAR 2:140; and

(b) From one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset.

Section 2. Except as specified by 301 KAR 2:111, a person shall not take more than:

(1) One (1) wild turkey per day;

(2) Two (2) wild turkeys of either sex during the fall archery season; and

(3) One (1) wild turkey of either sex during the fall gun season.

Section 3. A person shall not hunt a wild turkey during the fall gun season except in Adair, Anderson, Allen, Barren, Boone, Bracken, Bullitt, Butler, Caldwell, Carroll, Christian, Crittenden, Cumberland, Daviess, Edmonson, Franklin, Gallatin, Grant, Grayson, Green, Hardin, Harrison, Hart, Henry, Hopkins, Larue, Logan, Marion, Mason, Metcalfe, Muhlenburg, Nelson, Ohio, Owen, Pendleton, Robertson, Shelby, Spencer, Taylor, Todd, Trimble, Warren or Washington counties.

Section 4. On a wildlife management area owned, operated or under license to the department, a person:

(1) Shall not hunt wild turkey:

(a) During the fall gun turkey season unless:

1. The wildlife management area lies partially or complete within a county listed in Section 3 of this administrative regulation; and

2. A firearm deer season is not open on the area.

(b) During the fall turkey gun or archery season on:

1. Ballard Wildlife Management Area;

2. Grayson Lake Wildlife Management Area;

3. The main block of Robinson Forest; or

4. Swan Lake Wildlife Management Area.

(2) May archery turkey hunt during the modern gun deer season if deer hunting with:

(a) A firearm is prohibited; and

(b) Archery equipment is permitted on the area during the modern gun deer season.

(3) Shall check in and out daily at the Higginson-Henry Wildlife Management Area.

(4) May use a crossbow during the fall archery turkey season on the Pioneer Weapons Area.

(5) On the Peninsula Unit, including Narrows, Goose, and Grass Islands of Barren River Wildlife Management Area, a person:

(a) Shall not:

1. Hunt during the fall gun season with a breech-loading firearm; or

2. Except as authorized by the department, carry a breech-loading firearm with ammunition in the chamber or magazine.

(b) May use a crossbow during the fall archery season.

(6) May hunt on the Grayson Lake WMA except during the area's quota deer hunt.

DOUGLAS SCOTT PORTER, Assistant Attorney General

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

TOM BAKER, Chairman

APPROVED BY AGENCY: April 13, 2000

FILED WITH LRC: May 12, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 30, 2000 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jennifer Fetter Fields, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4338, FAX (502) 564-6508.

**REGULATORY IMPACT ANALYSIS**

Contact Person: Jennifer Fetter Fields

(1) Type and number of entities affected: Approximately 15,000 persons hunt wild turkey in Kentucky. Most of this activity occurs during the spring firearms season. It is unknown at this time how many hunters will participate in the fall firearm season initiated by this administrative regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. The amendment to this administrative regulation will have no impact on cost of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. The amendment to this administrative regulation will have no impact on the cost of doing business.

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

1. First year following implementation: No additional paperwork requirements.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No additional costs or savings.

2. Continuing costs or savings: Same as for first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reporting or paperwork requirements.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fish and Game Fund.

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

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

(b) Kentucky: No economic impact.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 150.360 specifies that a person shall not take wildlife unless the department opens a season for a particular

species; there is no alternate way of opening a season on wild turkey except by administrative regulation. Alternatives to the specifics contained within this administrative regulation were considered and rejected because they would not provide the desired combination of protection for Kentucky's wild turkey flock and optimal recreational opportunities for hunters.

(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

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

(c) If detrimental effect would result, explain detrimental effect: Possible overharvest of wild turkey, leading to reduced seasons and lessened hunter opportunity.

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not appropriate because the administrative regulation applies equally to all individuals or entities it regulations.

**TOURISM DEVELOPMENT CABINET**  
**Department of Fish and Wildlife Resources**  
**(Amendment)**

**301 KAR 2:174. Deer hunting zones.**

RELATES TO: KRS 150.010, 150.170, 150.175, 150.180, 150.340, 150.360, 150.370, 150.390, 150.395, 150.990

STATUTORY AUTHORITY: 150.025(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) gives the department the authority to make administrative regulations apply to a limited area or to the entire state. This administrative regulation zones the state for the purposes of controlling deer harvest and populations, and providing optimum opportunity for deer hunters.

Section 1. Definitions. "Zone" means counties or portions of counties grouped for deer hunting season dates and limits.

Section 2. Zone Assignments. (1) Zone 1 shall consist of Allen; Anderson, Ballard, Boone, Boyd, Breckinridge, Bullitt, Butler; Caldwell, Calloway, Campbell, Carlisle, Carroll, Carter, Christian, Crittenden, Elliott, Franklin, Fulton, Gallatin, Grant, Graves, Greenup, Grayson, Hancock; Hardin, Henry, Hickman, Hopkins; Jefferson, Kenton, Lawrence, Livingston, Logan; Lyon, Marion, Marshall, McCracken, Meade, Nelson, McLean, Muhlenberg, Ohio; Oldham, Owen, Pendleton, Rowan, Scott, Shelby, Spencer, Fedd; Trigg, Trimble, Washington, Webster; and Woodford Counties.

(2) Zone 2 shall consist of Adair, Allen, Barren, Bath, Bourbon, Boyle, Bracken, Butler, Casey, Clinton, Cumberland, Boyd, Breckinridge, Bullitt, Garter; Daviess, Edmonson, Fayette, Fleming, Grayson, Elliott, Grant; Green, Hancock, Greenup; Harrison, Hart, Henderson, Hopkins, Jessamine, Larue, Lewis, Logan, Mason, McClean, Menifee, Mercer, Metcalfe, Marion, Meade, Mercer; Monroe, Morgan, Muhlenberg, Nicholas, Ohio, Nelson, Pendleton; Robertson, Russell, Scott; Simpson, Taylor, Todd, Union, and Warren, and Webster Counties.

(3) Zone 3 shall consist of Clark, Garrard, Jackson, Johnson, Laurel, Lincoln, Madison, Martin, Montgomery, Owsley, Powell, Pulaski, Wayne, Whitley, and Wolfe Bath, Boyle, Bracken, Casey, Clinton, Cumberland, Edmonson, Fleming, Hart, Jessamine, Lawrence, Lewis, Mason, Menifee, Metcalfe, Morgan, Rowan, and Russell Counties.

(4) Zone 4 shall consist of Bell, Breathitt, Clay, Estill, Floyd, Harlan, Knox, Knott, Lee, Leslie, Letcher, Magoffin, McCreary, Perry, Pike, and Rockcastle Clark, Fayette, Garrard, Jackson, Johnson, Laurel, Lincoln, Madison, Martin, Montgomery, Nicholas, Pulaski, Wayne, Whitley, and Wolfe Counties.

(5) Zone 5 shall consist of Bell, Bourbon, Breathitt, Clay, Estill, Floyd, Harlan, Knott, Knox, Lee, Magoffin, Owsley, Powell, and Rock

castle Counties:

(6) Zone 6 shall consist of Leslie, Letcher, McCreary, Perry, and Pike Counties.]

DOUGLAS SCOTT PORTER, Assistant Attorney General  
C. THOMAS BENNETT, Commissioner  
ANN R. LATTA, Secretary  
TOM BAKER, Chairman

APPROVED BY AGENCY: April 13, 2000

FILED WITH LRC: May 12, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 30, 2000 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jennifer Fetter Fields, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4338, FAX (502) 564-6508.

**REGULATORY IMPACT ANALYSIS**

Contact Person: Jennifer Fetter Fields

(1) Type and number of entities affected: An estimated 212,000 hunters will participate in white-tailed deer seasons provided for by this administrative regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation continues deer seasons in effect for many years and should have no impact on costs of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation will have no impact on the cost of doing business.

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

1. First year following implementation: This administrative regulation will impose no new reporting or paperwork requirements.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation will not cause the agency to incur additional costs or realize any additional savings.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None have been identified.

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: State and local revenues will be positively affected by this activity, and by the purchase of required licenses and permits.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The sale of hunting licenses and deer permits.

(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: This administrative regulation applies to all geographical areas of the Commonwealth. Placing counties in zones with more liberal or more restrictive harvest requirements may create



slight economic impact.

(b) Kentucky: Deer hunters expend money for equipment, transportation, food and lodging. These expenditures average approximately \$250 per hunter, for a positive direct economic impact of \$5,300,000.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative is a uniform season statewide. This alternative was rejected because such a uniform season would allow too many deer to be taken in some areas and not enough in others. It would neither provide optimal recreational opportunities nor meet deer population objectives.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Regulated hunting controls deer populations and prevents the environmental damage to the landscape caused by deer overpopulation. Deer hunting provides outdoor recreation for over 200,000 Kentuckians annually.

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

(c) If detrimental effect would result, explain detrimental effect: In some areas, deer populations could grow to levels which would create increasing incidents of deer-vehicle collisions, crop depredations, and destruction of habitat. In other areas, deer populations could be decreased or eliminated.

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is applied to this administrative regulation. Each county of Kentucky was examined separately and placed in one of eight categories, depending upon deer population, last season's harvest and population objectives for the future.

**TOURISM DEVELOPMENT CABINET  
Department of Fish and Wildlife Resources  
(Amendment)**

**301 KAR 2:176. Deer control tags.**

RELATES TO: KRS 150.010, 150.105 150.170, 150.175, 150.340, 150.360, 150.390, 150.395, 150.990

STATUTORY AUTHORITY: KRS 150.105

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.105 allows the commissioner to authorize the destruction of wildlife that is causing damage. This administrative regulation is necessary to prescribe the conditions and procedures under which deer may be taken to alleviate localized agricultural and wildlife habitat damage until it is appropriate to apply deer herd stabilization or reduction measures on a county-wide basis through regular hunting seasons.

Section 1. Definitions. (1) "Damage to wildlife habitat" means:

(a) The existence of a browse line caused by deer; or

(b) Damage to more than thirty-five (35) percent of native plant species preferred by deer.

(2) "Deer control tag" means a tag issued by the department which authorizes a hunter to take antlerless deer during an open deer season.

(3) "Deer destruction permit" means written authorization from the department, pursuant to KRS 150.105, to take deer outside the regular hunting season framework.

(4) "Deer food plot" means a crop grown to attract and feed deer.

(5) "Department representative" means a department employee who is qualified and authorized by the commissioner to assess deer damage.

(6) "Landowner" means the person who has title to a particular property.

Section 2. Qualifying for Deer Control Tags. (1) A landowner with fewer than 1,000 contiguous acres shall qualify for deer control tags if:

(a) He has permitted deer hunting on the property during the previous deer season;

(b) Standard deterrent measures recommended by a department representative have proven ineffective or are impractical; and

(c) A department representative certifies deer damage to crops, gardens, property or wildlife habitat.

(2) A landowner with 1,000 contiguous acres or more shall qualify for deer control tags without evidence of damage if:

(a) He has permitted deer hunting on the property during the previous deer season;

(b) In the judgement of the department representative, regular deer seasons are inadequate to control deer populations on the property; and

(c) The landowner agrees to:

1. Follow the deer management practices recommended by the department representative; and

2. Supply the department with weight, age and condition data on deer taken from his property.

(3) A department representative shall make an on-site inspection of each property for which a request for deer control tags has been made, unless the property:

(a) Has been previously inspected by the department and the landowner affirms that deer damage still exists; or

(b) Is immediately adjacent to property assessed by a department representative as having severe deer damage.

(4) A landowner whose property is immediately adjacent to property assessed by a department representative as having severe deer damage shall be issued damage control tags upon request of the landowner, even if there is no evidence of deer damage on their property.

(5) The department shall not issue deer control tags to a landowner whose only damage is to a deer food plot.

Section 3. Applying for Deer Control Tags. (1) A landowner wishing to apply for deer control tags shall contact the department through:

(a) A conservation officer;

(b) The appropriate district wildlife biologist; or

(c) The Division of Wildlife in Frankfort.

(2) If required by Section 2 of this administrative regulation, a department representative shall visit the property and assess the nature and extent of deer damage.

(3) A request for an assessment shall be made on or before September 30 to be eligible for current year damage control tags.

(4) A request for an assessment made after September 30 shall be considered for the following year.

Section 4. Number of Tags Issued. (1) The department shall determine the number of deer control tags to be issued for each landholding based on the recommendation of the department representative.

(2) Except as provided in Section 2(2) or (4) of this administrative regulation, the department shall not issue a deer control tag if:

(a) The county deer season is adequate to achieve the desired reduction in deer numbers; or

(b) Crop or environmental damage is not present.

Section 5. Transfer of Deer Control Tags. (1) Deer control tags shall be issued in the landowner's name.

(2) A landowner:

(a) May transfer a deer control tag to another person.

(b) Shall not issue more than five (5) [~~four (4)~~] deer control tags to an individual.

(c) Shall require hunters to sign a deer control tag at the time of transfer.

(d) Shall return unissued tags to the department before January 25.

Section 6. Use of Deer Control Tags. (1) A deer control tag:

(a) Shall not be valid except on the landholding for which it was issued.

(b) Shall expire after license year for which it was issued.

(2) A person using a deer control tag:

(a) Shall have in his possession:

1. A deer control tag with his signature; and



2. A valid hunting license and the receipt portion of a current deer permit, unless exempt from license or permit requirements by KRS 150.170.

(b) May use deer control tags during archery, gun or muzzle-loader seasons to take antlerless deer.

(c) Shall not take more than four (4) deer per license year with deer control tags.

(d) Shall abide by the provisions of 301 KAR 2:172, except that he shall:

1. Not take antlered deer;

2. Tag deer with the deer control tag rather than the carcass tag portion of the deer permit.

(3) Deer taken with a deer control tag shall not count toward the annual limit as specified in 301 KAR 2:172.

Section 7. Deer Destruction Permits. (1) The department may issue a deer destruction permit:

(a) To a landowner:

1. Who continues to experience damage after being issued deer control tags; or

2. Whose property cannot legally be hunted.

(b) Where deer are posing a public safety or environmental threat.

(2) A deer destruction permit shall specify:

(a) The number and sex of deer to be destroyed;

(b) The method of destruction;

(c) The name of the person who will destroy the deer; and

(d) The dates during which the destruction will take place.

(3) A deer destruction permit shall not be issued without the recommendation of a representative of the department and the approval of the commissioner.

(4) A person destroying deer shall:

(a) Attach a disposal tag provided by the department to each carcass; and

(b) Not remove the disposal tag until the carcass is processed or disposed of.

(5) A deer destruction permit shall not be used except as specified on the permit.

(6) Nothing in this administrative regulation shall prohibit a landowner or tenant from taking action to control deer that are posing a direct and immediate threat to life or property.

Section 8. Denial or Revocation or Deer Control Tags or Destruction Permits and Appeal Procedures. (1) The department may revoke a deer control tag or destruction permit and deny a future tag or permit to a person who:

(a) Fails to comply with the requirements of this administrative regulation;

(b) Is convicted of a deer administrative regulation violation; or

(c) Otherwise abuses the Deer Control Tag Program.

(2) An appeal of a revocation or a denial of eligibility shall be submitted in writing:

(a) To the commissioner;

(b) Within sixty (60) days of the date of the revocation or denial.

(3) An appeal of the commissioner's decision shall be made in writing to the Fish and Wildlife Resources Commission within sixty (60) days of the commissioner's decision.

(4) The Fish and Wildlife Resources Commission shall hear the appeal at its next regularly scheduled meeting.

DOUGLAS SCOTT PORTER, Assistant Attorney General

C. THOMAS BENNETT, Commissioner

ANN R. LATTA, Secretary

TOM BAKER, Chairman

APPROVED BY AGENCY: April 13, 2000

FILED WITH LRC: May 12, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 30, 2000 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jennifer Fetter Fields, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4338, FAX (502) 564-6508.

## REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Fetter Fields

(1) Type and number of entities affected: An estimated 212,000 hunters will participate in white-tailed deer seasons provided for by this administrative regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation continues deer seasons in effect for many years and should have no impact on costs of living or employment.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation will have no impact on the costs of doing business.

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

1. First year following implementation: This administrative regulation will impose no new reporting or paperwork requirements.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation will not cause the agency to incur additional costs or realize any additional savings.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None have been identified.

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: State and local revenues will be positively affected by this activity, and by the purchase of required licenses and permits.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The sale of hunting licenses and deer permits.

(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: This administrative regulation applies to all geographical areas of the Commonwealth. Placing counties in zones with more liberal or more restrictive harvest requirements may create slight economic impact.

(b) Kentucky: Deer hunters expend money for equipment, transportation, food and lodging. These expenditures average approximately \$250 per hunter, for a positive direct economic impact of \$5,300,000.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative is a uniform season statewide. This alternative was rejected because such a uniform season would allow too many deer to be taken in some areas and not enough in others. It would neither provide optimal recreational opportunities nor meet deer population objectives.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Regulated hunting controls deer populations and prevents the environmental damage to the landscape caused by deer overpopulation. Deer hunting provides outdoor recreation for over 200,000 Kentuckians annually.

(b) State whether a detrimental effect on environmental and

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public health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: In some areas, deer populations could grow to levels which would create increasing incidents of deer-vehicle collisions, crop depredations, and destruction of habitat. In other areas, deer populations could be decreased or eliminated.

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

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is applied to this administrative regulation. Each county of Kentucky was examined separately and placed in one of eight categories, depending upon deer population, last season's harvest and population objectives for the future.

### TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources (Amendment)

**301 KAR 4:200. Addington Enterprises [Gyprus-AMAX] and Robinson Forest Wildlife Management Areas use requirements and restrictions.**

RELATES TO: KRS 150.250, 150.620, 150.990(2)

STATUTORY AUTHORITY: KRS 150.025(2), 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.620 authorizes the department to provide for the protection, conservation, use and management of the lands, waters, and wildlife associated with the Addington Enterprises [Gyprus-AMAX] Wildlife Management Area and Robinson Forest Wildlife Management Area by detailing requirements and restrictions for permit agents and users of these areas. This amendment is necessary to remove fishing restrictions, which are now included in 301 KAR 1:201; and remove the sections dealing with permit agents, since all license agents can now sell area permits.

Section 1. Definitions. (1) "The area" means the Addington Enterprises [Gyprus-AMAX] Wildlife Management Area and the Robinson Forest Wildlife Management Area, those lands in Breathitt, Knott and Perry counties owned by Addington Enterprises [the Gyprus-AMAX Mineral Company] or the University of Kentucky and managed by the department pursuant to agreements between the department, Addington Enterprises [Gyprus-AMAX Mineral Company] and the University of Kentucky.

(2) "Group" means any family, organization or gathering using the area for a specific event.

(3) "Private inholding" means lands completely surrounded by the area but not owned by the University of Kentucky or Addington Enterprises [the Gyprus-AMAX Mineral Company].

(4) "Security deposit" means a bond, irrevocable letter of credit from a financial institution, or benefits on a certificate of deposit irrevocably assigned to the department.

Section 2. Individual Permits. A person sixteen (16) years of age or older on the area for any purpose shall have in their possession a nontransferable individual permit except:

(1) Employees, agents or persons under contract to Addington Enterprises [Gyprus-AMAX Mineral Company], the University of Kentucky or the department performing their official duties; or

(2) Persons on the area as a necessary part of their jobs or to protect public safety or well-being; or

(3) Persons on the area for educational purposes and accompanied by officials of the University of Kentucky; or

(4) Persons conducting research on the area with the written approval of the department, Addington Enterprises [Gyprus-AMAX Mineral Company] or the University of Kentucky; or

(5) Persons hiking on the Boardinghouse Interpretive Trail from the mouth of Boardinghouse Branch to the Robinson Forest Fire Tower.

Section 3. Private Inholdings and Closed Watersheds. (1) Private

inholdings shall be open to hunting or fishing only when the area is open to hunting or fishing.

(2) Persons shall not hunt, fish, train dogs or conduct field trials on lands owned by the University of Kentucky in the Clemons Fork, Coles Fork and Lewis Fork watersheds or in the Buckhorn Creek watershed below Hurricane Branch and above Lewis Fork.

Section 4. Event Permits. (1) A group of people who wish to use the area may apply for an event permit upon the application of one (1) member of the group. If the event permitted is granted, individual members of the group shall not be required to purchase an individual permit.

(2) The event permit shall apply to all members of the group.

(3) An event permit shall specify:

(a) Its period of validity, not to exceed four (4) days;

(b) The activity in which the group will engage;

(c) The name of the group;

(d) The approximate number of persons in the group; and

(e) The name and address of the person representing the group.

(4) The department shall not issue event permits for activities in which game or fish are taken.

Section 5. Permit Applications. (1) Persons shall apply for individual or event permits on individual permit or event permit forms provided by the department.

(2) Persons shall not knowingly provide false information on permit applications.

(3) Fees. Applicants shall pay the fees as specified in 301 KAR 3:022.

~~[(a) Individual permits: ten (10) dollars annually;~~

~~[(b) Event permits: twenty-five (25) dollars per event;]~~

(4) Persons applying by mail shall include a certified check or money order for the correct amount.

(5) Applicants shall provide all information required on the application form. The department shall return incomplete applications to the applicant.

(6) Permits shall be valid from March 1 through the end of February of each year.

(7) The department may:

(a) Limit the number of event permits issued; or

(b) Assign specific locations for events; or

(c) Deny applications for events which would interfere with management objectives for the area or unduly interfere with other uses or users; or

(d) Revoke individual or event permits for violations of the terms of the application or this administrative regulation.

(8) The department shall keep all applications, waivers of liability and copies of permits for a minimum of two (2) years after expiration.

Section 6. Prohibited Activities. Except for persons exempted from permit requirements by Section 2(1) through (4) of this administrative regulation, persons on the area shall not:

(1) Swim for recreational purposes;

(2) Camp except in designated camping areas;

(3) Have a fire, except in designated camping areas;

(4) Operate motorized vehicles off existing roads or in areas designated by signs as closed to vehicular travel;

(5) Operate vehicles not licensed or legal for use on public streets;

(6) Block roads or gates;

(7) Discharge firearms, except while hunting;

(8) Construct structures or stands except portable deer stands, which hunters shall remove daily;

(9) Use boats;

(10) Hunt or fish in areas designated by signs as closed to hunting or fishing;

(11) Enter areas designated by signs as no trespassing areas;

(12) Disobey to instructions from officials of the department, the University of Kentucky or Addington Enterprises [the Gyprus-AMAX Mineral Company].

Section 8. Material Incorporated by Reference. (1) The following forms are incorporated by reference:

(a) Agreement For Access to Designated Addington Enterprises [Gyprus-AMAX] - Robinson Forest Lands: Individual Permit, 1994.

(b) Agreement for Access to Designated Addington Enterprises [Gyprus AMAX] - Robinson Forest Lands: Event Permit, 1994.

(2) This material may be obtained from, or examined or copied at, the offices of the Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky, between the hours of 8 a.m. and 4:30 p.m. eastern time.

DOUGLAS SCOTT PORTER, Assistant Attorney General  
C. THOMAS BENNETT, Commissioner  
ANN R. LATTA, Secretary  
TOM BAKER, Chairman

APPROVED BY AGENCY: April 13, 2000

FILED WITH LRC: May 12, 2000 at 9 a.m.

**PUBLIC HEARING:** A public hearing on this administrative regulation shall be held on June 30, 2000 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jennifer Fetter Fields, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4338, FAX (502) 564-6508.

#### REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Fetter Fields

(1) Type and number of entities affected: Approximately 1 million port and commercial license and permit buyers will be affected by this administrative regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation as amended should have no impact on costs of living.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation as amended should have no impact on costs of doing business.

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

1. First year following implementation: The amendment to this administrative regulation will issue permits which will be issued by license agents through the Kentucky Direct Sales System. Because this system is automated, there will be no additional paperwork or reporting.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation places all fees in one regulation and therefore should reduce administrative cost through greater efficiency.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: No additional factors have been identified.

(b) Reporting and paperwork requirements: This administrative regulation imposes no reporting or paperwork requirements.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fish and Game Fund.

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

from administrative regulation, on:

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

(b) Kentucky: No public comments received. No economic impact anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative would be to have fees in multiple places in the regulations which would be confusing and inefficient.

(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 identified effects on public health or environmental welfare.

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

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify and statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None have been identified.

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not appropriate because the administrative regulation applies equally to all individuals or entities it regulates.

#### TOURISM DEVELOPMENT CABINET Department of Fish and Wildlife Resources (Amendment)

#### 301 KAR 5:030. Purchasing licenses and obtaining replacement licenses.

RELATES TO: KRS 150.090, 150.170, 150.175, 150.195, 150.235, 150.990

STATUTORY AUTHORITY: KRS 150.195, 1998 Ky. Acts ch. 274

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.195(1) gives the department authority to promulgate administrative regulations pertaining to the issuance of licenses; 1998 Ky. Acts ch. 274 grants the department authority to require proof of residency and age or disability for those eligible to purchase a senior/disabled combination license. This administrative regulation is necessary to specify the information required to purchase a POS license, the information required on the license, how replacement licenses may be obtained, and how to obtain a disability authorization card.

Section 1. Information Required to Purchase a POS License. A person buying a POS license shall furnish the license agent the following information:

(1) The license applicant's date of birth; and

(2) An identification number, which shall be:

(a) An identification number generated by the POS device;

(b) The license applicant's:

1. Driver's license number;

2. State identification card number; or

3. Social Security number; or

(c) If buying a senior/disabled license:

1. If age sixty-five (65) or over, proof of age and Kentucky residency; or

2. If under age sixty-five (65), a disability authorization card issued by the department and another form of personal identification.

(3) To purchase a license using an identification number from the POS device, a person shall provide the full name and complete mailing address of the license applicant to the license agent on an identification card generated by the POS device.

Section 2. Providing Information on Licenses. (1) Before performing an act authorized by the license, the license holder shall:

(a) Sign:

1. The POS license; and

2. Each tag portion of the deer or turkey permit.

(b) Provide the following information, legibly in ink or indelible

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pencil, in the blanks provided on the POS license:

1. Address, including city, state and zip code;
2. Eye color;
3. Hair color;
4. Sex;
5. Height; and
6. Weight.

(2) A license not completed as specified in this section shall be invalid.

(3) A senior/disabled combination license shall not be valid unless accompanied by:

- (a) Proof of age and Kentucky residency, if the license recipient is age sixty-five (65) or over; or
- (b) A disability authorization card issued to the license recipient, if the license recipient is under age sixty-five (65).

Section 3. Replacement of Lost or Destroyed Licenses. (1) A person whose license is lost or destroyed may:

- (a) Request a replacement license from the department; or
- (b) Purchase a replacement license and request a refund from the department.

(2) A person requesting a replacement license or refund shall provide the department with:

- (a) His name and complete mailing address;
- (b) The identification number used to purchase the original license; and
- (c) One (1) of the following:

1. A replacement fee of three (3) dollars. For licenses with an effective beginning date on or after January 1, 2001, the replacement fee shall be four (4) dollars; or

2. The license number of the license he bought to replace the lost or destroyed license.

(3) If the department can verify the purchase of the original license, it shall:

- (a) Void the original license; and
- (b) Issue a:
  1. Replacement license; or
  2. Refund check for the amount of the license, less a three (3) dollar replacement fee.

(4) A person shall not use, or present to a conservation officer or other peace officer, a license voided by the issuance of a replacement.

(5) The department shall not refund a license replacement fee.

Section 4. Duplicate License Refunds. A person may obtain refunds for a duplicate POS license:

- (1) From the license agent who completed the transaction, if:
  - (a) The request is made on the same day the license was issued; and

- (b) The original license is surrendered to the license agent; or
  - (2) By furnishing the department with:
    - (a) The duplicate license;

(b) The name and mailing address of the person requesting the refund;

- (c) The license number of the original license; and
  - (d) An explanation of the reason for the refund request.

(3) Upon receipt of the refund request and duplicate license, and subsequent verification of the original purchase, the department shall issue a refund.

Section 5. Buying Licenses for Another. A person purchasing a POS license for another person shall provide the license agent with the information about the person for whom the license is being purchased as required in Section 1 of this administrative regulation.

Section 6. Obtaining a Disability Authorization Card. (1) To verify that he qualifies for a senior/disabled combination license because of a disability as specified in 1998 RS HB 654, a person shall provide the department:

(a) A letter of verification from his local federal Social Security office certifying that he has been declared totally and permanently disabled;

(b) A copy of his disability rating from the Veterans Administration showing at least a fifty (50) percent military service-connected disability;

(c) A letter of verification from the United States Railroad Retirement Board certifying that the applicant has been declared totally and permanently disabled; or

(d) A letter, on that state board's letterhead, certifying that the applicant has been declared totally and permanently disabled by another state's workers' compensation board.

(2) A person declared totally and permanently disabled by the Kentucky State Workers' Compensation Board shall:

(a) Obtain a Disability Workers Compensation Exemption form from the department; and

(b) Complete the form and mail it to the address given on the form.

(3) Upon receipt of the verification required by subsection (1) of this section, the department shall issue a card certifying the person is eligible to purchase a senior/disabled combination license.

Section 7. Duration of Disability Exemption. Certification by the Social Security Administration, the United States Railroad Retirement Board, the Veterans Administration or a state worker's compensation board shall remain valid for three (3) years after issue of the disability authorization card.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Disability Authorization Card" (1998); and
- (b) "Disability Authorization Card Instructions" (1998).

(2) This material may be inspected, copied, or obtained at the Department of Fish and Wildlife Resources, Division of Fiscal Control, #1 Game Farm Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

DOUGLAS SCOTT PORTER, Assistant Attorney General

C. THOMAS BENNETT, Commissioner

ANN R. LATTI, Secretary

TOM BAKER, Chairman

APPROVED BY AGENCY: April 13, 2000

FILED WITH LRC: May 12, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 30, 2000 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Jennifer Fetter Fields, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-4338, FAX (502) 564-6508.

### REGULATORY IMPACT ANALYSIS

Contact Person: Jennifer Fetter Fields

(1) Type and number of entities affected: Approximately 1 million sport and commercial license and permit buyers will be affected by this administrative regulation.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation as amended should have no impact on costs of living.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public comments received. This administrative regulation as amended should have no impact on costs of doing business.

(c) Compliance, reporting, and paperwork requirements, includ-

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ing factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: The amendment to this administrative regulation will affect licenses and permits that are already issued by license agents through the Kentucky Direct Sales System. Because this system is automated, there will be no additional paperwork or reporting.

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

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The amendment to this administrative regulation will increase revenue to the department to offset increased costs.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: No additional factors have been identified.

(b) Reporting and paperwork requirements: This administrative regulation imposes no reporting or paperwork requirements.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fish and Game Fund.

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

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

(b) Kentucky: No public comments received. No economic impact anticipated.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The alternative was to not increase fees. This alternative was accepted for seven years. The regulation is changed not to avoid losses to the department which would result in lost programs.

(8) Assessment of expected benefits: Continuation of existing programs.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: No identified effects on public health or environmental welfare.

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

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify and statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None have been identified.

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Tiering is not appropriate because the administrative regulation applies equally to all individuals or entities it regulates.

### JUSTICE CABINET Kentucky Department of Corrections (Amendment)

#### 501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) The following material

is incorporated by reference:

(a) "Department of Corrections Policies and Procedures, Volume I, June 14, 1999":

1.1	Legal Assistance for Corrections Staff
1.2	News Media
1.4	The Monitoring and Operation of Private Prisons [(Amended 6/14/99)]
1.9	Institutional Duty Officer
1.11	Population Counts and Reporting Procedures
1.12	Operation of Motor Vehicles by Department of Corrections Employees
2.1	Inmate Canteen
2.2	Warden's Fund
2.10	Surplus Property
3.1	Code of Ethics
3.3	Holding of Second Jobs by Corrections' Employees
3.5	Sexual Harassment
3.6	Criminal History Checks on All Personnel and the Employment of Exoffenders
3.7	Shifts, Posts and Days Off Assignment (Added 3/15/99)
3.12	Institutional Staff Housing
3.20	Communication and Recording Devices
4.2	Staff Training and Development
4.3	Firearms and Chemical Agents Training
4.7	Uniformed Employee Dress Code
6.1	Open Records Law
6.5	E-mail
7.2	Asbestos Abatement
8.1	Occupational Exposure to Bloodborne Pathogens
8.2	Fire Safety
8.6	Extraordinary Occurrence Report [(Added 6/14/99)]
8.7	Notification of Extraordinary Occurrence [(Added 6/14/99)]
9.4	Transportation of Inmates to Funerals or Bedside Visits
9.5	Execution
9.6	Contraband
9.8	Search Policy
9.18	Informants
9.19	Found Lost or Abandoned Property
10.2	Special Management Inmates
10.3	Safekeepers
10.4	Special Needs Inmates
11.2	Nutritional Adequacy of the Diet for Inmates
11.3	Special Diet Procedures
11.4	Alternative Diet
13.1	Pharmacy Policy and Formulary
13.2	Health Maintenance Services
13.3	Medical Alert System
13.4	Health Program Audits
13.6	Sex Offender Treatment Program
13.7	Involuntary Psychotropic Medication Policy
13.8	Substance Abuse Treatment Program
13.9	Dental Services
13.10	Serious Infectious Disease (Added 3/15/99)
13.11	Employee Tuberculosis Program (Added 3/15/99)
14.1	Investigation of Missing Inmate Property
14.2	Personal Hygiene Items
14.3	Marriage of Inmates
14.4	Legal Services Program
14.6	Inmate Grievance Procedures
15.1	Hair and Grooming Standards
15.2	Offenses and Penalties
15.3	Meritorious Good Time
15.5	Restoration of Forfeited Good Time [(Amended 6/14/99)]
15.6	Adjustment Procedures and Programs [(Amended 6/14/99)]
15.7	Inmate Account Restriction
15.8	Unauthorized Substance Abuse Testing
16.1	Inmate Visits
16.2	Inmate Correspondence
16.3	Telephone Calls
16.4	Inmate Packages
17.1	Inmate Personal Property [(Amended 6/14/99)]

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17.2 Assessment Center Operations  
17.3 Controlled Intake of Inmates

(b) "Department of Corrections Policies and Procedures, Volume II, June 14, 1999":

18.1 Classification of the Inmate [(Amended 6/14/99)]  
18.2 Central Office Classification Committee [(Added 6/14/99)]  
18.5 Custody and Security Guidelines  
18.7 Transfers [(Amended 6/14/99)]  
18.9 Out-of-state Transfers  
18-10-01 Preparole Progress Reports  
18.11 Kentucky Correctional Psychiatric Center Transfer Procedures  
18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill  
18.13 Population Categories  
18.15 Protective Custody  
18.17 Interstate Agreement on Transfers  
18.18 International Transfer of Inmates  
19.1 Government Services Projects  
19.2 Community Services Projects  
19.3 Inmate Wage Program  
20.1 Educational Programs and Educational Good Time  
21.2 Boot Camp Program [(Amended 6/14/99)]  
22.1 Privilege Trips  
23.1 Religious Programs  
25.1 Gratuities  
25.2 Public Official Notification of Release of an Inmate  
25.3 Prerelease Program  
25.4 Institutional Inmate Furloughs [(Amended 6/14/99)]  
25.6 Community Center Program  
25.7 Expedient Release  
25.8 Extended Furloughs  
25.10 Administrative Release of Inmates  
25.11 Victim Notification

(c) "Department of Corrections Policies and Procedures, Volume III, May 15, 2000 [June 14, 1999]":

27-01-01 Probation and Parole Procedures  
27-02-01 Duties of Probation and Parole Officers  
27-03-01 Workload Formula Supervisor/Staff Ratio  
27-05-01 Testimony, Court Demeanor and Availability of Legal Services  
27-06-01 Availability of Supervision Services [(Amended 6/14/99)]  
27-06-02 Equal Access to Services  
27-07-01 Cooperation with Law Enforcement Agencies  
27-08-01 Use of Force  
27-09-01 Kentucky Community Resources Directory [(Amended 6/14/99)]  
27-10-01 Pretrial Diversion  
27-11-01 Intensive Supervision  
27-11-02 Prerelease Probation  
27-12-01 Supervision: Case Classification  
27-12-02 Risk Assessment  
27-12-03 Initial Interview [(Amended 6/14/99)]  
27-12-04 Conditions of Supervision and Request for Modification [(Amended 6/14/99)]  
27-12-05 Releasee's Report [(Amended 6/14/99)]  
27-12-06 Grievance Procedures for Offenders  
27-12-07 Employment, Educational and Vocational Referrals [(Amended 6/14/99)]  
27-12-08 Supervision Plan [(Amended 6/14/99)]  
27-12-09 Casebook  
27-12-10 Guidelines for Monitoring Supervision Fee  
27-12-11 Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority  
27-12-12 Other Financial Obligations (Not Ordered by Releasing Authority)  
27-12-13 Community Service Work [(Amended 6/14/99)]  
27-12-14 Offender Travel [(Amended 6/14/99)]  
27-13-01 Drug and Alcohol Testing of Offenders  
27-13-02 Alcohol Detection [(Amended 6/14/99)]

27-14-01 Interstate Compact Transfers  
27-14-02 Interstate Compact Out-of-state Probation and Parole Violation  
27-15-01 Supervision Report; Violations, Unusual Incidents  
27-15-02 Community Confinement Program Subject: Electronic Monitoring  
27-16-01 Search; Seizure; Chain of Custody; Disposal of Evidence  
27-17-01 Absconder Procedures [(Amended 6/14/99)]  
27-18-01 Probation and Parole Issuance of Detainer or Warrant [(Amended 6/14/99)]  
27-19-01 Preliminary Revocation Hearing  
27-20-01 Division of Probation and Parole Controlled Intake Program  
27-20-02 Prisoner Intake Notification  
27-20-03 Prisoner Status Change  
27-21-01 Apprehension and Transportation of Probation and Parole Violators  
27-23-01 In-state Transfer  
27-24-01 Closing Supervision Report  
27-24-02 Reinstatement of Clients to Active Supervision  
27-26-01 Assistance to Former Clients and Dischargees  
27-27-01 Restoration of Civil Rights  
27-28-01 Firearms/Explosives: Application for Relief from Disability  
27-29-01 Parole Review Dates Modification  
27-30-01 [Sex] Offender Registration (Amended 5/15/00)  
27-30-02 Conditional Discharge of Sex Offenders [(Added 6/14/99)]  
27-31-01 Use of Chemical Agents in Probation and Parole [(Added 6/14/99)]  
28-01-01 Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments)  
28-01-02 Probation and Parole Investigation Reports (Administrative Responsibilities)  
28-01-03 Presentence, Postsentence, Supplemental and Partial Investigations  
28-01-08 Probation Parole Investigation Reports (Partial Investigation Reports and Submission Schedule)  
28-01-09 Release of Information of Factual Content on Presentence/Postsentence Investigation Reports  
28-02-01 Expedient Release Program  
28-03-01 Parole Plans/Halfway Houses/Extended Furlough/Sponsorship/Gradual Release  
28-04-01 Furlough Verifications  
28-05-01 Out-of-state Investigations

(2) This material may be inspected, copied, or obtained at the Office of General Counsel, Department of Corrections, 2439 Lawrenceburg Road, Frankfort, Kentucky 40601, (502) 564-2024, facsimile (502) 564-6494, Monday through Friday, 8 a.m. to 4:30 p.m.

DOUG SAPP, Commissioner

STEPHEN P. DURHAM, General Counsel

APPROVED BY AGENCY: May 4, 2000

FILED WITH LRC: May 15, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000, at 9 a.m., in the 5th Floor Conference Room of the State Office Building. Individuals interested in being heard at this hearing shall notify this agency in writing by June 14, 2000, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron or Tamela Biggs, Staff Attorneys, Department of Corrections, 2nd Floor, State Office Building, Frankfort, Kentucky 40601, Telephone (502) 564-2024, Facsimile (502) 564-6494.



## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Tamela Biggs

(1) Type and number of entities affected: 310 employees of the Division of Probation and Parole, and approximately 20,000 parolees and probationers, correctional institutions, inmates, 14,211 parolees and probationers, and all visitors to state correctional institutions.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented: None

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Policy revisions.

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation is the funds budgeted for this 1998-2000 biennium.

(6) Economic impact, including effects of economic activities arising from administrative regulation, on:

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods; reasons why alternatives were rejected: None

(8) Assessment of expected benefits:

(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

Sex Offender Risk Assessment Advisory Board  
(Amendment)

**501 KAR 6:190. Approval process [Certification procedures] for mental health professionals performing comprehensive sex offender presentence evaluations [sex-offender-risk-assessments].**

RELATES TO: KRS 17.550 to 17.991

STATUTORY AUTHORITY: KRS 17.554(1), 17.564

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.554(1)

authorizes the Sex Offender Risk Assessment Advisory Board to promulgate administrative regulations to establish certification standards for mental health professionals providing court-ordered comprehensive sex offender presentence evaluations [risk-assessments]

for sex offenders. This administrative regulation establishes approval [certification] requirements to assure the quality of court-ordered comprehensive sex offender presentence evaluation [risk assessments].

Section 1. Definitions. (1) "Approved provider" is defined by KRS 17.550(3).

(2) "Board" is defined by KRS 17.550(1).

~~[(2) "Certified provider" is defined by KRS 17.550(8).]~~

(3) "Comprehensive sex offender presentence evaluation" means a comprehensive mental, health evaluation by an approved provider that includes a focus on the clinical data necessary to address the four (4) factors listed in KRS 17.554(2).

(4) "Corrective action plan" means a plan submitted by the approved provider and accepted or imposed by the board that requires an approved [a-certified] provider to take specific steps to be in compliance with this administrative regulation. ~~[The plan shall be:~~

~~(a) Submitted by the certified provider and approved by the board; or~~

~~(b) Imposed by the board.]~~

(5) ~~[(4)]~~ "Court ordered" means by order of any circuit court judge for an offender to be evaluated [assessed] by an approved [a-certified] provider to determine the offender's risk of recommitting a sex crime, amenability to sex offender treatment, and the nature of the required sex offender treatment, and the threat posed to public safety.

~~[(5) "High risk sex offender" is defined by KRS 17.550(3).]~~

~~[(6) "Low risk sex offender" is defined by KRS 17.550(5).]~~

~~[(7) "Mental or behavioral abnormality" is defined by KRS 17.550(6).]~~

~~[(8) "Moderate risk sex offender" is defined by KRS 17.550(4).]~~

~~[(9) "Personality disorder" is defined by KRS 17.550(7).]~~

~~[(10) "Risk assessment" means:~~

~~(a) The evaluation of the sex offender's characteristics, using:~~

~~1. The factors listed in KRS 17.554(2); and~~

~~2. The factors addressed by the following instruments:~~

~~a. Rapid Risk Assessment for Sex Offender Recidivism (RRASOR), (1997 Edition), Solicitor General of Canada;~~

~~b. Minnesota Sex Offender Screening Tool - Revised (MnSOST-R), (1998 Edition), Minnesota Department of Corrections;~~

~~c. Violence Risk Appraisal Guide (VRAG), (1998 Edition), American Psychological Association; including the Hare Psychopathy Checklist Revised: Interview and Information Schedule (PCL-R), (1991 edition), Multi-Health Systems, Inc.~~

~~(b) To reach a recommendation of the:~~

~~1. Level or risk that an offender will recommit a sex crime; and~~

~~2. Threat posed to public safety.]~~

~~[(11)] "Sex crime" is defined by KRS 17.500(4).~~

~~[(12)] "Sex offender" is defined by KRS 17.550(2).~~

~~[(13)] "Supervised provider" means an approved [a-certified] provider who has been approved [certified] under Section 2(2) of this administrative regulation to provide comprehensive sex offender presentence evaluations [risk-assessments] under the direct supervision of a supervisor.~~

~~[(14)] "Supervisor" means an approved [a-certified] provider who has been approved [certified] under Section 2(1) of this administrative regulation and who examines and approves the evaluations [risk-assessments] of a supervised provider.~~

~~[(15)] "Victim" is defined by KRS 421.500(1).~~

Section 2. Qualifications of Approved [Certified] Providers and Supervised Providers. (1) To qualify as an approved [a-certified] provider, an applicant shall:

(a) Have completed forty (40) [thirty-two (32)] hours of specialty training provided or approved by the board under Section 8 of this administrative regulation including the following:

1. Characteristics and offense patterns of sex offenders;

2. Treatment modalities used with sex offenders;

3. Legal and ethical issues in the risk assessment of sex offenders;

4. Victim's issues, not to exceed two (2) hours of credit against the total requirement;

5. Issues related to the assessment of juvenile and female sex offenders; and



6. Use of the actuarial instruments and risk assessment guides listed in Section 1(10)(a)2 of this administrative regulation;

(b) Be in compliance with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has [qualified mental health] professional status; and

(c) Have one (1) year documented experience conducting sex offender evaluations or assessments or he shall complete a thirty (30) hour practicum administered by the board within the first year of practice after certification; and

(d) ~~Be a qualified mental health professional as defined by KRS 202A.011(12).~~

(2) To qualify as a supervised provider, an applicant shall:

(a) ~~Meet [Have met]~~ the requirements of subsection (1)(a) of this section;

(b) Be in compliance with the ethical standards promulgated by the appropriate employing agency listed in paragraph (c) of this subsection;

(c) Be an employee of the Department of Corrections, Division of Mental Health; Department of Juvenile Justice; or Department of Mental Health and Mental Retardation Services, including an employee of a community mental health center;

(d) Have applied for approval [certification] with the board by March 31, 1999;

(e) Maintain full-time employment with one (1) of the departments listed in paragraph (c) of this subsection as of March 31, 1999; and

(f) Have met one (1) of the following requirements:

1. Have a master's degree in psychology, social work, counseling, social gerontology, education, or marriage and family therapy and one (1) year of counseling experience; or

2. Have a bachelor's degree in a psychology, social work, counseling, social gerontology, education, or marriage and family therapy and two (2) years counseling experience.

Section 3. Duties. (1) If an approved [a-certified] provider performs a comprehensive sex offender presentence evaluation [risk assessment] for a sex offender, he shall not provide treatment for personal financial gain for the sex offender for six (6) months following that assessment.

(2) If an approved [a-certified] provider is not a supervised provider, he shall:

(a) Submit the first four (4) evaluations [risk assessments] prepared after board approval [certification] for review by the board;

(b) Comply with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has [qualified mental health] professional status; and

(c) Complete eight (8) hours of continuing education approved or provided by the board on an annual basis.

(3) A supervised provider shall:

(a) Comply with the requirements of subsection (2)(a) and (c) of this section;

(b) Comply with the ethical standards promulgated by the employing agency listed in Section 2(2)(c) of this administrative regulation; and

(c) Comply with the ethical standards of professional practice as promulgated by the licensing or certifying body under which he is licensed or certified in a mental health profession.

Section 4. Approval [Certification] Procedures. (1) The board shall approve [certify] an applicant as an approved [a-certified] provider if he meets the applicable qualifications specified in Section 2 of this administrative regulation and is not otherwise disqualified by the provisions of Section 5 of this administrative regulation.

(2) An individual may apply to the board for approval status [certification] as an approved [a-certified] provider by submitting:

(a) A written request for approval [certification], which shall include the following:

1. Full name;
2. Business address;
3. Home address;
4. Daytime telephone number;
5. Fax number, if available; and
6. Social Security number;

(b) Documentary evidence of his qualifications; and

(c) Evidence that he has remedied the cause for the denial or revocation, if approval [certification] is denied or revoked under Section 5 of this administrative regulation.

(3) The board shall determine that an application is incomplete if:

(a) The documentation of qualifications is insufficient to meet the required qualifications in Section 2 of this administrative regulation;

(b) The board is unable to verify the authenticity of the documentation of qualifications; or

(c) Any of the information required in subsection (2) of this section is not submitted.

(4) If the board determines that an application is incomplete, the application shall be returned to the applicant, specifying additional documentation that is required or identifying the information that cannot be verified.

(5) The board shall approve or deny the application for approval [certification] in writing no later than sixty (60) days after receiving a complete application for approval [certification].

(6) Approval [Certification] shall be effective for two (2) years.

(7) Unless approval [certification] has been revoked in accordance with Section 5 of this administrative regulation, the board shall renew the approval status [certification] of an approved [a-certified] provider upon request if he submits documentation of completion of at least eight (8) hours per year of continuing education provided or approved by the board under Section 8 of this administrative regulation.

(8) The board shall maintain a list of approved [certified] providers to be submitted to the Administrative Office of the Courts annually.

Section 5. Denial or Revocation of Approval [Certification]. (1) The board shall deny, suspend or revoke approval [certification] if an applicant or an approved [a-certified] provider:

(a) Has been convicted of or pled guilty to a felony criminal offense or a misdemeanor offense against a person;

(b) Has had a domestic violence protective order issued against him within the previous five (5) years;

(c) Has failed to meet the qualifications for approval [certification] set forth in Section 2 of this administrative regulation;

(d) No longer maintains full-time employment with one (1) of the departments listed in Section 1(2)(c) of this administrative regulation, and is a supervised provider;

(e) Has developed a relationship with the sex offender being assessed other than that necessary to adequately perform a risk assessment;

(f) Has an alcohol or drug abuse problem as defined in KRS 222.005(12);

(g) Has falsified any information or documentation, or has concealed a material fact, in his request for approval [certification];

(h) Has failed to implement a corrective action plan imposed by the board in accordance with Section 7 of this administrative regulation;

(i) Has three (3) or more evaluations [risk assessments] which the board finds are below standard upon review;

(j) Has failed to comply with the comprehensive sex offender presentence evaluation [risk assessment] procedure established in 501 KAR 6:200, Section 2(1) through (6) [(7)];

(k) Has shown an inability to adequately conduct an evaluation [a-risk assessment] with reasonable skill;

(l) Has accepted a gift or favor from a sex offender being assessed, from the family of the sex offender being assessed, or from their agent; or

(m) Has provided a gift or favor to a sex offender being assessed, to the family of the sex offender being assessed, or to their agent..

(2) The board may deny, suspend or revoke approval [certification] if an applicant or an approved [a-certified] provider has:

(a) Been convicted of or pled guilty to any misdemeanor criminal offense that is not against a person;

(b) Had a sanction applied against his mental health professional licensure or certification at any time in the past two (2) years;

(c) Performed evaluations [risk assessments] without supervision, if supervision is required by this administrative regulation;

(d) Failed to comply with the duties set forth in Section 3 of this

administrative regulation;

(e) Less than three (3) evaluations that [risk-assessments which] the board finds are below standard upon review; or

(f) Failed to comply with the evaluation [risk-assessment] procedure established in 501 KAR 6:200, Section 2(1) through (6) [(8) through (12)]; or

(g) Failed to comply with the requirements set forth by the board for the practicum or to successfully complete the practicum, if so required by Section 2(1)(c) of this administrative regulation.

(3) If the board intends to deny, suspend or revoke approval [certification], it shall:

(a) Serve a notice of intent to deny, suspend, or revoke approval [certification] to the applicant or approved [certified] provider; and

(b) Notify the applicant or approved [certified] provider of his hearing rights, in accordance with KRS 17.560.

(4) An approved [A-certified] provider who has had his approval [certification] revoked shall be ineligible for approval [certification] or renewal of approval [certification] until the second anniversary of the date his approval [certification] was revoked.

Section 6. Scope of Supervision Requirements. A supervisor shall:

(1) Not supervise more than six (6) supervised providers concurrently;

(2) Directly observe the supervised provider's clinical practice in person or through video or audio tape;

(3) Conduct at least one (1) hour per week of face-to-face supervision, including case discussion, review of reading assignments, skill building, and review of audio or video tape of actual clinical practice with the supervised provider;

(4) Examine and approve all comprehensive sex offender presentence evaluations [risk-assessments] performed by the supervised provider; and

(5) Give written notice to the board if he determines that the supervised provider's performance does not comply with the provisions of this administrative regulation.

Section 7. Monitoring. (1) The board shall:

(a) Investigate a formal complaint, verified by affidavit, concerning an approved [a-certified] provider, if the complaint alleges a failure to comply with the provisions of this administrative regulation; and

(b) Refer a complaint against an approved [a-certified] provider, which relates to an unethical practice or practice which may be outside the approved [certified] provider's scope of practice, to the appropriate Kentucky licensure or certification board.

(2) The board may investigate and evaluate an approved [a-certified] provider's adherence to the provisions of this administrative regulation on its own initiative.

(3) Board staff may monitor by the following activities:

(a) Interviewing a sex offender or victim, if consent is given by the sex offender or victim for the interview;

(b) Reviewing assessment records maintained by an approved [a-certified] provider on a sex offender;

(c) Direct observation of the evaluation [risk-assessment] of a sex offender; or

(d) interviewing judicial, correctional, law enforcement officials or other agency personnel that interact with an approved [a-certified] provider in relation to comprehensive sex offender presentence evaluations [sex-offender risk-assessments].

(4) If an approved [a-certified] provider fails to comply with provisions of this administrative regulation, the board shall notify him in writing of its determination and may:

(a) Require the approved [certified] provider to submit a corrective action plan for approval by the board;

(b) Impose a corrective action plan; or

(c) Revoke approval [certification] in accordance with Section 5 of this administrative regulation.

(5) If the board requires an approved [a-certified] provider to comply with a corrective action plan, it shall review plan compliance within sixty (60) days.

(6) If the board determines that a supervisor fails to conduct the required supervision of a supervised provider, the board shall notify the supervisor, the supervised provider, and the supervised pro-

vider's employer in writing of its determination and may:

(a) Require the supervisor to submit a corrective action plan;

(b) Impose a corrective action plan upon the supervisor;

(c) Prevent the supervisor from continuing to supervise; or

(d) Suspend the approval [certification] of the supervised provider.

(7) If the corrective action plan does not correct the supervision problem within sixty (60) days, or if the supervisor notifies the board that he shall no longer be supervising the supervised provider, then the board shall suspend the approval [certification] of the supervised provider until another supervisor is available and willing to provide the supervision required in Section 6 of this administrative regulation.

Section 8. Approval of Specialty Training and Continuing Education. (1) Specialty training.

(a) Specialty training, as required in Section 2(1) of this administrative regulation, shall be approved by the board, if not provided by the board;

(b) An approved [A-certified] provider seeking approval of a specialty training course shall submit to the board the following:

1. A certificate of attendance which shall include the number of hours of training received; and

2. An agenda from the training seminar that [which] describes topics and length of time spent on each topic.

(c) The board may require the applicant to provide course materials from the training seminar or additional information, if it is unable to adequately determine the nature of the training provided at the seminar from the materials submitted under subsection (1)(b) of this section.

(2) Continuing education.

(a) Continuing education, as required in Section 3(2)(c) of this administrative regulation, shall be approved by the board, if not provided by the board;

(b) An approved [A-certified] provider seeking approval of continuing education hours shall submit to the board the following:

1. A certificate of attendance that [which] shall include the number of hours of education received.

2. An agenda from the seminar, which describes topics and length of time spent on each topic.

(c) The board may require the applicant to provide course materials from the seminar or additional information, if it is unable to adequately determine the nature of training provided at the seminar from the materials submitted under subsection (2)(b) of this section.

[Section 9. Incorporation by Reference. (1) The following materials are incorporated by reference:

(a) Rapid Risk Assessment for Sex Offender Recidivism (RRA-SOR), (1997 Edition), Solicitor General of Canada;

(b) Minnesota Sex Offender Screening Tool — Revised (MnSOST-R), (1998 Edition), Minnesota Department of Corrections; and

(c) Violence Risk Appraisal Guide (VRAG), (1998 Edition), American Psychological Association; including the Hare Psychopathy Checklist-Revised: Interview and Information Schedule (PCL-R), (1991 Edition), Multi-Health Systems, Inc.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Corrections, 2439 Lawrenceburg Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 10. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.]

GARY L. DENNIS, Ph.D., Chairman

STEPHEN P. DURHAM, General Counsel

TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: May 4, 2000

FILED WITH LRC: May 15, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000, at 9 a.m., in the Office of General Counsel, 2439 Lawrenceburg Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 14, 2000, five days prior to the hearing, of

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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: Amy Barker, Staff Attorney, Kentucky Department of Corrections, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400, Phone (502) 564-2024, Fax (502) 564-6494.

### REGULATORY IMPACT ANALYSIS

Contact Person: Amy Barker, Staff Attorney

(1) Type and number of entities affected: Approximately 2,000 sex offenders currently incarcerated in Kentucky's prisons; approximately 250 felony sex offenders convicted each year who are eligible for probation; approximately 50 employees of the Department of Corrections, Department of Juvenile Justice, and community mental health centers; and an undetermined number of qualified mental health providers in private practice who are eligible to be certified by the Sex Offender Risk Assessment Advisory Board to do presentence evaluations.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Approximately \$700,000.

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

1. First year following implementation: Applications for certification by the board shall be completed and reviewed; evaluation and assessment reports prepared for the court; records and report review conducted on an on-going basis by staff of the board.

2. Second and subsequent years: Applications for certification by the board shall be completed and reviewed; evaluation and assessment reports prepared for the court; records and report review conducted on an on-going basis by staff of the board.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Approximately \$700,000 combination of federal and state funds.

2. Continuing costs or savings: Costs shall continue to increase due to inflation and an increase in the number of sex offenders needing evaluation.

3. Additional factors increasing or decreasing costs: Costs shall continue to increase due to inflation and an increase in the number of sex offenders needing evaluation.

(b) Reporting and paperwork requirements: Review of evaluation and assessment reports by staff.

(4) Assessment of anticipated effect on state and local revenues: State revenues may increase if a significant number of sex offenders are able to pay for all or a part of the assessments; funds collected shall return to the general fund.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: \$675,000 federal grant and state match; portion of salaries of current staff of the Division of Mental Health; additional state general fund dollars were not budgeted in the 1998-2000 biennium to fund this project.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Sex offenders shall be evaluated to determine their risk of recommitting a sex crime, amenability to sex offender treatment and the nature of the required treatment; should result in increased public safety.

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

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

### JUSTICE CABINET Sex Offender Risk Advisory Board (Amendment)

#### 501 KAR 6:200. Comprehensive sex offender presentence evaluation [risk-assessment] procedure.

RELATES TO: KRS 17.550 to 17.991

STATUTORY AUTHORITY: KRS 17.554(2), 17.564

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.554(2) authorizes the Sex Offender Risk Assessment Advisory Board to promulgate administrative regulations to establish a comprehensive sex offender presentence evaluation [risk-assessment] procedure for court-ordered evaluations [risk-assessments] of sex offenders. This administrative regulation establishes the evaluation [risk-assessment] procedure to assure the quality of court-order comprehensive sex offender presentence evaluations [risk-assessments].

Section 1. Definitions. (1) "Amenability to treatment" means at the time of the evaluation, the offender is free from organic or psychological impairment that shall prevent the offender from engaging meaningfully in sex offender treatment and he is, at least minimally, receptive to the treatment process.

(2) "Appropriate setting" means a secure institutional setting or a community-based setting.

(3) "Approved provider" is defined by KRS 17.550(3).

(4) "Board" is defined by KRS 17.550(1).

[{(2) "Certified provider" is defined by KRS 17.550(8).}]

(5) [(3)] "Clinically adjusted" means changing the risk level recommendation based on facts or evidence which indicate to an approved [a-certified] provider that the probability of recidivism ranges are inappropriate for a sex offender.

[(4)] "High-risk sex offender" is defined by KRS 17.550(3).

(5) "Low-risk sex offender" is defined by KRS 17.550(5).

(6) "Moderate risk sex offender" is defined by KRS 17.550(4).]

(6) "Comprehensive sex offender presentence evaluation" means a comprehensive mental health evaluation by an approved provider that includes a focus on the clinical data necessary to address the four (4) factors listed in KRS 17.554(2).

(7) "Nature of required sex offender treatment" means the treatment management issues including recommendations for the focus of treatment, special treatment considerations, further evaluation, and restrictions to minimize the risk of recidivism.

(8) "Risk of recommitting a sex crime" means a designation of high or not high risk based on the finding of the instrument and other clinically relevant data where sexual reoffense is more likely than not.

[(7) "Risk assessment" means:

- (a) The evaluation of the sex offender's characteristics, using:
  1. The factors listed in KRS 17.554(2); and
  2. The factors addressed by the following instruments:
    - a. Rapid Risk Assessment for Sex Offender Recidivism (RRASOR), (1997 Edition), Solicitor General of Canada;
    - b. Minnesota Sex Offender Screening Tool - Revised (MnSOST-R), (1998 Edition), Minnesota Department of Corrections; and
    - c. Violence Risk Appraisal Guide (VRAG), (1998 Edition), American Psychological Association; including the Hare Psychopathy Checklist Revised: Interview and Information Schedule (PCL-R), (1991 Edition), Multi-Health Systems, Inc.
- (b) To reach a recommendation of the:
  1. Level of risk that an offender will recommit a sex crime; and
  2. Threat posed to public safety.]
- (9) [(8)] "Sex offender" is defined by KRS 17.550(2).
- (10) "Treatment effectiveness" is defined in KRS 197.400
- (11) "Threat to public safety" means the offender's immediate risk of committing another sexual offense.

Section 2. Comprehensive Sex Offender Presentence Evaluation Procedures. An approved provider shall conduct a comprehensive mental health evaluation following the professional standards of care in the area of his certification or licensure. This shall include a face-to-face interview and a review of collateral information. When the result of initial mental health screening procedure dictate, additional appropriate psychological testing addressing cognitive functioning, mental illness, and severe characterological impairment shall be employed as circumstances allow.

(1) Risk of recommitting a sex crime shall be determined in the following manner: Where applicable, an actuarial instrument shall be used which is appropriate to the sex offender. The results of the instrument may be clinically adjusted at the discretion of the evaluator. If an actuarial instrument is not appropriate, an empirically guided approach shall be used. The board shall identify the appropriate instrument for use, and the list of board approved instruments shall be available upon request to the Department of Corrections.

(2) The threat to public safety shall be determined in the following manner:

(a) The evaluator shall consider the following domains in assessing the sex offender's immediate threat to public safety and in arriving at a recommendation regarding an appropriate treatment setting:

1. The sex offender's amenability to treatment;
2. The degree of threat of harm or actual force employed in the index offense and in prior sexual offenses;
3. The nature and duration of the sexual offending;
4. The sex offender's psychological adjustment; and
5. The sex offender's social and occupational adjustment.

(b) The evaluator shall make a recommendation as to the appropriate setting in which treatment, if indicated, shall be provided for the sex offender.

(3) Amendability to treatment shall be determined in the following manner: The approved provider shall address the following domains in making this assessment. The sex offender shall:

(a) Not exhibit symptoms of a psychological disturbance that shall significantly inhibit treatment effectiveness.

(b) Exhibit a level of intellectual functioning sufficient to complete the task assigned in the treatment program to which he shall be referred.

(c) Acknowledge involvement in the sex offense for which he is charged.

(d) Consider his involvement in the sex offense to be a problematic behavior that he does not want to repeat.

(e) Verbalize a willingness to enter and fully participate in treatment.

(4) In addressing the nature of required sex offender treatment, the evaluator shall address management issues including recommendations for the focus of treatment, special treatment considerations, further evaluation, and restrictions to minimize the risk of recidivism. An approved provider shall prepare a comprehensive sex offender presentence evaluation report to the court in the form of a bifurcated document. The first section shall consist of information prepared specifically for the court with the second section appendi-

ces consisting of the supporting clinical data.

(a) The first section shall contain the following headings:

1. Identifying information including name, Social Security number, date of birth and age, indictment number or county;
  2. Referral information, like reason for referral, informed consent, procedures;
  3. Information sources; and
  4. Summary, conclusions, and recommendations.
- (b) The second section shall include the following domains of data from which the summary and conclusions shall be deduced:
1. Criminal justice information like index offense, prior sex offense, other legal history.
  2. Psychosocial history including family of origin; education, military, occupational, and financial history; sexual and relationship history; and mental health and medical history.
  3. Behavioral observations and mental status.
  4. Psychological testing.
  5. Diagnosis impressions.
  6. Treatment considerations.

(c) The report shall be titled "Comprehensive Sex Offender Presentence Evaluation". [Risk Assessment Procedures. (1) A certified provider shall conduct a risk assessment using the instruments listed in Section 1(7)(a)2 of this administrative regulation as appropriate for the sex offender. The appropriateness of the instruments for a sex offender shall be determined as follows:

(a) The RRASOR listed in Section 1(7)(a)2a of this administrative regulation shall be used for an adult male sex offender who has been convicted of at least one (1) sex offense;

(b) The MnSOST-R listed in Section 1(7)(a)2b of this administrative regulation shall be used for:

1. An adult male sex offender whose sex offense was extrafamilial; or

2. An adult male sex offender whose sex offense was intrafamilial; and involved:

- a. Penetration; or
- b. A high degree of physical force;

(c) The MnSOST-R listed in Section 1(7)(a)2b of this administrative regulation shall not be used for presentence risk assessments; and

(d) The VRAG listed in Section 1(7)(a)2c of this administrative regulation shall be used for an adult male sex offender who has committed an offense involving violence.

(2) If the risk level recommendation is not clinically adjusted by the certified provider, a probability of recidivism on an instrument listed in Section 1(7)(a)2 of this administrative regulation in the range of zero to fifteen (15) percent shall be a recommendation of low risk for the sex offender.

(3) If the risk level recommendation is not clinically adjusted by the certified provider, a probability of recidivism on an instrument listed in Section 1(7)(a)2 of this administrative regulation in the range of sixteen (16) to forty-nine (49) percent shall be a recommendation of moderate risk for the sex offender.

(4) If the risk level recommendation is not clinically adjusted by the certified provider, a probability of recidivism on an instrument listed in Section 1(7)(a)2 of this administrative regulation in the range of fifty (50) to 100 percent shall be a recommendation of high risk for the sex offender.

(5) If the use of the actuarial instruments listed in Section 1(7)(a)2 of this administrative regulation is not appropriate for a sex offender, the certified provider shall use the Hare Psychopathy Checklist Revised: Interview and Information Schedule (PCL-R), (1991 Edition), Multi-Health Systems, Inc., as a guideline to interview the sex offender and to gather information from available records of the sex offender or other available sources. The certified provider shall use clinical judgement to make a risk level recommendation based on the information gathered from the interview and other sources:

(6) If the sex offender is female, the certified provider may use the Risk Assessment Scale for Females which is incorporated by reference.

(7) A certified provider shall prepare a recommendation report to the court which indicates a recommended risk level for a sex offender for which a risk assessment has been completed.

(8) The recommendation report to the court shall include the

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following headings and subheadings:

- (a) Identifying information:
  1. Name;
  2. Social Security number;
  3. Date of birth and age;
  4. Indictment number; and
  5. Ethnic background;
- (b) Risk level recommendation;
- (c) Certified provider;
- (d) Date of evaluation and site of evaluation;
- (e) Reason for referral;
- (f) Information resources; and
- (g) Evaluation results:
  1. Sex crime information;
  2. Criminal justice history;
  3. Mental health and medical history;
  4. Sexual history;
  5. Relationship history;
  6. Education, military, occupational, and financial history;
  7. Family of origin;
  8. Testing results;
  9. Behavioral observations and mental status;
  10. Diagnostic impressions;
  11. Release plans; and
  12. Conclusions and recommendations.
- (9) If the recommendation report is for presentence evaluation purposes, the report shall also include a heading which states "Amenability to Treatment".
- (10) The format of the recommendation report to the court shall be as follows:
  - (a) The report shall be titled "Sex Offender Risk Assessment: Presentence", if the risk assessment was ordered for presentence evaluation purposes.
  - (b) The report shall be titled "Sex Offender Risk Assessment: Prerelease", if the risk assessment was not ordered for presentence evaluation purposes.
  - (d) An approved [(11) A-certified] provider shall place his signature at the end of the recommendation report if he:
    1. [(a)] Conducted the comprehensive sex offender presentence evaluation [risk assessment]; or
    2. [(b)] Reviewed and approved the evaluation [risk assessment].
  - (e) If the approved [(12) A-certified] provider previously provided treatment to the sex offender, he shall not perform a sex offender presentence evaluation for the offender [risk assessment if the certified provider previously provided treatment to the sex offender].
  - (f) If an approved provider has performed a sex offender presentence evaluation for the offender, he shall not provide sex offender treatment for that individual.

Section 3. Recordkeeping. (1) An approved [if a sex offender is determined to be a low or moderate risk, the certified provider shall preserve the collected assessment information for a period of fifteen (15) years:

(2) If a sex offender is determined to be a high risk, the certified provider shall preserve the collected assessment information for the life of the offender.

(3) A-certified] provider may transmit all collected assessment information to the board in lieu of maintaining the information for the required number of years.

(2) [(4)] The original or a copy of all collected assessment information shall be provided to the board:

- (a) Upon request; or
- (b) At the death of the approved [certified] provider.

[Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Rapid Risk Assessment for Sex Offender Recidivism (RRASOR), (1997 Edition), Solicitor General of Canada;

(b) Minnesota Sex Offender Screening Tool – Revised (MnSOST-R), (1998 Edition), Minnesota Department of Corrections; and

(c) Violence Risk Appraisal Guide (VRAG), (1998 Edition), American Psychological Association; including the Hare Psychopa-

thy Checklist Revised: Interview and Information Schedule (PCL-R), (1991 Edition), Multi-Health Systems, Inc.;

(d) Risk Assessment Scale for Females, (1999 Edition), Sex Offender Risk Assessment Advisory Board.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Corrections, 2439 Lawrenceburg Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 5. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.]

GARY L. DENNIS, Ph.D., Chairman

STEPHEN P. DURHAM, General Counsel

TAMELA BIGGS, Staff Attorney

APPROVED BY AGENCY: May 4, 2000

FILED WITH LRC: May 15, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000, at 9 a.m., in the Office of General Counsel, 2439 Lawrenceburg Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 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: Amy Barker, Staff Attorney, Kentucky Department of Corrections, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400, Phone (502) 564-2024, Fax (502) 564-6494.

### REGULATORY IMPACT ANALYSIS

Contact Person: Amy Barker, Staff Attorney

(1) Type and number of entities affected: Approximately 2,000 sex offenders currently incarcerated in Kentucky's prisons; approximately 250 felony sex offenders convicted each year who are eligible for probation; approximately 50 employees of the Department of Corrections, Department of Juvenile Justice, and community mental health centers; and an undetermined number of qualified mental health providers in private practice who are eligible to be certified by the Sex Offender Risk Assessment Advisory Board to do presentence evaluations.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: Approximately \$700,000.

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

1. First year following implementation: Applications for certification by the board shall be completed and reviewed; evaluation and assessment reports prepared for the court; records and report review conducted on an on-going basis by staff of the board.

2. Second and subsequent years: Applications for certification by the board shall be completed and reviewed; evaluation and assessment reports prepared for the court; records and report review conducted on an on-going basis by staff of the board.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: approximately \$700,000 combination of federal and state funds.

2. Continuing costs or savings: Costs shall continue to increase due to inflation and an increase in the number of sex offenders needing evaluation.

3. Additional factors increasing or decreasing costs: Costs shall continue to increase due to inflation and an increase in the number of sex offenders needing evaluation.

(b) Reporting and paperwork requirements: Review of evaluation and assessment reports by staff.

(4) Assessment of anticipated effect on state and local revenues: State revenues may increase if a significant number of sex offenders are able to pay for all or a part of the assessments; funds collected shall return to the general fund.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: \$675,000 federal grant and state match; portion of salaries of current staff of the Division of Mental Health; additional state general fund dollars were not budgeted in the 1998-2000 biennium to fund this project.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Sex offenders shall be evaluated to determine their risk of recommitting a sex crime, amenability to sex offender treatment and the nature of the required treatment; should result in increased public safety.

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

(c) If detrimental effect would result, explain detrimental effect: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

**TRANSPORTATION CABINET  
Department of Vehicle Regulation  
Division of Driver Licensing  
(Amendment)**

**601 KAR 2:020. Drivers' privacy protection.**

RELATES TO: KRS 61.870 through 61.884, 187.310, 18 USC Chapter 123

STATUTORY AUTHORITY: KRS 61.874

NECESSITY, FUNCTION, AND CONFORMITY: 18 USC Chapter 123 mandates the information which can and cannot be included in information sold or otherwise distributed about motor vehicle operators or owners. This administrative regulation establishes the circumstances and conditions governing the distribution or sale of personal information.

Section 1. Definition. "Personal information" means information that identifies an individual including the following:

- (1) Name;
- (2) Address, excluding the zip code;
- (3) Social Security number;
- (4) Date of birth;
- (5) Driver identification number;
- (6) Telephone number;

- (7) Photograph; and
- (8) Medical or disability information.

Section 2. Notwithstanding any other provisions of this law, under no circumstances shall a person's driver's license photo or computerized image, Social Security number, or medical or disability information from a motor vehicle record, driver's license or permit, motor vehicle registration, or identification document be disseminated except for:

(1) Use by a government agency including a court or law enforcement agency in carrying out its functions or a private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions;

(2) Use in connection with a civil, criminal, administrative, or arbitral proceeding in a federal, state, or local court or agency or before a self-regulatory body, including, the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court;

(3) Use by an insurer or insurance support organization, or by a self-insured entity, or its agents, employee, or contractor, in connection with claims investigation activities, antifraud activities, rating, or underwriting; or

(4) Use by employer, or its agents or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 USC App.2710 et seq.).

Section 3. (1) In the Driver Licensing Computer Information System, the following shall not be considered personal information:

- (a) Driver status; and
- (b) Violation or conviction of a traffic law.

(2) The information included in the Driver Licensing Computer System shall not be distributed or sold contrary to KRS 187.310.

Section 4. Required Disclosures. Personal information referred to in Sections 1 and 2 of this administrative regulation, including sensitive personal information, as set forth in 601 KAR 2:020, Section 2, shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of nonowner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Federal Automobile Information Disclosure Act, 15 USC 1231 et seq., the Motor Vehicle Information and Cost Saving Act, 15 USC 1901 et seq., the National Traffic and Motor Vehicle Safety Act of 1966, 15 USC 1381 et seq., the Anti-Car Theft Act of 1992, 15 USC 2021 et seq., and the Clean Air Act, 42 USC 7401 et seq., as amended, and all statutes and agency regulations enacted or adopted pursuant to the authority of, or to attain compliance with, the said Acts of Congress.

Section 5. [3:] Personal information in the Driver Licensing Computer Information System or the Automated Vehicle Information System, including personal information relating to the owner of a boat, shall not be released except for the following reasons:

(1) For use by a government agency, including a court or law enforcement agency, in carrying out its functions, or a private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions;

(2) For use in connection with matters relating to the following:

- (a) Motor vehicle or driver safety;
- (b) Motor vehicle theft;
- (c) Motor vehicle emissions;
- (d) Motor vehicle product alterations, recalls, or advisories;
- (e) Performance monitoring of motor vehicles, motor vehicle parts, or dealers;

(f) ~~[Motor vehicle market research activities, including survey research; and~~

~~(g) Removal of nonowner records from the original owner records of motor vehicle manufacturers;~~

(3) For use in the normal course of business by a legitimate business or its agent, employee, or contractor, but only:



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(a) To verify the accuracy of personal information submitted by the individual to the business or its agent, employee, or contractor; or

(b) If the submitted information is not correct or is no longer correct, to obtain the correct information, in order to prevent fraud by pursuing legal remedies against or recovering on a debt or security interest against, the individual;

(4) For use in connection with a civil, criminal, administrative, or arbitral proceeding in a federal, state, or local court or agency or before a self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court;

(5) If the personal information is not published, redisclosed, or used to contact an individual, for use in:

(a) Research activities; or

(b) Producing statistical reports;

(6) For use by an insurer or insurance support organization, or by a self-insured entity, or its agent, employee, or contractor, in connection with claims investigation activities, antifraud activities, rating, or underwriting;

(7) For use in providing notice to the owner of a towed or impounded vehicle;

(8) For use by a licensed investigative agency or licensed security service for a purpose permitted under this section;

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 USC App.2710 et seq.);

(10) For use in connection with operation of a private toll transportation facility; or

(11) For use by a requester, if the requester demonstrates he has obtained the written consent of the individual to whom the information pertains).

Section 6. Disclosure with Consent. Personal information referred to in Sections 1 and 2 of this administrative regulation may be disclosed to any requestor, if such person demonstrates, in such form and manner as the department prescribes, that written consent of the person who is the subject of the information has been obtained.

Section 7. [4:] A person wishing pursuant to Section 5 [3] of this administrative regulation to obtain a record which includes personal information, shall complete one (1) of the following or its preapproved electronic equivalent:

(1) If the record is in the Driver Licensing Computer Information System:

(a) Transportation Cabinet form TC 94-1, "Request for Driver Licensing Record(s) which Includes Personal Information"; or

(b) [Transportation Cabinet form TC 94-2, "Motor Vehicle Insurer's Request for Driver Licensing Records which Include Personal Information";

(c) Transportation Cabinet form TC 94-40, "Multiple Requests for Driver Licensing Records Which Include Personal Information"; or

(d) Transportation Cabinet form TC 10-300 [10-301], "Agreement Relating to Driver Licensing, Motor Vehicle or Boat Records"; or

(2) If the record is in the Automated Vehicle Information System:

(a) Transportation Cabinet form TC 96-16, "Request for Motor Vehicle or Boat Record which Includes Personal Information"; or

(b) Transportation Cabinet form TC 10-300, "Agreement Relating to Driver Licensing, Motor Vehicle or Boat Records", [96-325, "Multiple Requests for Motor Vehicle or Boat Records Which Include Personal Information".

Section 5. (1) In addition to Section 3 of this administrative regulation, the selling of information from the Automated Vehicle Information System relating to a motor vehicle registered or titled in the Commonwealth of Kentucky shall be allowed if the information is to be used, rented, or sold solely for bulk distribution for surveys, marketing, or solicitations:

(2) The surveys, marketing, or solicitations shall not be directed at an individual who has requested that they not be directed at him pursuant to Section 6 of this administrative regulation.

(3) A person requesting information pursuant to this section shall

sign an agreement with the Transportation Cabinet in order to apply for this information. This request shall be on Transportation Cabinet Form TC 10-300, "Agreement Relating to Motor Vehicle or Boat Records" which relates to use of information requested from the Automated Vehicle Information System.

Section 6. (1) A person who does not wish to have surveys, marketing, or solicitations directed at himself from information obtained from the Automated Vehicle Information System shall complete and file a copy of Transportation Cabinet Form TC 96-320 "Request to Withhold Personal Information" with the Division of Motor Vehicle Licensing.

(2) The motor vehicle licensing office of each county clerk shall prominently display a sign explaining that an individual is allowed to complete this form in order that his personal information not be included in a commercial bulk sale.

(3) If a person renews his motor vehicle registration by mail pursuant to KRS 186.020(5), the county clerk shall include in the package which contains the renewed registration form for each individual a copy of Transportation Cabinet form TC 96-320.]

Section 8. [7:] Retention of Records. A form completed pursuant to Section 7 [4 or 5] of this administrative regulation shall be retained by the agency or office providing the record containing personal information for a minimum of two (2) years.

Section 9. [8:] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Transportation Cabinet form TC 94-1 "Request for Driver Licensing Record(s) which Includes Personal Information" effective July 1998;

(b) [Transportation Cabinet form TC 94-2 "Motor Vehicle Insurer's Request for Driver Licensing Records which Include Personal Information" effective July 1998;

(c) Transportation Cabinet form TC 96-16 "Request for Motor Vehicle or Boat Record which Includes Personal Information" effective July 1998; and

(d) [Transportation Cabinet form TC 96-320, "Request to Withhold Personal Information" effective February 1998;

(e) Transportation Cabinet form TC 10-300, "Agreement Relating to Driver Licensing, Motor Vehicle or Boat Records" effective May 2000. [July 1998;

(f) Transportation Cabinet form TC 94-40, "Multiple Requests for Driver Licensing Records Which Include Personal Information" effective July 1998;

(g) Transportation Cabinet form TC 94-40, "Multiple Requests for Motor Vehicle or Boat Records Which Include Personal Information" effective July 1998; and

(h) Transportation Cabinet form TC 10-301, "Agreement Relating to Driver Licensing Records" effective July 1998.]

(2) This material may be viewed, copied, or obtained from the following offices within the Transportation Cabinet, Monday through Friday, 8 a.m. to 4:30 p.m.:

(a) [TC 96-320, TC 96-325, and] TC 96-16 from the Department of Vehicle Regulation, Division of Motor Vehicle Licensing, 501 High Street, Frankfort, Kentucky 40622;

(b) TC 94- 1[, TC 94-2, and TC 94-40] from the Department of Vehicle Regulation, Division of Driver Licensing, 501 High Street, Frankfort, Kentucky 40622; and

(c) TC 10-300 [and TC 10-301] from the Department of Administrative Services, 501 High Street, Frankfort, Kentucky 40622.

ED LOGSDON, Commissioner

JAMES C. CODELL, III, Secretary

JEFF MOSLEY, Office of General Counsel/Legislative Affairs

APPROVED BY AGENCY: May 15, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on June 21, 2000, at 9 a.m. local prevailing time in the Transportation Cabinet, Tenth Floor General Counsel Conference Room, 501 High Street, Frankfort, Kentucky 40622. Persons wishing to attend this meeting must notify this agency in writing by June 14, 2000. If no notification of intent to attend the hearing is received by this date, the hearing may be can-



celled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comments hearing will not be made unless a written request for a transcript is made and then only at the requestor's expense. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirement by June 14, 2000. This request does not have to be in writing. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is held, written comments will be accepted until the close of the hearing. If the hearing is cancelled, written comments will be accepted until close of business on June 21, 2000. Send written notification of intent to attend public comment hearing or written comments on the administrative regulation to: Charles Harman, Staff Assistant, Transportation Cabinet, State Office Building, 501 High Street, Frankfort, Kentucky 40622, (502) 564-7650, Fax: (502) 564-5238.

#### REGULATORY IMPACT ANALYSIS

Contact person: Charles Harman

(1) Type and number of entities affected: 3,000,000 vehicle operators and owners 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: Public comment hearing was not requested.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: None known.

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

1. First year following implementation: None known.

2. Second and subsequent years: None known.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: A net cost of approximately \$50,000 each year.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: 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: Kentucky Road Fund.

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

(a) Geographical area in which administrative regulation will be implemented: None known.

(b) Kentucky: None known.

(7) Assessment of alternative methods; reasons why alternatives were rejected: The cabinet chose to reject the "opt-in" alternative because of low public interest.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: 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:

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

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Yes. Tiering is used in that only those entities meeting certain criteria will be allowed to obtain personal information.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 18 USC Chapter 123, commonly called "National Driver's Privacy Protection Act".

2. State compliance standards. Any person who wishes to obtain personal information from one of the Department of Vehicle Regulation's computer databases will be required to identify the use to be made of the personal information. If the use is one of the uses set forth in 18 USC as being an acceptable use of the personal information, the requestor will also have to affirm that no other use will be made of the information.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate defines "personal information" and requires that the sale or distribution of personal information from a motor vehicle or driver licensing databases be limited to certain uses.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate specifically established that a driver's status, conviction for a violation of a traffic law, and an accident report are not to be considered "personal information", therefore, no restrictions are placed on the sale or distribution of this information. However, KRS 187.310 does place restrictions and time limits on the distribution of this information. Therefore, the administrative regulation acknowledges the existence of KRS 187.310 and does not allow the information on the actual accident report to be given out. The administrative regulation is also stricter than the federal mandate in not allowing name sales for bulk marketing purposes. The decision was made to restrict those name sales in the interest of the protection of personal information.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State what unit, part or division of local government this administrative regulation will affect. The motor vehicle registration office of the county clerk and the driver licensing issuance office of the circuit clerk.

3. State the aspect or service of local government to which this administrative regulation relates. As an agent for the Transportation Cabinet, the county clerks register and title the motor vehicles based in Kentucky. This service is affected by this administrative regulation. As an agent for the Transportation Cabinet, the circuit clerks issue operator's licenses to eligible persons. They have access to the Driver Licensing Computer Information System and are therefore subject to the provisions of this administrative regulation. Likewise, the county clerks have access to the AVIS and are therefore subject to the provisions of this regulation.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-):

Other Explanation: This should reduce the workload on the county clerks by limiting the information which can be sold for marketing purposes. The circuit clerks will have almost no change in there are of responsibility and workload.

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WORKFORCE DEVELOPMENT CABINET  
Department for Technical Education  
(Amendment)

(502) 564-9990.

REGULATORY IMPACT ANALYSIS

780 KAR 1:010. 2001-2004 [1995-96] program plan.

RELATES TO: KRS 151B.025, 151B.100, 151B.150

STATUTORY AUTHORITY: KRS 151B.025, 151B.100, 151B.145

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.025 designates the Department for Technical Education as the sole state agency for developing and approving state plans required by federal law as prerequisites to receiving federal funds for vocational education; 151B.100 authorizes the State Board for Adult and Technical Education to implement any act of Congress appropriating and apportioning funds to states and to provide for the proper disbursement of such funds; 151B.145 accepts and agrees to comply with federal vocational education acts; and KRS 151B.150 gives the state board authority to comply with state and federal vocational education laws. The 2001-2004 [1995-96] Kentucky State [Program] Plan for Vocational Technical Education is necessary in order to be eligible to receive federal funds under PL 101-392, and this administrative regulation formally adopts such plan developed and approved by the Department for Technical Education.

Section 1. The Kentucky State Board for Adult and Technical Education shall delegate to the Kentucky Department of Education effective July 1, 1990 responsibility for the following duties: coordinating, supervising, and monitoring local plans for secondary vocational education programs in local school districts; evaluating annually a minimum of twenty (20) percent of local school districts with vocational programs; providing statewide leadership in consumer and home-making education; monitoring research, exemplary, sex equity and displaced homemaker projects awarded to the State Department of Education by the Department for Technical Education; managing and controlling reimbursement of vocational funds to local school districts; and collecting and reporting vocational data as required by state and federal requirements.

Section 2. Pursuant to the authority vested in the Kentucky State Board for Adult and Technical Education, the 2001-2004 [1995-96] Kentucky State [Program] Plan for Vocational Technical Education is hereby prepared and approved by the State Board for Adult and Technical Education, in accordance with the appropriate federal guidelines, and submitted to the U.S. Secretary of Education for approval. This document, effective July 1, 2000 [1994], is incorporated by reference and hereinafter shall be referred to as the Kentucky State [Program] Plan for Vocational Technical Education[~~as amended for 1995-96~~]. The document is available for public inspection and copying at the main office of the Department for Technical Education, Capital Plaza Tower, 20th [3rd] Floor, 500 Mero Street, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m. Monday - Friday.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number:

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 1:010 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health. It relates to the Department for Technical Education.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The proposed amendment contains only minor technical changes.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal

impact of the administrative regulation.

Revenues (+/-):  
Expenditures (+/-):  
Other Explanation:

**WORKFORCE DEVELOPMENT CABINET  
Department for Technical Education  
(Amendment)**

**780 KAR 2:010. Administration of vocational-technical education schools.**

RELATES TO: KRS 151B.025, 151B.030, 151B.110, 151B.145  
STATUTORY AUTHORITY: KRS 151B.025, 151B.030, 151B.150  
NECESSITY, FUNCTION, AND CONFORMITY: To establish administrative functions of the [Kentucky TECH System of] state-operated vocational technical schools.

Section 1. Administration of state-operated area technology centers [and regional technology centers] shall be managed through the Department for Technical Education [regions]. All services and activities shall be directly related to the statutory mission of the Workforce Development Cabinet, Department for Technical Education, [Office of Kentucky TECH] and the Kentucky State Plan for Vocational Technical Education, as incorporated by reference in 780 KAR 1:010, Section 2.

Section 2. Area technology centers may be operated by either:  
(1) The Department for Technical Education; or  
(2) The local board of education that holds title to the facility.

[Section 3. The Department for Technical Education may provide programs for postsecondary residents in correctional institutions who are under the supervision of the Justice Cabinet through a memorandum of agreement with the Department of Corrections.]

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

**REGULATORY IMPACT ANALYSIS**

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 2:010 will affect the area technology centers operated by the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available

from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health. It relates to area technology centers operated by the Department for Technical Education.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The amendment applies equally to all affected entities.

**FISCAL NOTE ON LOCAL GOVERNMENT**

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

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WORKFORCE DEVELOPMENT CABINET  
Department for Technical Education  
(Amendment)

**780 KAR 2:030. Steering and advisory committees for area technology centers [Kentucky-TECH-schools] primarily serving secondary students.**

RELATES TO: KRS 151B.025, 151B.110

STATUTORY AUTHORITY: KRS 151B.025

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.025 transfers from the Kentucky Department of Education to the Department for Technical Education all responsibilities for programs, staff, and operations at state-operated area vocational education centers and state vocational technical schools existing as of July 1, 1990. This statute also mandates that the area vocational education centers shall be operated in compliance with program standards established by the State Board for Elementary and Secondary Education. The State Board for Elementary and Secondary Education has set program standards in 705 KAR 3:141. This administrative regulation sets standards for operations for area technology centers [Kentucky-TECH-schools] primarily serving secondary students through the use of steering and advisory committees. KRS 151B.025 and KRS 151B.110, as amended by EO 98-837 (July 1, 1998), as amended by EO 99-1597 (December 3, 1999) respectively, gives the Commissioner of the Department for [State Board for Adult and] Technical Education the function and authority to develop and adopt policies and administrative regulations by which the Department for Technical Education is to be governed in planning, coordinating, administering, supervising, operating, and evaluating the education programs, services, and activities within the department. This administrative regulation establishes responsibilities of steering and other advisory committees for Kentucky area technology centers [TECH-schools].

Section 1. Each Kentucky area technology center [TECH-facility] serving secondary students shall have a steering committee. The steering committee shall provide organized and regular contact with and participation by representatives from each local school district. The steering committee shall be composed of persons from the following categories:

- (1) The principal of the technology center (chairman);
- (2) The superintendent or designee of each cooperating school district;
- (3) A board member from each cooperating school district;
- (4) One (1) principal from each cooperating school district;
- (5) Representative from each site-based council;
- (6) One (1) or more representatives of the local labor market area; and
- (7) A guidance counselor from each cooperating school district.

Section 2. The steering committee may consult, counsel, and advise the principal of the area technology center [Kentucky-TECH-facility, the regional executive director of vocational education and staff, the Executive Director of Kentucky-TECH,] and the Commissioner of the Department for Technical Education on matters pertaining to the operation of the school and may include:

- (1) Annual and long-range program planning;
- (2) Operation and management procedures;
- (3) Programs to be offered;
- (4) Curriculum development;
- (5) In-service training of personnel;
- (6) Enrollment quotas for secondary school students from the different participating local school districts;
- (7) Discipline of students;
- (8) Class and school schedules;
- (9) Transportation of students;
- (10) Equipping and maintaining the facilities;
- (11) Program evaluation;
- (12) Student counseling and guidance; and
- (13) Records and reports.

Section 3. The steering committee shall have a minimum of one (1) regularly scheduled meeting per semester and called meetings as needed.

Section 4. Program advisory committees shall be organized at the program level. The membership of these committees shall be representative of the businesses and industries for which the program provides education and training. Members shall represent the various levels of management and labor of the business or industry. Program advisory committees shall have at least two (2) meetings per year. The program advisory committees shall counsel, advise, and consult with the program staff on:

- (1) Implementation of curriculum;
- (2) Safety;
- (3) Equipment needs;
- (4) Projects for student learning;
- (5) Advocacy of the program in the community;
- (6) Recruitment of students;
- (7) Work-based learning; and
- (8) Job placement of students.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrack, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatrack, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 2:030 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies to entities equally.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

#### WORKFORCE DEVELOPMENT CABINET Department for Technical Education (Amendment)

##### 780 KAR 2:040. Live work projects.

RELATES TO: KRS 151B.025, 151B.110

STATUTORY AUTHORITY: KRS 151B.025, 151B.110, 151B.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.025, as amended, gives the Commissioner for the Department for [State Board for Adult and] Technical Education the function and authority to develop and adopt policies and administrative regulations by which the Department for Technical Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating education programs, services, and activities. This administrative regulation establishes the procedures for accepting live work projects in Kentucky TECH facilities.

Section 1. Definition. "Live work" means a project, which meets a curriculum requirement, completed for an individual or organization.

Section 2. Kentucky TECH schools shall be permitted to accept live work projects when the administrative and instructional staffs deem them appropriate for training purposes.

Section 3. Kentucky TECH schools accepting live work shall adhere to the following standards:

(1) All services performed shall be documented on work order forms approved by the Department for Technical Education [Office of

Kentucky Tech].

(2) The school administrator shall be responsible for all unused work order forms and assigning and recording all services performed in a work order log book.

(3) Individuals or organizations requesting live work shall be provided a copy of the school's policy for accepting and performing live work. Persons committing live work shall sign the policy form indicating that they understand the policies and agree with them.

(4) Live work orders shall be approved and initialed by the school administrator and by the instructor of the class. No live work shall be approved for an instructor in his program for his own personal use.

(5) A fee shall be charged for live work projects requiring more than one (1) hour labor consistent with the fees established by the Commissioner of the Department for [State Board for Adult and] Technical Education in compliance with 780 KAR 2:140.

(6) Persons or organizations for whom live work is accepted shall purchase the necessary materials for the job to be completed. With the permission of the person or organization, the school may purchase the materials and recover the costs of the materials plus twenty (20) percent for handling.

(7) No payment shall be handled by an instructor. Live work orders shall not be released until payment for parts, supplies, and other cost items has been made and documented by authorized personnel in the school.

(8) Students shall be exempt from the fee but shall not be exempt from the reimbursement or purchase of materials. Projects of family members or other individuals shall not be accepted in the names of students.

(9) School employees and members of the State Board for Adult and Technical Education shall not guarantee or be liable for any live work, nor shall they be responsible for the theft or loss of any article or articles that may be left in the schools for any reasons.

Section 4. No Kentucky TECH school shall be obligated to accept any live work projects. Live work shall not be done which is of a production nature and in competition with business or industry or for the purpose of making a profit.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

#### REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 2:040 will affect the Department for Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available

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from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies to all affected entities equally.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

### WORKFORCE DEVELOPMENT CABINET Department for Technical Education (Amendment)

780 KAR 2:060. Discipline [Suspension and expulsion] of students.

RELATES TO: KRS 151B.025, 151B.110

STATUTORY AUTHORITY: KRS 151B.110, 151B.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.110 and 151B.150 give the Commissioner of the Department for [State Board for Adult and] Technical Education all necessary power and authority in administering the state's vocational education program, and KRS 158.150 sets forth the grounds and procedures for discipline [suspension and expulsion] from the state's common schools. This administrative regulation establishes the procedure for the suspension and expulsion of students from Kentucky TECH schools for disciplinary reasons following the grounds and procedures set forth in KRS 158.150 for the common schools.

Section 1. Teachers and administrators employed in a Kentucky TECH school shall be responsible for the supervision and discipline of students during the time they are in attendance at a state-operated vocational-technical facility.

Section 2. All students shall comply with policies of the Kentucky TECH school in which they are enrolled. Willful disobedience or defiance of the authority of teachers or administrators; assault, battery or abuse of other students or school personnel; threat of force or violence; use or possession of illicit drugs or alcohol; stealing, destroying or defacing school or personal property; possessing or using dangerous weapons or instruments; or other incorrigible bad conduct on school property or at school-sponsored activities constitutes cause for disciplinary suspension or expulsion.

Section 3. Secondary students who are subject to disciplinary action shall be referred by the school administrator of a Kentucky TECH school to the principal of the parent school in which the student is enrolled. The Kentucky TECH school administrator or his designee shall have the authority to immediately suspend secondary students for a maximum of three (3) days, without action by the parent school, to protect persons or property, or to avoid disruption of the ongoing academic programs. The Kentucky TECH school administrator shall submit in writing to the principal of the parent high school the reason(s) for disciplinary action and recommend any further action. The principal of the parent high school shall respond to the vocational administrator as to the action to be taken.

Section 4. Any secondary student who is suspended or expelled from a participating local high school shall be suspended or expelled from the Kentucky TECH school in which the student is enrolled.

~~[Section 5. The Kentucky TECH school administrator shall be authorized to suspend postsecondary students for cause as set forth in Section 2 of this administrative regulation. No student shall be suspended for more than ten (10) consecutive school days for any one (1) instance of misconduct. No student shall be suspended without first being given oral or written notice of the charge or charges against him; an explanation of the evidence of the charge(s) if the student denies the charge or charges; and an opportunity to present his own version of the facts related to the charge or charges. Due process procedures shall precede any suspension unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. Due process procedures shall follow an immediate suspension as soon as practicable, but no later than three (3) school days after the suspension.]~~

Section 6. No postsecondary student shall be expelled from a Kentucky TECH school without a hearing, pursuant to written, specific notice of the charges, before a committee convened by the regional executive director or his designee, and consisting of two (2) additional vocational instructional or administrative staff. The regional executive director or his designee shall submit in writing to the Executive Director of Kentucky TECH within three (3) school days a copy of the hearing committee's findings, conclusions, and action taken on the expulsion of a student. A copy of the report shall be provided to the student. The student may file a notice of appeal with the secretary of the State Board for Adult and Technical Education.

Section 7. Readmittance to the school shall be on the basis of waiting list priorities at the time of expulsion or on the basis of at least a ninety (90) day expulsion (excluding the month of July), whichever is longer. The regional hearing committee may set shorter expulsion



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~~terms when extenuating circumstances and the facts of individual cases so warrant.]~~

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

**PUBLIC HEARING:** A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

### REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 2:060 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies equally to all entities affected.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

### WORKFORCE DEVELOPMENT CABINET Department for Technical Education (Amendment)

#### 780 KAR 2:110. Student medical and accident insurance.

RELATES TO: KRS 151B.025, 151B.110, 151B.175

STATUTORY AUTHORITY: KRS 151B.175

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.175 authorizes the Commissioner for the Department for Technical Education to provide medical and accident insurance for students enrolled in Kentucky TECH schools and requires the Commissioner of the Department for [State Board for Adult and] Technical Education to adopt administrative regulations to implement the insurance program.

Section 1. Students enrolled in Kentucky TECH schools except continuing education and customized business and industry classes shall have medical and accident insurance coverage during the period of enrollment.

Section 2. The commissioner shall enter into a contract with a surety or insurance company or its agent to provide medical and accident insurance coverage for students enrolled in Kentucky TECH.

Section 3. The policy shall:

(1) Be a full excess policy; and

(2) Pay the covered expenses incurred which are in excess of those paid or payable by another plan.

Section 4. The medical and accident coverage shall consist of a single contract applied to the plan of coverage contained in the contract between the Commonwealth and the carrier.

Section 5. Following an authorized signature by an official of the insuring company, the insurance policy shall:

(1) Be attached to the contract; and

(2) Become a part of the medical and accident insurance contract.

Section 6. Coverage shall:

(1) Take effect on the date requested; and

(2) Remain in effect through the expiration date shown on the application.

Section 7. (1) The Department for Technical Education [Office of



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Kentucky Tech System] shall authorize payment of the premium to:

- (a) A surety; or
- (b) An insurance company; or
- (c) An agent thereof.

(2) The premium shall be based on the average number of students that were enrolled:

- (a) During the previous quarter;
- (b) In Kentucky TECH schools.

Section 8. Nothing in this administrative regulation shall be construed as a waiver of the sovereign immunity of the Commonwealth.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

## REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 2:110 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies equally to all affected entities.

## FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

## WORKFORCE DEVELOPMENT CABINET Department for Technical Education (Amendment)

### 780 KAR 2:140. Tuition and fees.

RELATES TO: KRS 151B.025, 151B.110, 151B.165

STATUTORY AUTHORITY: KRS 151B.150, 151B.165

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.165 gives the Commissioner of the Department for [State Board for Adult and] Technical Education authority to set tuition and fees for students in Kentucky TECH schools. This administrative regulation implements that duty.

Section 1. A nonrefundable application fee of twenty (20) dollars for full-time and part-time students shall be paid with the completed application submitted prior to enrollment in a diploma or certificate program.

Section 2. [Tuition for postsecondary programs shall be paid at the beginning of each term (quarter or semester). The following tuition schedule shall apply effective July 1, 1995:

Per Week Contact Hours	Tuition Per Term In-state Cost	
	(Quarter)	(Semester)
24 and over	\$150	\$300
18-23	\$125	\$250
12-17	\$100	\$200
Under 12	\$75	\$150
Per Week Contact Hours	Tuition Per Term Out-of-state Cost	
	(Quarter)	(Semester)
24 and over	\$300	\$600
18-23	\$250	\$500
12-17	\$200	\$400

Under 12	\$150	\$300
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Section 3. Tuition is due the first day of each term. A nonrefundable ten (10) dollar late payment fee shall be assessed after the fifth school day. After the 15th instructional day, students may not attend class if tuition is not paid or unless prior arrangements have been made.

Section 4. The school may establish an activity or lab fee not to exceed twenty (20) dollars per term for [postsecondary and secondary] students.

Section 3. [5.] A refund policy shall apply to tuition charges for vocational-technical programs and classes in Kentucky TECH schools. Students in certificate or diploma programs may receive a partial refund of tuition within the first fifteen (15) school days of the program through withdrawal. The refund policy applies only to program withdrawal and does not apply to a reduced course load. The application fee is nonrefundable.

Section 4. [6.] Within the first ten (10) instructional days of the program, students may receive a full tuition and activity fee refund. From eleven (11) to fifteen (15) instructional days, fifty (50) percent of the tuition is refundable. There shall be no refund after the 15th instructional day.

[Section 7. Each school shall establish a tuition scholarship program to assist students with financial need. Financial assistance shall be available for students who lack financial resources to pay for their education but who, for special reasons, do not qualify for other financial aid.]

Section 5. [8.] Continuing education classes for adults shall be designed to meet the needs of the labor market and for persons preparing or supplementing knowledge and skills for employment or job advancement. The cost for all continuing education offered in the regular curriculum shall be at the state-approved tuition rates. Specialized continuing education classes for adults may be offered on a cost recovery basis [with prior approval by the regional executive director].

Section 6. [9.] Students enrolled in continuing education courses may be granted a full tuition refund if official withdrawal is completed prior to the third class session. No refunds shall be made after the third session, and tuition of fifteen (15) dollars or less shall not be refunded.

[Section 10. A fifteen (15) dollar fee shall be charged for each live work project requiring more than one (1) hour labor and accepted by the school.]

Section 7. [11.] Costs for classes to meet industry training needs in a school or region may be negotiated by the school or region on a shared-cost basis documented by a written agreement on file in the school where the contract is negotiated. Any agreement with public or private organizations shall seek to recover the instructional cost and may be for class size projects, extra services, and ancillary services as requested by the client. Training programs contracted at the state level to meet statewide training needs for industry shall establish a fee under written agreement.

Section 8. A fifteen (15) dollar fee shall be charged for each live work project requiring more than one (1) hour labor and accepted by the school.

[Section 12. Tuition and fees shall be reviewed on or before October 30, each year by the State Board for Adult and Technical Education.]

Section 13. Tuition and fees for schools jointly administered by the University of Kentucky Community College System and the Kentucky TECH System shall be those jointly agreed upon. The State Board for Adult and Technical Education shall annually review and approve tuition and fees for Kentucky TECH students attending jointly admin-

istered schools.]

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

#### REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 2:140 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government

policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies equally to all entities affected.

#### FISCAL NOTE ON LOCAL GOVERNMENT

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Revenues (+/-):

Expenditures (+/-):

Other Explanation:

#### WORKFORCE DEVELOPMENT CABINET Department for Technical Education (Amendment)

##### 780 KAR 4:010. General standards.

RELATES TO: KRS 151B.025, 151B.145

STATUTORY AUTHORITY: KRS 151B.025, 151B.145

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.145 mandates a state vocational-technical education program with certain purposes under the jurisdiction of the Commissioner of the Department for [State Board for Adult and] Technical Education. KRS 151B.025 establishes program standard responsibilities for secondary vocational-technical programs. This administrative regulation establishes the broad, general standards for all vocational-technical education programs in order to comply with federal funding statutes.

Section 1. Vocational-technical education programs shall be designed to serve ~~one (1), or combinations, of the following groups of persons:~~ secondary ~~[or postsecondary]~~ students. Instructional programs shall not discriminate on the basis of race, color, national origin, age, religion, marital status, sex, or disability.

Section 2. Vocational-technical instruction shall be provided within the following program areas: agriculture, business/office technology, health and personal services, home economics, industrial technology education, marketing, ~~[fire/rescue training,]~~ environmental education, special vocational-technical programs, and other program areas designed to meet emerging technologies and the needs of business and industry.

Section 3. Objectives of the instruction shall be designed to:

(1) Prepare individuals for employment in skilled or technical occupations;

(2) Prepare individuals for transition from education and training to work;

(3) Assist individuals in making meaningful occupational choices;

(4) Upgrade and update individuals in their present occupations;

(5) Retrain existing workers; or

(6) Achieve any combination of the above.

Section 4. The content of instruction in vocational-technical education programs shall:

(1) Be based on a consideration of the skills, attitude, and knowledge required to achieve the objectives of instruction and include a

planned sequence of those essentials of education or experience (or both) deemed necessary for the individual to achieve objectives;

(2) Be developed and conducted in consultation with potential employers and other individuals having skills and substantive knowledge of the occupation or the occupational fields included in instruction;

(3) Include the most up-to-date technology and skills necessary for competencies required to meet the objectives of instruction; and

(4) Be sufficiently extensive in duration and intensive within a scheduled unit of time to enable the student to achieve the objectives of instruction.

Section 5. The vocational-technical program of instruction shall coordinate classroom instruction with field, laboratory, cooperative work, or other work-based experience which:

(1) Is appropriate to the objectives of instruction;

(2) Is of sufficient duration to develop competencies necessary for the student to achieve such objectives; and

(3) Is supervised, directed, or coordinated by persons qualified as determined by the State Board for Adult and Technical Education in cooperation with the State Board for Elementary and Secondary Education.

Section 6. Recognized vocational student organizations and leadership activities shall be an integral part of the instructional program and shall be supervised by qualified vocational education personnel.

Section 7. Each program shall have an active advisory committee. Reference 780 KAR 2:030, Section 4 ~~[and 780 KAR 2:035, Section 3]~~.

Section 8. Assessment of the vocational-technical education programs shall be conducted in accordance with requirements and instruments approved by the Department for Technical Education. The Commissioner for the Department for Technical Education shall designate the records and reports to be kept by local educational agencies operating approved vocational-technical education programs. Staff from the Department for Technical Education or the Department of Education shall make periodic evaluation visits for program improvement purposes.

Section 9. Where applicable, all vocational-technical education programs shall operate according to guidelines developed by state or national licensure, certification, and registration agencies having jurisdiction over graduates who seek employment in occupations governed by such agencies.

Section 10. The facilities for any vocational-technical education program shall be of adequate size and designed to accommodate the activities and number of work stations unique to each program. Classrooms, libraries, laboratories, and other facilities, including instructional equipment, supplies, teaching aids, and other materials, shall be provided in quantity and quality to meet the objectives in the vocational-technical instruction. Facilities and equipment shall be approved by the Commissioner for the Department for Technical Education in cooperation with the Commissioner for the Department of Education or designee.

Section 11. Programs offered by any eligible recipient of federal funds shall be disapproved if program requirements are not met or provisions of the Kentucky State Plan for Vocational-Technical Education are not met.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to

the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatruck, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

#### REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatruck, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 4:010 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None.

(11) TIERING: Is tiering applied? No. The administrative regulation applies to all affected entities equally.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local gov-

ernment? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

#### WORKFORCE DEVELOPMENT CABINET Department for Technical Education (Amendment)

780 KAR 4:050. Certificate requirements for Kentucky TECH students.

RELATES TO: KRS 151B.110

STATUTORY AUTHORITY: KRS 151B.095, 151B.110, 151B.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.110

gives the Commissioner of the Department for [State Board for Adult and] Technical Education all necessary power and authority in administering the state's vocational-technical educational programs. This administrative regulation is necessary in order to set a statewide standard for awarding certificates to students in Kentucky TECH schools.

Section 1. Program Completion Certificate. To be awarded a program completion certificate, a student shall complete the requirements for the program as described in the approved Kentucky TECH Program Listing. This document, effective June 1, 1995, is incorporated by reference and hereinafter shall be referred to as the Kentucky Program Listing for Kentucky TECH as amended for 1995-1996. The document is available for public inspection and copying at the main office of the Department for Technical Education, Capital Plaza Tower, 20th [Third] Floor, 500 Mero Street, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., Monday-Friday.

Section 2. Continuing Education Certificate. To be awarded a continuing education certificate, a student shall have successfully completed a continuing education course or set of courses.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatruck, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

#### REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatruck, General Counsel

(1) Type and number of entities affected: The proposed 780

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KAR 4:050 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies equally to all affected entities.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

### WORKFORCE DEVELOPMENT CABINET Department for Technical Education (Amendment)

#### 780 KAR 7:010. Definitions.

RELATES TO: KRS 151B.110, 151B.150

STATUTORY AUTHORITY: KRS 151B.025, 151B.110, 151B.150  
NECESSITY, FUNCTION, AND CONFORMITY: To define terms pertinent to vocational-technical education facilities and equipment in Kentucky.

Section 1. Definitions. (1) "Area technology center" means a school primarily serving secondary students offering academic and occupational programs suitable for fulfilling high school credit requirements and attaining occupational goals and objectives.

(2) "Construction" for Kentucky TECH schools means construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and includes site grading and improvement as well as architect fees.

(3) [~~"Corrections education center"~~] means a school serving incarcerated postsecondary students offering academic and occupational programs and services suitable for preparation for employment, upgrading of occupational skills, and assessment of occupational potential and interest:

(4) ["Equipment" for Kentucky TECH schools means a movable or fixed unit of furniture or furnishings, an instrument, a machine, an apparatus, or a set of articles which meet all of the following conditions:

(a) Retains its original shape and appearance with use;

(b) Is nonexpendable. If the article is damaged or some of its parts are lost or worn, it is usually more feasible to repair it rather than replace it with an entirely new unit;

(c) Costs \$250 [~~100 dollars~~] or more; and

(d) Does not lose its identity through incorporation into a different or more complex unit or substance.

(4) [(5)] "Facility maintenance" for Kentucky TECH schools means maintenance of the facility which includes all equipment and systems considered to be permanently installed as part of the facility.

(5) [(6)] "Maintenance" for Kentucky TECH schools means repairing, servicing, or replacing any or all parts of the facility including the permanently installed equipment and systems and appropriate insurance as needed to assure proper protection and adequate and safe operating conditions.

(6) [(7)] "Operation" for Kentucky TECH schools means management of the education program offered in the facility and the necessary and ancillary services including the cost of salaries, equipment, supplies, materials, and transportation of students which are involved in the instructional program, and may include, but is not limited to, other reasonable costs of services and supplies needed in providing janitorial services and replacement of expendable supplies.

[(8)] "~~Regional technology center~~" means a school primarily serving postsecondary students, offering academic and occupational programs and services suitable for preparation for employment, upgrading of occupational skills, assessment of occupational potential and interest, and applied research and development, and may include health occupations centers, advanced technical centers, or technical institutes.]

(7) [(9)] "Replacement equipment" for Kentucky TECH schools means those equipment items purchased to replace items that already exist in a vocational-technical program.

(8) [(10)] "Supplies" for Kentucky TECH schools means any article or material which meets any one (1) or more of the following conditions:

(a) Is consumed in use;

(b) Loses its original shape or appearance with use;

(c) Is expendable. If the article is damaged or some of its parts are lost or worn, it is usually more feasible to replace it with an entirely new unit rather than repair it;

(d) Costs less than \$250 [~~100 dollars~~]; or

(e) Loses its identity through incorporation into a different or more complex unit or substance.

ALLEN D. ROSE, Secretary

## VOLUME 26, NUMBER 12 – JUNE 1, 2000

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

### REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 7:020 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies equally to all affected entities.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

### WORKFORCE DEVELOPMENT CABINET Department for Technical Education (Amendment)

#### 780 KAR 7:020. Area technology center facility standards.

RELATES TO: KRS 151B.110, 151B.150

STATUTORY AUTHORITY: KRS 151B.025, 151B.110, 151B.150

NECESSITY, FUNCTION, AND CONFORMITY: To establish facility standards for an area technology center.

Section 1. An area technology center shall meet the following standards:

(1) The facility shall be used principally for providing technical education to secondary students who are available for study in preparation for entering the labor market.

(2) The facility shall provide the vocational preparation component of the educational program for secondary students [~~who are fifteen (15) years of age or older~~].

(3) The facility shall provide for occupational preparation programs and the appropriate related instruction. The types of programs and related instruction to be offered shall be approved by the Commissioner for Technical Education and in compliance with administrative regulations for secondary students established by the State Board for Elementary and Secondary Education in 705 KAR 4:231.

Section 2. Each vocational-technical education program offered in the facility shall meet the minimum state requirements for teachers, curriculum, and equipment.

Section 3. The area technology center may [shall] be available, on a need basis, to offer programs for postsecondary students.

Section 4. The area technology center shall have sufficient land for building, expansion, and parking.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to

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the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

### REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 7:020 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies equally to all affected entities.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local gov-

ernment? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

### WORKFORCE DEVELOPMENT CABINET Department for Technical Education (Amendment)

#### 780 KAR 7:040. Facility maintenance.

RELATES TO: KRS 151B.145, 151B.150

STATUTORY AUTHORITY: KRS 151B.145, 151B.150

NECESSITY, FUNCTION, AND CONFORMITY: To establish responsibilities relative to maintenance of vocational-technical education facilities.

Section 1. Maintenance of area technology centers owned by local boards of education shall be the responsibility of the local boards of education and shall expend at a minimum the share of funds awarded to the local board through the SEEK funds earmarked in the Kentucky Department of Education's budget for the operation of vocational-technical programs in state-operated facilities.

~~[Section 2. Maintenance of vocational-technical education facilities owned by the state and operated by the Department for Technical Education, shall be accomplished from approved funds designated in the budget of the Commonwealth.]~~

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

### REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 7:040 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the



administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health. It relates to the Department for Technical Education.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies equally to all affected entities.

#### FISCAL NOTE ON LOCAL GOVERNMENT

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2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

#### WORKFORCE DEVELOPMENT CABINET Department for Technical Education (Amendment)

#### 780 KAR 7:060. Equipment inventory.

RELATES TO: KRS 45.301, 151B.110, 151B.150

STATUTORY AUTHORITY: KRS 151B.110, 151B.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 45.301 gives the Finance and Administration Cabinet the function and responsibility of supervision of purchasing and storekeeping and control of property and stores, and KRS 151B.110 gives the Commissioner's Office of the Department for [State Board for Adult and] Technical Education the authority to administer the state vocational-technical education program. This administrative regulation establishes policy and operating procedures relative to the inventory of vocational-technical education equipment.

Section 1. The Office of Administrative Services shall be responsible for the management and control of an inventory system for vocational-technical education programs. All equipment with a value of \$250 [100 dollars] or more acquired in whole or in part with state funds shall be maintained on this inventory and identified in accordance with administrative regulations established by the Finance and Administration Cabinet. The area technology centers [Office of Kentucky TECH System] shall be responsible for conducting [of] an annual inventory of all property.

Section 2. All equipment acquired in whole or in part with federal funds shall be maintained on the current inventory.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrack, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

#### REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatrack, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 7:060 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health. It relates to the Department for Technical Education.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies equally to all affected entities.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

#### CABINET FOR HEALTH SERVICES

Department for Public Health

Division of Adult and Child Health

(Amendment)

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

RELATES TO: KRS 211.952, 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS 194A.030, 211.964[–EO–96-862]

NECESSITY, FUNCTION, AND CONFORMITY: [EO–96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.] KRS 211.964 requires the Cabinet for Health Services to promulgate administrative regulations relating to

emergency medical technicians (EMTs). The function of this administrative regulation is to define terms that are used in administrative regulations promulgated by the cabinet relating to EMTs [emergency medical technicians].

Section 1. Definitions. (1) "Adjunct faculty" means a person other than regularly assigned instructional faculty of an EMS educational institution who may be called upon, due to their unique qualifications, to teach a lesson in an EMT training course. ["Applicant" means a person applying for training or certification as an EMT, EMT-instructor, or EMT-first responder under this administrative regulation.]

(2) "Cabinet" means the Cabinet for Health Services.

(3) "Certificate" means the certificate issued by the cabinet to an individual qualified to perform the duties of an EMT[–EMT-instructor, or EMT-first responder].

(4) "Certified" means a person who holds a certificate issued pursuant to this administrative regulation.

(5) "Conviction" means the result of a court hearing or criminal trial which ends in a final judgment or sentence that the accused is guilty of the charged offense or a lesser included offense [as charged]. A finding of guilty shall also include a plea of guilty, or a plea of nolo contendere. A conviction shall be considered a final judgment until it has been expunged by pardon, reversed, set aside, or otherwise rendered nugatory.

(6) "Council" means the Kentucky Emergency Medical Services Council established by KRS 211.952 [and appointed by the secretary of the cabinet to act in an advisory capacity].

(7) "Course completion date" means the date of the last classroom session and completion of the field/clinical rotation of an EMT training course.

(8) "Employee" means a person who is employed full time, part time, paid or volunteer.

(9) "EMS educational institution" means a public or private organization approved by the cabinet to conduct, supervise and coordinate an EMT training course for initial certification.

(10) "EMS testing agency" means a public or private organization approved by the cabinet to administer a Kentucky EMT certification examination.

(11) "Emergency medical technician" (EMT) means the following levels of EMT certification:

(a) EMT-basic;

(b) EMT-basic instructor;

(c) EMT-instructor trainer;

(d) EMT-first responder;

(e) EMT-first responder instructor; and

(f) EMT-paramedic

(12) "EMT-basic" (EMT-B) ["Emergency medical technician-first responder (EMT-first responder)"] means an individual certified by the cabinet to perform a portion of the patient care skills of certified EMTs in order to stabilize a patient's condition until an EMT or other higher level of certified or licensed emergency medical services (EMS) personnel arrives.

(8) "Emergency medical technician-first responder-instructor" means a person, other than an emergency medical technician-instructor or emergency medical technician-instructor-trainer, who is qualified to teach EMT-first responder courses and who is approved by the cabinet to teach EMT-first responder courses.

(9) "Emergency medical technician (EMT)" means an individual certified by the cabinet as an EMT-B [emergency medical technician] who is trained to provide immediate emergency medical care and intervention to stabilize a patient's condition at the scene of an emergency and en route to definitive medical care.

(13) "EMT-B graduate" means an EMT-B student who has completed a Kentucky approved EMT-B course of training and testing, but who may not have yet:

(a) Completed the clinical/field rotation that meets or exceeds the requirements in the current Department of Transportation (DOT) EMT-B National Standard Curriculum (NSC) and 902 KAR 13:170, Section 2; and

(b) Successfully passed the Kentucky EMT-B practical skills and written certification examinations.

(14) "EMT-B instructor" [(14) "Emergency medical technician instructor"] means a person certified by the cabinet to teach EMT-B [emergency medical technician] and EMT-first responder courses.

(15) "EMT-B instructor candidate" [(11) "Emergency medical technician-instructor-candidate"] means a certified EMT-B who has completed his initial training as an EMT-B instructor and is performing a student teaching internship [emergency medical technician-undergoing-approved-instruction] and evaluation for eligibility to become certified as an EMT-B [emergency medical technician] instructor while under the supervision of a certified EMT-B [emergency medical technician] instructor.

(16) "EMT-first responder" (EMT-FR) means an individual certified by the cabinet to perform the patient care skills consistent with the authorized procedures described in 902 KAR 13:110, Section 13, in order to stabilize a patient's condition until an EMT-B or other higher level of certified or licensed emergency medical services (EMS) personnel arrives.

(17) "EMT-first responder instructor" (EMT-FR instructor) means a person, other than an EMT-B instructor who is approved by the cabinet to teach an EMT-first responder course.

(18) "EMT instructor trainer" (EMT-IT) [(12) "Emergency medical technician-instructor-trainer"] means a [person] certified EMT-B instructor appointed by the cabinet to teach EMT-B [emergency medical technician] instructor courses and evaluate EMT-B instructor candidates [emergency medical technician-instructor-candidates].

(19) "EMT-paramedic (EMT-P)" means an individual certified by the Kentucky Board of Medical Licensure who is trained to provide immediate emergency medical care and intervention, consistent with authorized procedures described in 902 KAR 9:161, in order to stabilize a patient's condition at the scene of an emergency and en route to definitive medical care.

(20) "Interfacility" means a situation in which a licensed ambulance is utilized to transport a person from a licensed health care facility or a physician's office to another licensed health care facility.

(21) "Lead instructor" means an instructor appointed by a program coordinator to assume primary responsibility for teaching and overseeing an EMT course.

(22) "Medical director" means a physician licensed by the Kentucky Board of Medical Licensure (KBML) or the authorized agency of a contiguous state.

(23) [(13) "Emergency situation"] means an unforeseen circumstance or combination of circumstances, regardless of place of occurrence, requiring immediate and continuing medical response and intervention to safeguard the life, or physical well-being of a patient.

(14) "Implementing agency" means a public or private organization, other than an instructor, instructor trainee, or instructor candidate, approved by the cabinet to conduct, supervise, coordinate, and operate an emergency medical technician or EMT-first responder training course.

(15) "The National Registry of Emergency Medical Technicians" (NREMT) means the national professional organization that specializes in practical skills and written examination materials used in evaluation of prehospital personnel [and practical skills testing of EMTs]. Their service may be utilized for implementing the EMT-B, EMT-FR, and EMT-paramedic practical skills and written examinations in the EMS personnel certification or licensing [certification-written and practical-examination] process for participating states. The individual prehospital personnel who meet the NREMT minimum examination requirements are eligible for NREMT registration.

(24) "NREMT-B" means an EMT-basic established in subsections (11)(a) and (12) of this section who has met the requirements for NREMT registration established in subsection (23) of this section.

(25) "NREMT-FR" means an EMT-first responder established in subsections (11)(d) and (16) of this section who has met the requirements for NREMT registration established in subsection (23) of this section.

(26) "NREMT-P" means an EMT-paramedic established in subsections (11)(f) and (19) of this section who has met the requirements for NREMT registration established in subsection (23) of this section.

(27) "Pilot program" means a program approved by the cabinet to permit an EMS educational institution, Class I ambulance service or Class III ambulance service to educate, train and authorize selected EMT students or employees to utilize a specialized procedure, for a specified time period, that has not been previously approved by administrative regulation.

(28) "Preestablished I.V." means an intravenous solution that has been established on a person prior to the arrival at the scene or incident to which an EMT-B is responding.

(29) "Transition course" means a training program, approved by the cabinet, to prepare an EMT-B or EMT-FR who was not initially trained under the guidelines of the United States (US) Department of Transportation (DOT) National Standard Curricula (NSC)-1994 for an EMT-B or the US DOT NSC-1995 for an EMT-FR to update him to additional scope of practices that meet the 1994 EMT-B or 1995 EMT-FR DOT NSC and the additional Kentucky practice requirements pursuant to 902 KAR 13:170 and 902 KAR 13:110.

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

#### REGULATORY IMPACT ANALYSIS

Agency Contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 15,500 emergency medical technicians (EMTs), EMT-instructors, and EMT-first responders; EMS educational institutions, and EMS testing agencies.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. This administrative regulation will have no effect on the cost of living and employment in this state.

(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. This administrative regulation will have no effect on the cost of doing business in any geographical area of this state.

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

1. First year following implementation: None

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(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: 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: It is not anticipated that this administrative regulation will

have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were rejected because this administrative regulation complies with the requirements of KRS Chapter 13A.

(8) Assessment of expected benefits: This administrative regulation will provide definitions for 902 KAR Chapter 13.

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

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

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Yes. Tiering was applied because this administrative regulation provides definitions for levels of EMT certification.

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

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

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS 194A.030, 211.964[; EO-96-862]

NECESSITY, FUNCTION, AND CONFORMITY: [EO-96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services;] KRS 211.964 requires the Cabinet for Health Services to promulgate administrative regulations relating to emergency medical technicians (EMTs). The function of this administrative regulation is to establish requirements for [training;] examination, certification and recertification of the basic level of emergency medical technicians.

Section 1. Applicant requirements for emergency medical technician-basic (EMT-B) certification. An applicant shall be eligible for initial Kentucky EMT-B certification if he:

(1) Completes the United States (U.S.) Department of Transportation (DOT), National Highway Traffic Administration, 1994 National Standard Curriculum (NSC), Emergency Medical Technician-Basic and the course requirements established in 902 KAR 13:170;

(2) Is at least eighteen (18) years of age before admission to the Kentucky EMT-B examinations;

(3) Successfully passes the Kentucky practical and written certification examination;

(4) Obtains National Registry of Emergency Medical Technicians (NREMT) registration;

(5) Becomes Kentucky-certified within two (2) years after the EMT-B course completion date;

(6) Understands, reads, speaks, and writes the English language at a minimum of a Level 4 (9th to 12th grade of education comprehension and performance). The EMS Branch or an EMS educational institution may require testing to verify this requirement;

(7) Submits a signed "Application for Emergency Medical Technician Certification-Basic", for candidates having started an EMT-B course or the certification process prior to the effective date of this administrative regulation;

(8) Holds a high school diploma or equivalent;

(9) Pays the fee as required by 902 KAR 13:030; and

(10) Is not subject to disciplinary action pursuant to 902 KAR 13:090. [EMT Training Course Requirements: (1) The EMT training course shall follow the United States Department of Transportation (DOT) 1984 Emergency Medical Technician: National Standard Curriculum (NSC) (Third Edition);

(2) An EMT training course shall follow the DOT, National Highway Traffic Administration, 1994 NSC, EMT-Basic;

(3) Prior to the effective date of this administrative regulation, an implementing agency may:

(a) Apply to the cabinet, utilizing the "Emergency Medical Technician-Basic Course Inventory Pilot Program" form 10/95, to make application to be approved to conduct a pilot program utilizing the 1994 NSC, EMT-Basic; or

(b) Be considered to begin teaching the 1994 curriculum if:

1. The implementing agency is ready to teach the 1994 curriculum;

2. An application is submitted in writing to the cabinet;

3. The required materials are in place for the cabinet to process the application; and

4. The cabinet approves and assigns a course approval number;

(4) An implementing agency shall assume all responsibilities for conducting a 1994 EMT-Basic training course;

(5) Prior to commencing the course, the implementing agency shall substantiate that:

(a) An "Emergency Medical Technician-Basic Course Application" (EMS Branch-5/96) form has been submitted to the cabinet; and

(b) A course number has been assigned by the cabinet;

(6) During the time the course is being conducted, the implementing agency shall substantiate that:

(a) The course is at least 119 hours in duration;

(b) Lessons are taught by a lead instructor, who as a minimum is an EMT-instructor certified by the cabinet, and at least one (1) assistant to the lead instructor who shall minimally be a Kentucky-certified EMT who meets the criteria of the lead instructor and the implementing agency or who is a Kentucky-certified EMT-instructor;

(c) In the absence of the lead instructor, lessons shall not be conducted without the presence of an EMT-instructor certified by the cabinet;

(d) The course is limited to twenty-eight (28) students; and

(e) The course utilizes texts as chosen by the lead instructor and approved by the implementing agency;

(7) Approved texts shall be:

(a) Currently in publication;

(b) The most current edition available at the time the course begins which meets the appropriate 1984 or 1994 NSC;

(c) Maintained on file in the office of the implementing agency and at the course location; and

(d) Available upon request for public inspection during normal office hours or during course hours;

(8) The training course shall utilize equipment, audiovisuals and other materials approved by the cabinet;

(9) The training course shall have all required equipment available at the training site for the scheduled lessons and not permit sharing of equipment between courses unless the equipment is equally available to all course lessons as needed; and

(10) The training course shall not permit a student to be on-call while course lessons are in session;]

Section 2. EMT-B Certification Examination. (1) The cabinet shall prescribe a practical skills and written EMT-B certification examination that shall utilize the practical and written testing requirements of:

(a) The 1994 National Registry of EMT-B Practical Examination Users Guide; and

(b) The 1994 National Registry for Emergency Medical Technicians (NREMT) EMT-B Examination Coordinators Manual.

(2) An EMS Testing Agency that has been approved pursuant to 902 KAR 13:160 may administer the EMT-B certification examination. [Responsibilities of the Lead Instructor: (1) The EMT-course lead instructor shall:

(a) Require each student to sign in, on the same date as the lesson to be presented, on an attendance sheet approved by the cabinet;

(b) Submit to the cabinet, at least two (2) weeks prior to the starting date of the class;

1. A syllabus for the course showing course lesson dates and the materials to be covered; and

2. A "Basic Course Inventory" form (12/93) verifying that all equipment, texts, audiovisuals, and other materials specified are on hand, in proper working order and available as specified in Section 1(9) of this administrative regulation;

(c) Submit to the cabinet, within two (2) weeks following the completion of each course:

1. The master "Grade Sheet", (1/96);

2. "Answer Sheets", (9/94) for each of the four (4) certification written examinations;

3. "Score Sheets for the Certification Practical Examination" for each student who completed the class;

4. "Master Attendance Sheet", (3/95);

5. "Attendance Sheet", (1/96), or cabinet approved equivalent for each lesson;

6. "Application for Emergency Medical Technician", (2/96) for each eligible student desiring EMT certification; and

7. The fee prescribed by 902 KAR 13:030, Section 1(1) for each student desiring EMT certification.

(2) The EMT course lead instructor shall:

(a) Establish, with the approval of the implementing agency, the course standards for training and examinations, including development and procurement of examination materials, and course absenteeism;

(b) Require that remediation or makeup of missed eligible lessons be completed within the course in which the EMT is enrolled;]

Section 3. Expiration of Certification. (1) Unless it is renewed, the initial certification period of an EMT shall expire three (3) months after the expiration of his initial NREMT registration.

(2) Upon expiration of certification, an EMT-B shall not practice as an EMT-B or perform an authorized procedure for a certified EMT-B described in 902 KAR 13:080, other than a procedure for which the individual can show proof as authorized by statute or other Kentucky administrative regulations, until the cabinet has:

(a) Received and reviewed his application for completeness and compliance with this administrative regulation;

(b) Processed the application; and

(c) Issued a new certificate to the applicant or provided other written verification of the certification of the applicant.

(3) If the certification of an EMT-B expires, before he may again be eligible for certification, within two (2) years from the certification expiration date he shall:

(a) If not registered as a National Registry of Emergency Medical Technicians (NREMT) Basic, complete the eligibility requirements for NREMT Basic registration and submit to the cabinet:

1. Written evidence of completion of current training in cardiopulmonary resuscitation (CPR) as referenced in Section 4(1)(a) of this administrative regulation;

2. Written evidence of completion of current HIV/AIDS training as required by KRS 214.610;

3. The applicable fee as required in 902 KAR 13:030;

4. A signed "Application for Emergency Medical Technician Basic Initial Certification"; and

5. Is not subject to disciplinary action pursuant to 902 KAR 13:090; or

(b) If registered with the National Registry of Emergency Medical Technicians (NREMT) as a NREMT basic shall submit to the cabinet:

1. Written evidence of current NREMT-B registration; and

2. Meet other requirements as established in subsection (3)(a) of this section; or

(c) Retake an entire EMT-B course and pass the EMT-B practical skills and written certification examination, while additionally meeting the requirements established in subsection (3)(a) of this section. [EMT Certification Examination. (1) The cabinet shall prescribe the format and content of the EMT certification examination which shall consist of two (2) parts:

(a) Written:

1. The Kentucky certification written examination for eligible applicants trained according to the 1984 NSC EMT-Basic shall consist of four (4) separate examinations, the fourth to be inclusive of the entire course:

2. An absolute overall passing grade of not less than eighty (80) percent shall be required for successful completion of the written portion of the certification examination:

3. The Kentucky certification examination for eligible applicants trained according to the 1994 NSC EMT-Basic shall follow the format described in subsection (3)(a) of this section:

(b) Practical:

1. The applicant shall pass all required stations of the Kentucky certification practical examination. The practical examination shall be divided into stations in which one (1) or more skills are tested. Certain stations shall be designated as mandatory. Other stations shall be designated as wild card stations in which more than one (1) skill may be tested. The student shall randomly choose the skills from the wild card station on the date of the examination:

2. If an applicant fails to pass all required stations, he shall be permitted, within one (1) year from the date of the first testing, one (1) opportunity to retake and complete the required stations which he failed to pass:

3. If the applicant fails again to pass the required stations, he shall be required to retake the entire Kentucky EMT training course before being eligible for reexamination:

(2) An instructor who is employed by the same ambulance service, public service or industrial organization for whom an EMT course is conducted shall not evaluate in the practical examination of the students from that course:

(3) The format for the EMT two (2) part examination for Kentucky initial certification for an eligible applicant who has successfully completed a 1994 NSC EMT-Basic course shall be as follows:

(a) Written:

1. The written portion of the certification examination shall be a single examination that is comprehensive and compatible with the 1994 NSC EMT-Basic, utilizing the National Registry of EMTs (NREMT) (1/96) written examination:

2. In order to be eligible for Kentucky certification, a student who has successfully completed a Kentucky 1994 NSC EMT-Basic course and is recommended as eligible to take the NREMT written examination shall obtain an absolute score according to the following schedule:

a. Prior to the effective date of this administrative regulation, for an EMT-Basic Pilot Program, sixty-five (65) percent;

b. After the effective date of this administrative regulation, sixty-six (66) percent; and

c. Effective July 1, 1997, seventy (70) percent or whatever is equivalent to the current score required for passing the National Registry of EMTs written examination:

3. Standards and eligibility for retesting of the written examination shall be consistent with the rules and regulations of the NREMT:

(b) Practical:

1. The Kentucky practical skills portion of the initial certification examination shall be compatible with the 1994 NSC EMT-Basic, utilizing the 1994 NREMT EMT-Basic Practical Examination Users Guide for the practical examination:

2. An eligible student who passes the practical examination according to the NREMT guidelines and passes the written examination referenced in paragraph (a)2 of this subsection shall be eligible for Kentucky EMT certification:

3. Standards and eligibility for retesting of the practical skills examination shall be consistent with the rules and regulations of the NREMT:

(4) An EMT student, who does not become Kentucky-certified within two (2) years after completion of the EMT course, shall repeat the EMT course before he may become Kentucky-certified;]

Section 4. Recertification and Continuing Education Requirements. (1) A Kentucky-certified EMT-B who was initially certified prior to July 15, 1997, has renewed his certification prior to July 15, 2000 and has chosen not to meet the requirements of and obtain NREMT-B registration, may continue in his current certification period according to previous regulatory requirements and may be eligible to renew his certification if he:

(a) Submits to the cabinet:

1. A signed "Application for Emergency Medical Technician Basic Certification Renewal";

2. Written evidence of completion of current training in cardiopulmonary resuscitation (CPR) that shall:

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a. Meet the educational objectives of the American Heart Association;

b. Be taught by a person authorized by the educational program that meets the educational objectives of the American Heart Association (AHA) who shall be:

(i) An instructor who meets AHA equivalent instructor criteria and teaches CPR according to the educational objectives of the American Heart Association; or

(ii) A Cabinet for Health Services EMT-B instructor; and

c. Provide instruction and testing in:

(i) One (1) rescuer cardiopulmonary resuscitation;

(ii) Two (2) rescuer cardiopulmonary resuscitation;

(iii) Techniques of changing from one (1) rescuer to two (2) rescuers during the performance of cardiopulmonary resuscitation;

(iv) Techniques of changing rescuers during the performance of two (2) rescuer cardiopulmonary resuscitation;

(v) Techniques for relief of obstruction of the airway;

(vi) Cardiopulmonary resuscitation of infants and small children;

(vii) Barrier to mouth, barrier to nose, or barrier to stoma resuscitation for adults, small children, and infants;

(viii) Use of oral and nasal airways;

(ix) Use of bag-valve-mask or other ventilatory devices; and

(x) Use of supplemental oxygen.

3. The required fee established in 902 KAR 13:030, Section 1(4)(d); and

4. A record of his continuing education, as required in subsection (b) of this paragraph, on a "Kentucky Cabinet for Health Services EMT Basic Minimum Continuing Education Requirements, Total Contact Hours", incorporated by reference in this administrative regulation, or other form approved by the cabinet that shall be:

a. Signed by the EMT-B and the instructor; and

b. Contain a statement certifying to the truth of the information supplied;

(b) Completes, prior to the expiration date of his current certification period, at least twenty-four (24) hours of continuing education that shall:

1. Contain no less than twelve (12) hours in practical skills, conducted in a structured classroom setting. A minimum of two (2) of the contact hours shall be in Acquired Immune Deficiency Syndrome (AIDS) education required by KRS 214.610;

2. Be limited to the subjects covered in the EMT-B training course as required in 902 KAR 13:170, Section 3;

3. Be taught by a person who holds certification or licensing as one (1) of the following:

a. A Kentucky-certified EMT-B instructor;

b. Kentucky-certified paramedic;

c. A registered nurse licensed pursuant to KRS Chapter 314;

d. A physician licensed pursuant to KRS Chapter 311;

e. An instructor, certified by a state or federal agency to teach a subject that qualifies for EMT-B in-service training or continuing education; or

f. A physician, registered nurse, paramedic, or EMT-B instructor licensed or certified in another state;

4. Not be subject to disciplinary action pursuant to 902 KAR 13:090; and

5. Upon commencing his next two (2) year certification period shall be required to meet the requirements referenced in subsection (2) of this section before being eligible to apply for his next EMT-B certification renewal.

(2) Following July 15, 2000, a Kentucky-certified EMT-B who submits an application for recertification and who has not chosen to meet the requirements of and obtain NREMT-B registration shall be eligible to renew his certification if he:

(a) Submits to the cabinet evidence of successful completion of the "EMT Basic Minimum Continuing Education Requirement" that includes:

1. Twenty-four (24) structured contact hours, of which sixteen (16) hours shall be within mandatory topic areas and eight (8) hours may be electives, of continuing education that meet the equivalency of the Department of Transportation (DOT) EMT-B refresher course as established in the EMT-Basic Recertification Report form incorporated by reference. The EMT-B refresher course shall include the following minimum contact hours and topics:

a. One (1) in preparatory;

b. Two (2) in airway management;

c. Three (3) in patient assessment;

d. Four (4) in medical/behavioral emergencies;

e. Four (4) in trauma;

f. Two (2) in obstetrics/gynecology, infants and children;

g. Eight (8) in general electives; and

2. A minimum of two (2) contact hours shall be in AIDS education required by KRS 214.610 and which shall be taught by a person who meets the requirements of subsection (1)(b)3 of this section (the two (2) hours in AIDS education may be obtained within the general elective contact hours referenced in subparagraph 1g of this paragraph);

(b) Submits to the cabinet evidence of validation of skills maintenance by completing the form, EMT Basic Recertification Report (EMS Branch-7/99);

(c) Meets the requirements of subsection (1)(a) of this section; and

Is not subject to disciplinary action pursuant to 902 KAR 13:090.

(3) A Kentucky-certified EMT-B who has chosen to meet the requirements of and obtains NREMT-B registration shall be eligible to renew his certification if he:

(a) Is not subject to disciplinary action pursuant to 902 KAR 13:090; and

(b) Submits to the cabinet:

1. A signed "Application for Emergency Medical Technician-Basic Certification Renewal";

2. Validation that he is a currently registered NREMT-B;

3. Evidence of completion of the AIDS education required by KRS 214.610; and

4. The required fee established in 902 KAR 13:030 Section 1(4)(d).

(4) An application for renewal of certification shall not be considered for renewal if:

(a) The application is postmarked to the cabinet more than thirty (30) days after the certification expiration date of the applicant; or

(b) Prior to his certification expiration date, the EMT-B applicant has not met the applicable requirements of subsections (1), (2) or (3) of this section.

(5) Upon written application to the cabinet, an EMT-B who is a member of a National Guard or a military reserve unit and is called to active duty by presidential order pursuant to 10 USC 121 and 673b may be given an extension for a period up to one (1) year after his release from active duty or return to the United States, whichever occurs first, to meet the applicable requirements for recertification listed in subsections (1), (2) and (3) of this section. [Expiration of Certification: (1) An EMT certificate shall expire two (2) years from the date of issuance;

(2) Upon expiration of certification, an EMT shall not perform any of the authorized procedures for certified EMTs described in 902 KAR 13:080, until he has met the conditions described in Section 9 of this administrative regulation and has been recertified by the cabinet as evidenced by having been issued a new certificate by the cabinet.]

Section 5. Reciprocity. A person shall be eligible for direct reciprocity for initial Kentucky certification as an EMT-B if he:

(1) Submits a signed "Application for Emergency Medical Technician Basic Initial Certification";

(2) Provides documentation that he currently meets the requirements of and has obtained NREMT-Basic registration;

(3) Provides documentation that he has completed the AIDS education required by KRS 214.610;

(4) Has paid fees as required in 902 KAR 13:030; and

(5) Is not subject to disciplinary action pursuant to 902 KAR 13:090. [Recertification and Continuing Education Requirements. (1) During his period of certification, an EMT shall attain at least twenty-four (24) continuing education hours, with no less than twelve (12) hours being practical skills in a structured instructional setting. A minimum of two (2) of the twenty-four (24) contact hours shall be in Acquired Immune Deficiency Syndrome (AIDS) education as required by KRS 214.610;

(2) An EMT shall:

(a) Maintain evidence in the form of a certificate of completion of current training in cardiopulmonary resuscitation (CPR) as required by:

1. The American Heart Association; or



2. The American National Red Cross; or  
3. The National Safety Council; and  
(b) Submit evidence of continuing education and a current certificate of completion in CPR training to the cabinet prior to the expiration of his EMT certification:

(3) An applicant for EMT recertification shall receive credit for completion of continuing education on a subject:

(a) Covered by the United States Department of Transportation basic emergency medical technician curriculum, outlined in Section 1 of this administrative regulation; or

(b) For which instruction is:

1. Preapproved; and

2. Authorized by the cabinet.

(4) Each subject or training course claimed shall be countersigned by the instructor of the subject or course:

(5) Training received as a requirement for continuing education as a physician, registered nurse, paramedic, or as an EMT in a coal mining situation required by KRS 351.127 shall be eligible for continuing education credit if it meets the criteria of subsection (3) of this section:

(6) The applicant for recertification shall submit evidence of successful completion of instruction in at least six (6) different subject areas, with a maximum of four (4) hours per subject area, of emergency medical technician course lecture subject matter or practice of skills:

(7) Hours earned in a transition course, as described in Section 12(1) of this administrative regulation, may be applied toward renewal of certification for an EMT who either:

(a) Attends the entire minimum twenty-five (25) hour transition course, but does not successfully pass the accompanying practical skills examination. These hours may be utilized hour-for-hour toward the required twenty-four (24) continuing education hours described in subsection (1) of this section, except that these hours shall not apply toward the required two (2) hours of cabinet approved AIDS education. Additionally, these hours shall not apply as credit for update training to the 1994 NSC referenced in Section 12(1) of this administrative regulation; or

(b) Attends the entire minimum twenty-five (25) hour transition course and successfully passes the accompanying practical skills examination. The EMT may utilize the hours earned in the transition course as described in paragraph (a) of this subsection, and may additionally receive credit for the required update training to the 1994 NSC; or

(c) Attends the minimally required first two (2) modules, "Introduction" and "Patient Assessment", of the minimum twenty-five (25) hour transition course, successfully completes the eleven (11) psychomotor competency objectives, and successfully passes the accompanying practical skills examination. The EMT may:

1. Apply the hours hour-for-hour for the first two (2) modules, and any additional modules attended when the total hours attended are less than twenty-five (25) hours; and

2. Receive credit for update training referenced in paragraph (b) of this subsection:

(8) An EMT shall be issued a certificate of completion, signed by the lead instructor, which specifies the hours earned as outlined in subsection (7)(a), (b), or (c) of this section:

(9) An EMT shall submit to the cabinet:

(a) A signed "Application for Emergency Medical Technician and EMT-Instructor Certification Renewal"; and

(b) A signed record of his continuing education on an "EMT-Official Record of Continuing Education/In-service" (EMT/R-90) form which:

1. Has been signed by the EMT;

2. Contains a certification as to the truth of the information supplied; and

3. Includes a statement that misrepresentation of the information may be cause for suspension or loss of certification:

(10) The following shall not be eligible for credit as continuing education:

(a) Ambulance runs, rescues, firefighting, emergency responses, or similar actual emergency activities;

(b) Instruction in material, techniques, or procedures not authorized to be performed by emergency medical technicians:

(11) Upon the effective date of this administrative regulation, an EMT applicant for Kentucky certification renewal shall be deemed as meeting the Kentucky certification requirements addressed in subsections (1) and (6) of this section if he:

(a) Is able to validate that he has currently met the renewal requirements for the NREMT;

(b) Meets the Acquired Immune Deficiency Syndrome (AIDS) education required by KRS 214.610 and subsection (1) of this section; and

(c) Meets the requirements outlined in Section 12 of this administrative regulation.]

Section 6. Exemptions from EMT-B Administrative Regulations. The Kentucky certification requirements for an EMT-B shall not apply to:

(1) United States military personnel or employees of the United States government while engaged in the performance of their official duties under federal laws; or

(2) An EMT-B certified in another state who comes into Kentucky to:

(a) Transport a patient into or through the state; or

(b) Return a patient to his out-of-state residence. [EMT Instructors for Continuing Education. (1) The following persons shall be qualified to conduct continuing education courses for emergency medical technicians:

(a) A physician licensed pursuant to KRS Chapter 311;

(b) A registered nurse licensed pursuant to KRS Chapter 314;

(c) A paramedic certified by the State Board of Medical Licensure;

(d) An emergency medical technician instructor or instructor trainer certified by the cabinet;

(e) An instructor who:

1. Is certified by a state or federal agency to teach a subject; and

2. Teaches a course which qualifies for emergency medical technician in-service training or continuing education; or

(f) Other presenters who are preapproved by the cabinet as persons who are uniquely qualified by experience or education:

(2) As applicable, a physician, registered nurse, paramedic or emergency medical technician instructor currently licensed or certified by another state of the United States of America shall be considered as meeting the requirements of subsection (1)(a) through (e) of this section.]

Section 7. Kentucky EMT-B Transition Course. (1) The EMT-B update training to the 1994 NSC, the United States Department of Transportation, National Highway Traffic Safety Administration, "1994 EMT-Basic Transitional Program", incorporated by reference in this administrative regulation, shall be referred to as the transition course (TC).

(2) An EMT-B currently certified in Kentucky who completed his EMT-B training based on a version of the 1984 or earlier NSC shall have successfully completed the TC before July 1, 1999.

(3) A person who obtained Kentucky EMT-B initial certification prior to July 15, 1996, who did not successfully complete the Kentucky EMT-B Transition Course nor completed a Kentucky Pilot Program EMT-B Course based on the 1994 version of the DOT National Highway Traffic Administration EMT-Basic: National Standard Curriculum (NSC) incorporated by reference in this administrative regulation, and whose certification expiration date occurs effective June 30, 1999 or thereafter, shall not be eligible for KY EMT-B certification renewal. A Kentucky-certified EMT-B shall be exempt from the Kentucky TC if he is a:

(a) Kentucky-certified EMT-B who completed his EMT-B training and Kentucky certification in accordance with the requirements of the 1994 version of the DOT EMT-Basic: NSC;

(b) Candidate for Kentucky EMT-B certification who holds out-of-state certification and provides evidence, prior to July 1, 1999, that he has completed training equivalent to the EMT-B TC in another state; or

(c) Kentucky-certified EMT-B who is a licensed physician board-certified in emergency medicine by the American Association of Emergency Physicians.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The United States Department of Transportation, National Highway Traffic Administration, "1994 National Standard Curriculum, Emergency Medical Technician-Basic" (1994 Edition);



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(b) The "1994 EMT-Basic Transitional Program";

(c) The "Application for Emergency Medical Technician-Basic Initial Certification", (8/99);

(d) The "1994 National Registry EMT-Basic", Examination Coordinator Manual, published by the NREMT, PO Box 29233, Columbus, Ohio 43229;

(e) The "1994 National Registry of EMT-Basic Practical Examination Users Guide", published by the NREMT, PO Box 29233, Columbus, Ohio 43229;

(f) The "Kentucky Cabinet for Health Services EMT-Basic Minimum Continuing Education Requirements, Total Contact Hours", (7/99);

(g) The "Application for Emergency Medical Technician Recertification Application" (7/99); and

(h) The "Emergency Medical Technician-Basic Recertification Application with NREMT Registration" (7/99).

(2) This material may be inspected, obtained, or copied, unless prohibited by copyright, at the Department for Public Health, Division of Adult and Child Health, EMS Branch, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday 8 a.m. to 4:30 p.m. [Cardiopulmonary Resuscitation Requirement: (1) During the two (2) year certification period, the EMT shall maintain current training in cardiopulmonary resuscitation and related techniques as follows:

(a) The course shall be conducted by, or under the authority of:

1. The American Heart Association;

2. The American National Red Cross; or

3. The National Safety Council; or

4. By an instructor certified by the American Heart Association or the American National Red Cross; or

5. By an instructor certified by the National Safety Council;

(b) The course shall be:

1. Taught for record; and

2. Certified by the instructor as meeting all applicable standards of the organization to:

a. The American Heart Association; or

b. The American National Red Cross; or

c. The National Safety Council.

(c) The course shall provide instruction and testing in:

1. One (1) rescuer cardiopulmonary resuscitation;

2. Two (2) rescuer cardiopulmonary resuscitation;

3. Techniques of changing from one (1) rescuer to two (2) rescuers during the performance of cardiopulmonary resuscitation;

4. Techniques of changing rescuers during the performance of two (2) rescuer cardiopulmonary resuscitation;

5. Techniques for relief of obstruction of the airway;

6. Cardiopulmonary resuscitation of infants and small children; and

7. Barrier to mouth, barrier to nose or barrier to stoma resuscitation for adults, small children, and infants.

(d) The course shall provide for individual skill testing of all adult and infant related skills in subsection (1)(c) of this section.

(2) The applicant for renewal of certification shall forward to the cabinet a copy of both sides of the certificate of completion issued to him indicating successful completion of the GPR course as required in Section 5(2)(b) of this administrative regulation.

Section 8. Continuing Education Requirements for Emergency Medical Technician Instructors and Instructor Trainers. (1) An EMT instructor and an EMT instructor trainer shall attain twenty-four (24) continuing education hours during his certification period.

(2) An emergency medical technician instructor or instructor trainer may meet the continuing education requirements for recertification by:

(a) Conducting an emergency medical technician course;

(b) Teaching one (1) or more lessons of an emergency medical technician course;

(c) Teaching one (1) or more lessons of an in-service training or continuing education course;

(d) Evaluating an EMT certification practical examination; or

(e) Conducting an EMT instructor training course.

(3) During his two (2) year certification period an emergency medical technician instructor or instructor trainer shall attend:

(a) At least one (1) annual emergency medical technician instructor conference; or

(b) At least one (1) annual training session for newly appointed instructors.

(4) Continuing education hours obtained at these conferences may be used as credit toward the time required in subsection (2) of this section.

(5) An emergency medical technician instructor or instructor trainer shall meet the GPR requirement in one (1) of the following ways:

(a) Meet the cardiopulmonary resuscitation requirement outlined in Section 7(1) of this administrative regulation;

(b) Teach a cardiopulmonary resuscitation course for record; or

(c) Teach the cardiopulmonary resuscitation portion of the emergency medical technician course to emergency medical technician students.

Section 9. Certification Renewal. (1) All requirements of certification renewal, including continuing education hours, shall be obtained prior to the certification expiration date.

(2) Effective January 1, 1997, if all requirements were met prior to the certification expiration date of the applicant, a recertification application postmarked to the cabinet or received by the cabinet within three (3) months after the certification expiration date of the applicant may be considered for renewal.

(3) Effective January 1, 1997, an application for recertification postmarked to the cabinet or received by the cabinet more than three (3) months after the certification expiration date of the applicant shall not be considered for renewal and shall be returned to the applicant.

(4) Upon written application to the cabinet, an EMT or EMT instructor who is a member of a National Guard or military reserve unit and who is called to active duty by presidential order under sections 121 and 673b of Title 10 U.S. Code, may be given an extension for a period up to one (1) year after the individual's release from active duty or return to the United States, whichever occurs first.

(5) An EMT who has not renewed his EMT certification within the time limitations specified in subsection (1) or (2) of this section may be eligible for certification by:

(a) Successfully completing the reentry challenge examination as outlined in Section 10 of this administrative regulation; or

(b) By retaking and successfully completing the entire EMT training course.

Section 10. Challenge Examination Procedure. (1) For those persons specified in subsection (3) of this section, a challenge examination may be taken in order to qualify or requalify the person as an EMT. This challenge examination shall be in lieu of the requirement for completion of the Kentucky EMT course and the passing of the Kentucky EMT examinations. The provisions of this section shall not prohibit a person listed in subsection (3) of this section from taking and successfully completing the Kentucky EMT course and the Kentucky EMT examinations.

(2) The cabinet shall prescribe the format and content of the EMT challenge certification examination which shall consist of two (2) parts:

(a) Written:

1. The Kentucky challenge written certification examination shall consist of one (1) examination inclusive of the entire EMT-Basic course curriculum content.

2. An absolute overall passing grade of not less than eighty (80) percent, shall be required for successful completion of the written portion of the challenge certification examination. The challenge candidate shall successfully complete the written certification examination before being eligible to take the certification practical examination.

3. If an applicant fails to pass the written examination, the applicant may be allowed one (1) retest, which shall be completed within thirty (30) days from the completion of the first testing.

4. The initial EMT certification written examination for a challenge candidate shall utilize the NREMT written examination as referenced in Section 3(3)(a) of this administrative regulation.

(b) Practical:

1. The applicant shall pass all required stations of the Kentucky challenge practical certification examination. The practical examination shall be divided into stations in which one (1) or more skills are tested. Certain stations shall be designated as mandatory. Other stations shall be designated as wild card stations in which more than one (1) skill may be tested. The student shall randomly choose the skills from

the wild card station on the date of the examination:

2. If an applicant fails to pass all required stations, he shall be permitted, within one (1) year from the date of the first testing, one (1) opportunity to retake and complete the required stations which he failed to pass:

3. If the applicant fails again to pass the required stations, he shall be required to retake the entire Kentucky EMT training course before being eligible for reexamination:

4. The initial EMT certification challenge practical skills examination shall utilize the NREMT skills examination as referenced in Section 3(3)(b) of this administrative regulation:

(3) The following shall be eligible to take the Kentucky Challenge Examination:

(a) U.S. military personnel on active duty, or within a period of one (1) year from the date of discharge, who submit:

1. Proof of having successfully completed training equivalent to the Department of Transportation EMT curriculum outlined in Section 4 of this administrative regulation; and

2. Proof of current CPR certification:

(b) An EMT certified or licensed in another state or country, who submits proof of current EMT certification, or foreign equivalent, and CPR certification. An out-of-state or foreign license or certification shall be maintained current until the date of the first attempt to pass the practical skills examination:

(c) An EMT whose Kentucky certification has not been expired for more than five (5) years and who was in good standing when his certification expired:

(d) A challenge applicant, who does not become Kentucky-certified within two (2) years from the date the cabinet receives his application to challenge, shall repeat the EMT course before he may become Kentucky-certified:

(e) An applicant shall be exempt from the challenge examination requirements and shall be eligible for direct reciprocity for initial Kentucky certification if he:

1. Meets the eligibility requirements in this subsection;

2. Submits evidence of current NREMT registration; and

3. Meets the requirements of subsection (6)(b) of this section related to AIDS education required by KRS 214.610;

(f) An applicant who is not eligible for the exemption outlined in Section 12(3) of this administrative regulation shall have until July 1, 1999 to complete the requirements of Section 12 of this administrative regulation:

(4) An applicant for the Kentucky Challenge Examination shall submit:

(a) A letter of request to take the examination;

(b) The fee prescribed by 902 KAR 13.030, Section 1(2); and

(c) A completed "Application for Emergency Medical Technician Challenge Only", (1992):

(5) An applicant whose Kentucky emergency medical technician certification has not been expired for more than five (5) years and who was in good standing when his certification expired, shall submit the following additional documentation at the time of application:

(a) Proof of previous Kentucky emergency medical technician certification; and

(b) Proof of current CPR certification which meets the requirements of Section 7(1)(a) and (b) of this administrative regulation; and

(c) Proof of having completed four (4) hours of MAST Trousers training, taught by an instructor who meets the criteria in Section 6 of this administrative regulation; and

(d) Proof of completion of at least twenty-four (24) hours of continuing education taught by an instructor who meets criteria in Section 6 of this administrative regulation:

(6) Continuing education hours shall include:

(a) A minimum of one (1) hour in each of the following areas:

1. Airway management;

2. Diabetic emergencies;

3. Cardiovascular emergencies;

4. Multiple trauma;

5. Overdose and poisoning;

6. EMS-related legal issues; and

7. Patient assessment.

(b) No less than two (2) continuing education hours in Acquired Immune Deficiency Syndrome (AIDS) education equivalent to the requirement specified in Section 5(1)(b) of this administrative regula-

tion:

Section 11. Exemptions from EMT Administrative Regulations. The Kentucky certification requirements for an EMT shall not apply to:

(1) United States military personnel or employees of the United States government while engaged in the performance of their official duties under federal laws; or

(2) An EMT certified in another state who comes into Kentucky:

(a) To transport patients into or through the state; or

(b) For the purpose of returning a patient to his out-of-state residence:

Section 12. Kentucky EMT Transition Course. (1) The EMT update training to the 1994 NSC, the United States Department of Transportation, National Highway Traffic Safety Administration, "1994 EMT-Basic Transitional Program", shall be referred to as the Transition Course (TC):

(2) The TC shall be completed by July 1, 1999 by EMTs currently certified in Kentucky who completed their EMT-Basic training in a course initiated prior to the effective date of this administrative regulation:

(3) If a Kentucky-certified EMT who also holds out-of-state certification can provide evidence that he has completed equivalent training in another state prior to July 1, 1999, he may be exempt from the Kentucky TC in part, or in its entirety based upon the equivalency training he has received:

(4) The TC shall not be required of EMTs currently certified in Kentucky who completed their EMT-Basic training in a Kentucky 1994 NSC EMT-Basic Pilot Program course prior to the effective date of this administrative regulation:

(5) The TC shall be coordinated by a sponsoring agency or organization such as a Kentucky EMT training implementing agency; licensed ambulance service; acute care facility; or other agency or organization approved by the cabinet:

(6) A sponsoring agency shall have filed an application, "For Approval as an Agency to Sponsor 1994 NSC EMT-Basic Transition Courses for Kentucky-certified Emergency Medical Technicians" (10/95) if it has not been already approved:

(7) If an agency has already been approved to sponsor a TC, the agency shall have filed a "Cabinet Approved Agency/Organization Application to Sponsor a 1994 NSC EMT-Basic Transition Course for Kentucky-certified Emergency Medical Technicians", (10/95):

(8) An agency shall:

(a) File an application to sponsor a TC at least two (2) weeks prior to the planned starting date of the course; and

(b) Have received approval from the cabinet for coordinating the training:

(9) An approved sponsoring agency shall assume all responsibilities for conducting the TC:

(10) The TC course shall:

(a) Have, prior to the commencement of the course, a course number assigned by the cabinet;

(b) Be at least twenty-five (25) hours in duration except for the alternatives outlined in Section 5(7)(c) of this administrative regulation. This shall not include time for the course practical examination;

(c) Be limited to twenty-eight (28) certified EMT students;

(d) Utilize texts as outlined in Section 1(7) of this administrative regulation, which are compatible with the 1994 NSC;

(e) Meet cabinet requirements regarding supplies, equipment and other materials, which shall be available when needed during course lessons and as needed for skills practice and examination by the enrolled EMTs;

(f) Not permit an enrolled EMT to be on call while classes are in session;

(g) Not permit an enrolled EMT to take the course practical skills examination if the EMT has not completed the eleven (11) course psychomotor skills and objectives before the scheduled examination;

(h) Have a designated lead instructor for lectures who:

1. Is an EMT instructor certified by the cabinet; and

2. Has completed a Kentucky EMT instructor roll-out training program on the 1994 NSC;

(i) Have a minimum ratio of one (1) faculty, including lead instructor and assistants, to seven (7) enrolled EMTs for skills practice sessions; and

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(j) Have assistants to the lead instructor who shall:

1. Assist the lead instructor in the skills practice sessions of the course; and

2. Assist as an evaluator for the course practical examination.

(11) The assistants to the lead instructor shall meet at least one (1) of the following requirements:

(a) Be an EMT-instructor certified by the cabinet who has completed the requirements outlined in 902 KAR 13:070, Section 4;

(b) Be a physician licensed by the Kentucky Board of Medical Licensure (KBML);

(c) Be a Kentucky-certified paramedic who has successfully completed a TC who:

1. Holds current instructor credentials in either the American Heart Association Advanced Cardiac Life Support or Pediatric Advanced Life Support;

2. Is a level I fire service instructor; or

3. Has earned a bachelor's or higher degree; or

(d) Be a Kentucky-licensed registered nurse who has completed a TC and is a certified emergency nurse or has evidence of three (3) consecutive years experience in an acute medical facility emergency department who:

1. Holds current instructor credentials in either the American Heart Association Advanced Cardiac Life Support or Pediatric Advanced Life Support;

2. Is a level I fire service instructor; or

3. Has earned a bachelor's or higher degree.

(12) The lead instructor shall be required to:

(a) Assist the sponsoring agency in filing an application for cabinet approval to conduct each TC;

(b) Maintain the following records for each enrolled EMT. These records shall remain as property of the sponsoring agency for a period of at least five (5) years or until July 1, 2004, whichever comes first:

1. Lesson attendance;

2. Required remediation;

3. Validation of competency for eleven (11) psychomotor skill objectives before an EMT is allowed to take the accompanying course practical skills examination;

4. A copy of the cabinet TC master attendance form. The original shall be submitted to the cabinet;

5. A copy of the cabinet master grade sheet. The original shall be submitted to the cabinet; and

6. The results of the course skills station examination. The original completed score sheets shall be submitted to the cabinet.

(c) Provide a certificate of completion to each EMT which specifies the hours earned toward certification renewal and if the TC was successfully completed by passing the accompanying skill examination;

(d) Assure that the accompanying course skill examination shall be administered as follows:

1. With at least two (2) evaluators assigned per station, the enrolled EMT shall pass one (1) skill station featuring patient assessment and intervention.

2. The skill station shall be designed to test one (1) or more skills. On the date of the examination, the EMT shall randomly choose whether the station to be tested shall feature a medical or trauma patient condition, and at the same time the EMT shall randomly choose the scenario which shall be tested.

3. At the completion of the skill examination, the EMT shall not be informed of his pass or fail status. After all enrolled EMTs who are eligible to test have completed the testing process, all participating evaluators shall meet to review all skill testing results and shall determine the pass or fail status of each EMT as a consensus from all evaluators.

(13) If an EMT fails to pass the required station, the EMT shall be permitted one (1) opportunity to retest the same medical or trauma patient condition station which he failed, but he shall randomly choose the scenario on the date of the retest. The retest shall be administered by the same agency that sponsored the TC in which the EMT was enrolled, but the two (2) evaluators shall not be the same two (2) evaluators who evaluated the EMT during the first examination.

(14) If an EMT again fails to pass the required skill station examination, he shall be required to retake the entire TC before being eligible for reexamination.

(15) Until July 1, 1999, an EMT may be allowed a maximum of two (2) attempts, with a maximum of one (1) retest on each attempt, to

pass the accompanying practical skills examination.

(16) An EMT who has not been successful in passing the skill examination retest on the second attempt by July 1, 1999, shall not be eligible for Kentucky EMT certification renewal.

Section 13. Material Incorporated by Reference. The following material is incorporated by reference and may be inspected, obtained, or copied, unless prohibited by copyright, at the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday:

(1) The United States Department of Transportation "1984 Emergency Medical Technician: National Standard Curriculum", (Third Edition);

(2) The United States Department of Transportation, National Highway Traffic Administration, "1994 National Standard Curriculum, Emergency Medical Technician-Basic";

(3) The "Emergency Medical Technician-Basic Course Inventory Pilot Program" form (10/95);

(4) The "Emergency Medical Technician-Basic Course Application (EMS Branch-5/96);

(5) The master "Grade Sheet" (1/96);

(6) "Kentucky EMT Examination Answer Sheet", number one (1), two (2), three (3), and four (4) (9/94);

(7) The "Master Attendance Sheet" (3/95);

(8) The "Attendance Sheet" (EMS Branch-01/96);

(9) The "Application for Emergency Medical Technician", (2/96);

(10) The "National Registration, Registered EMT-Basic", (1/96); published by the NREMT, P.O. Box 29233, Columbus, Ohio 43229;

(11) The "1994 National Registry of EMT-Basic Practical Examination Users Guide" published by the NREMT, P.O. Box 29233, Columbus, Ohio 43229;

(12) The "EMT Official Record of Continuing Education/In-service" (EMT/R-92);

(13) The "Application for Emergency Medical Technician/Emergency Medical Technician-Instructor Certification Renewal" (2/96);

(14) The "Application for Emergency Medical Technician Challenge Only" (EMS Branch-2/96);

(15) The United States Department of Transportation, National Highway Traffic Safety Administration, "1994 EMT-Basic Transitional Program";

(16) The application "For Approval as an Agency to Sponsor 1994 NSG EMT-Basic Transition Courses for Kentucky-certified Emergency Medical Technicians" (10/95);

(17) The "Cabinet Approved Agency/Organization Application to Sponsor a 1994 NSG EMT-Basic Transition Course for Kentucky-certified Emergency Medical Technicians" (10/95);

(18) The "1994 EMT-Basic Transition Course Equipment Requirements" (10/95);

(19) The "Participant Competency Record Kentucky EMT-Basic Transition Course" (10/95);

(20) The "Master Attendance Sheet EMT-Basic Transition Course" (10/95);

(21) The "Emergency Medical Technician Transition Course Master Grade Sheet", (10/95);]

RICE C. LEACH, M.D., Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If no notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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

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written comments to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

### REGULATORY IMPACT ANALYSIS

Agency Contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 12,500 emergency medical technicians-basic (EMT-B).

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented to the extent available from the public comments received. This administrative regulation will have no effect on the cost of living and employment in this state.

(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. This administrative regulation will have no effect on the cost of doing business in any geographical area of this state.

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

1. First year following implementation: None

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(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: 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: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Based on comments received through the Notice of Intent hearing, the cabinet rejected a proposed requirement that all EMTs currently certified that are not required to be nationally registered through the NREMT meet continuing education requirements equivalent to the NREMT. The rejection of this proposal will result in no increase in the number of continuing education hours for currently certified EMTs and should not affect the quality of care provided by EMTs in Kentucky.

(8) Assessment of expected benefits: This administrative regulation will maintain uniform requirements for certification and recertification of EMTs based on national standards.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will have a positive effect on public health by maintaining uniform requirements for certification and recertification of EMTs based on national standards.

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

(c) If detrimental effect would result, explain detrimental effect: This administrative regulation, if not implemented will have a detrimental effect on public health in that uniform requirements for certification and recertification of EMTs based on national standards would not be established or maintained.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or 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 because this administrative regulation provides uniform certification and recertification requirements only for the EMT-B.

### CABINET FOR HEALTH SERVICES Department for Public Health Division of Adult and Child Health (Amendment)

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

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS 194A.030, 211.964[EO-96-862]

NECESSITY, FUNCTION, AND CONFORMITY: [EO-96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.] KRS 211.964 requires the Cabinet for Health Services to promulgate administrative regulations relating to emergency medical technicians (EMTs). The function of this administrative regulation is to establish requirements for attaining certification as an emergency medical technician-basic instructor (EMT-B instructor) or appointment as an EMT instructor trainer [EMT-instructor and EMT-instructor trainer].

Section 1. Eligibility for Training. A person applying to become a Kentucky-certified EMT-B instructor shall be eligible for training if he:

•(1) Has current registration with the National Registry of Emergency Medical Technicians (NREMT) as a NREMT-basic (NREMT-B) or a NREMT-paramedic (NREMT-P);

(2) Is currently certified in Kentucky as an:

(a) EMT-B; or

(b) Paramedic;

(3) Provides documented proof of having at least two (2) years of experience in the active delivery of prehospital patient care or transportation as a part of an organized emergency medical service system; and

(4) Provides verification from the director or chief officer of the organization for whom the experience was provided that the experience was obtained within the last five (5) years prior to application for training.

Section 2. EMT-B Instructor Training. (1) Except as provided in subsection (2) of this section and Section 3(6) of this administrative regulation, a person training to become a Kentucky-certified EMT-B instructor shall complete a:

(a) United States (U.S.) Department of Transportation (DOT) EMT-B instructor method of instruction (MOI) educational course conducted by a Cabinet for Health Services approved emergency medical services educational institution; and

(b) Student teaching internship and evaluation for certification as required in Section 3 of this administrative regulation.

(2) A person shall not be required to meet the requirements of subsection (1)(a) of this section if he holds:

(a) A bachelor's degree in education; and

(b) A valid Kentucky teaching certificate; or

(c) Documentation of successful completion of a cabinet-approved instructor level methods of instruction (MOI) course that consists of a minimum of forty (40) contact hours that shall include:

1. Adult learning techniques;

2. How to develop a lesson plan;

3. Use of audio visuals;

4. Small group dynamics; and

5. Evaluation techniques.

Section 3. EMT-B Instructor Candidate Student Teaching Internship and Evaluation for Certification. (1) An EMT-B instructor candidate shall be eligible for and complete a student teaching and evaluation internship in which he has:

(a) Met the training requirements referenced in Sections 1 and 2

of this administrative regulation;

(b) Attended a minimum of seventy-five (75) percent of scheduled class sessions of an EMT-B course conducted by a cabinet-approved EMS educational institution;

(c) Served in various capacities under the direct supervision of a lead instructor for the EMT-B course for which the lead instructor:

1. Is a Kentucky-certified EMT-B instructor who has been certified for at least three (3) years; and

2. Has taught at least two (2) complete EMT-B training courses prior to serving as an EMT-B instructor candidate supervising instructor; and

(d) While under the direction of the supervising lead instructor, assumed total classroom responsibility on separate topics within the same EMT-B course for a minimum of ten (10) complete classroom lessons consisting of at least:

1. Five (5) lectures; and

2. Five (5) skill instruction sessions.

(2) The ten (10) lesson student teaching component described in subsection (1)(d) of this section shall be evaluated as an eligibility requirement for certification by an EMT-B instructor internship evaluation committee in accordance with the review process requirements of the 1999 EMT-B Instructor Candidate Evaluation Manual incorporated by reference.

(3) An EMT-B instructor teaching internship and evaluation committee shall:

(a) Consist of three (3) members as specified in the 1999 EMT-B Instructor Candidate Evaluation Manual incorporated by reference; and shall:

(b) Be authorized to terminate the evaluation process;

1. At any point for a reason established by the cabinet-approved EMS educational institution; and

2. Providing written notice to the instructor candidate including supporting documentation regarding the reason for termination.

(4) An EMS educational institution shall be responsible for the costs associated with the preparation and evaluation of an accepted EMT-B instructor candidate.

(5) An EMS educational institution may charge an EMT-B instructor candidate an evaluation fee.

(6) A person who was notified in writing by the cabinet when the last EMT-B instructor candidate evaluation was conducted in 1996, and between 1996 and the effective date of this administrative regulation, that he has been placed on a waiting list for EMT-B instructor candidate evaluation may be exempt from the requirements of Sections 1(1), (3), and (4) and 2(1)(a) of this administrative regulation if he provides to the cabinet documentation that he:

(a) Has completed an EMT-B transition course (TC) pursuant to 902 KAR 13:050, Section 7; and

(b) Has completed a cabinet-approved MOI educational course such as a:

1. Cabinet-sponsored EMT-B instructor MOI taught by an EMT-B instructor trainer;

2. Level II fire service instructor; or

3. Cabinet-approved instructor course as established in Section 2(2)(c) of this administrative regulation; or

(c) Holds a:

1. Bachelor's degree in education; or

2. A valid Kentucky teaching certificate.

(7) A person, who is notified in writing by the cabinet that he has met the requirements of subsection (6) of this section, may:

(a) Apply to a cabinet-approved EMS educational institution for acceptance into an EMT-B instructor candidate teaching internship and evaluation program; or

(b) May have two (2) years from the effective date of this administrative regulation to apply to the cabinet and be evaluated through a cabinet-approved evaluation program according to previous regulatory requirements in which the EMT-B instructor candidate has:

1. Been evaluated by a panel of EMT-instructor trainers;

2. Received an evaluation score of no less than an absolute eighty (80) percent;

3. Attended a later scheduled annual training session for EMT-B instructor candidates who successfully met the requirements of this subsection; and

4. Completed an application for EMT-B instructor certification,

accompanied by the fee required in 902 KAR 13:030; or

5. If unsuccessful following a maximum of one (1) retest, applies as a new candidate who is required to meet the requirements referenced in subsection (11) of this section.

(8) If an EMT-B instructor candidate fails the evaluation process he may, within two (2) years of the course completion date of the MOI as required in Section 2(1)(a) of this administrative regulation, repeat the teaching internship and evaluation until he successfully passes.

(9) If an EMT-B instructor candidate does not successfully pass the teaching internship and evaluation within two (2) years of the MOI course completion date, he shall repeat the entire EMT-B instructor training course before he may be reevaluated.

(10) If a person who meets the requirements of subsection (6) and (7) of this section fails as an EMT-B instructor candidate to pass the evaluation process he may, within two (2) years from the effective date of this administrative regulation, repeat the teaching internship and evaluation until he successfully passes.

(11) If a person who meets the requirements of subsection (6) and (7) of this section fails to successfully pass the teaching internship and evaluation within two (2) years from the effective date of this administrative regulation, he shall:

(a) Apply as a new EMT-B instructor candidate;

(b) Meet the requirements of Sections 1 and 2 of this administrative regulation; and

(c) Repeat the entire EMT-B instructor training course before he may be reevaluated.

(12) At the conclusion of the evaluation, the lead instructor shall submit verification of attendance and performance evaluations to the cabinet for each EMT-B instructor candidate in accordance with the EMT-B Instructor Candidate Evaluation Manual specifications.

Section 4. EMT-B Instructor Certification. A person shall be eligible for initial certification as an EMT-B instructor if he;

(1) Meets the requirements of Sections 1, 2, and 3(1), (2), (6) and (7) of this administrative regulation;

(2) Has obtained a recommendation for certification in accordance with the review process requirements of the 1999 EMT-B Instructor Candidate Evaluation Manual;

(3) Is not subject to disciplinary action pursuant to 902 KAR 13:090; and

(4) Within two (2) years of the completion of the MOI course as required in Section 2(1)(a) of this administrative regulation, or within two (2) years of the effective date of applying and acceptance for his first teaching internship if the candidate is exempt from Section 2(1)(a) of this administrative regulation, submits:

(a) An "Application for EMT-B Instructor Initial Certification", incorporated by reference; and

(b) The fee required in 902 KAR 13:030 Section 1(4)(g).

Section 5. Renewal of EMT-B Instructor Certification. (1) An EMT-B instructor who was initially certified prior to the effective date of this administrative regulation may continue his current certification period according to previous regulatory requirements and may be eligible to renew his EMT-B and EMT-B instructor certifications if he;

(a) Attains twenty-four (24) hours of continuing education which may be met by:

1. Conducting an entire EMT-B course;

2. Conducting one (1) or more lessons of an EMT-B course;

3. Teaching one (1) or more lessons of an in-service or continuing education course;

4. Evaluating a Kentucky EMT-B Practical Skills Certification Examination;

5. Conducting an EMT-B instructor training course; and

(b) Attends during his two (2) year certification at least one (1):

1. Annual EMT-B instructor conference; or

2. Annual training session for new EMT-B candidates eligible for certification, for which either paragraph 1 or 2 of this subsection may be used as credit toward the time required in subsection (a) of this section;

(c) Meets the cardiopulmonary resuscitation (CPR) requirement by either:

1. The requirements referenced in 902 KAR 13:050, Section 4(1)(a)2; or



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2. Teaching a CPR course for record;

(d) Obtains the minimum of two (2) hours AIDS education required by KRS 214.610;

(e) Completes an application for EMT-B instructor recertification that shall be:

1. Signed by the EMT-B instructor; and

2. Inclusive of a statement certifying to the truth of the information supplied; and

(f) Is not subject to disciplinary action pursuant to 902 KAR 13:090.

(2) With the start of the next certification period following the effective date of this administrative regulation, a person who obtained initial certification from the cabinet as an EMT-B instructor prior to the effective date of this administrative regulation shall be eligible to renew his EMT-B instructor certification if he:

(a) Maintains evidence of current training in cardiopulmonary resuscitation (CPR) that meets the minimum requirements referenced in 902 KAR 13:050, Section 4(1)(a)2;

(b) Obtains a minimum of fifty-three (53) contact hours, providing documented evidence of completion of each, in the following categories:

1. The minimum of two (2) hours AIDS education required by KRS 214.610;

2. A minimum of three (3) contact hours on topics related to methods of instruction (MOI);

3. Conducted during the preceding two (2) years, a minimum of twenty-four (24) hours of instruction on at least three (3) different topics that are within the training requirements and the scope of practice for a Kentucky-certified EMT-B as described in 902 KAR 13:170, Section 1; and

4. Participatory involvement during the preceding two (2) years, of a minimum of twenty-four (24) hours of field experience with an ambulance service or other organization having an EMS mission (fire department, rescue squad, mining or other industry, etc.) in any of the following roles of participation:

a. Actual patient emergency responses;

b. Agency quality assurance activities related to EMS; and

c. Enrolled attendant, or performance as an instructor, during continuing education or agency-specific in-service sponsored by the agency, for which any hours obtained in participation as an instructor of continuing education shall be in addition to the twenty-four (24) hours of instruction referenced in paragraph 3 of this subsection;

(c) Completes an application for EMT-B instructor recertification that shall be:

1. Signed by the EMT-B INSTRUCTOR; and

2. Inclusive of a statement certifying to the truth of the information supplied;

(d) Is not subject to disciplinary action pursuant to 902 KAR 13:090; and

(e) Pays the fee required by 902 KAR 13:030, Section 1(4)(h).

(3) A person who obtains initial certification from the cabinet as an EMT-B instructor after the effective date of this administrative regulation, shall be eligible to renew his EMT-B instructor certification if he meets the requirements established in subsection (2) of this section.

(4) An application for renewal of certification shall not be considered if:

(a) The application is postmarked to the cabinet more than thirty (30) days after the certification expiration date of the applicant; or

(b) Prior to his certification expiration date, the EMT-B instructor applicant has not met the requirements of subsection (1) of this section.

**Section 6. An Instructor Certified in Another State.** A person certified in another state as an EMT-B instructor shall be eligible for Kentucky certification as an EMT-B instructor if he:

(1) Meets the reciprocity requirements established in 902 KAR 13:050, Section 5; and

(2) Meets the requirements of Sections 2(1)(b), 3, and 4 of this administrative regulation.

**Section 7. Expiration of EMT-B Instructor Certification.** (1) Unless it is renewed:

(a) The certification period of an EMT-B instructor who does not

hold current registration with the National Registry of Emergency Medical Technicians as a NREMT-B or NREMT-paramedic shall expire two (2) years from the initial certification date and shall follow the same pattern for each certification renewal period thereafter; or

(b) The certification period for an EMT-B instructor who is also registered as a NREMT-B or NREMT-paramedic shall expire three (3) months after the expiration of his initial NREMT registration and shall follow the same pattern for each certification renewal period thereafter.

(2) Upon expiration of an EMT-B instructor certification, the person may not perform an authorized function of a Kentucky EMT-B instructor established in 902 KAR 13:025, 902 KAR 13:050, 902 KAR 13:080, 902 KAR 13:110, 902 KAR 13:120, 902 KAR 13:160 and 902 KAR 13:170.

(3) If the certification has expired for a KY EMT-B instructor initially certified prior to the effective date of these administrative regulations, and he is a Kentucky-certified non-NREMT-B or non-NREMT-paramedic, whose EMT-B instructor certification expiration date was less than two (2) years prior to the effective date of these administrative regulations, he may again be eligible for certification, if within two (2) years from the effective date of this administrative regulation, he:

(a) Completes the requirements referenced in 902 KAR 13:050, Section 3(3)(a) and (b) in order to document current credentials as a:

1. NREMT-B; or

2. NREMT-paramedic; and

(b) Completes the requirements established in Section 5(1) of this administrative regulation; or

(c) Retakes all requirements established in Sections 1 through 4 of this administrative regulation.

(4) If the certification has expired for a KY EMT-B instructor initially certified after the effective date of this administrative regulation and he is additionally a Kentucky-certified, NREMT-B or NREMT-paramedic, he may again be eligible for certification if, within two (2) years from his EMT-B instructor certification expiration date, he:

(a) Completes the requirements referenced in Section 5(1) of this administrative regulation; or

(b) If a Kentucky-certified non-NREMT-B or NREMT-paramedic, complete the requirements established in subsection (3)(a) and (b) of this section; or

(c) Retakes all requirements established in Sections 1 through 4 of this administrative regulation.

**Section 8. EMT-B Instructor Trainer.** (1) An EMT-B instructor shall be eligible for appointment as an EMT instructor trainer for a period of two (2) years if he:

(a) Has current registration with the NREMT as a:

1. NREMT-B; or

2. NREMT-paramedic;

(b) Is currently a Kentucky-certified EMT-B or paramedic;

(c) Provides documented proof of five (5) years experience in the active delivery of prehospital patient care or transportation as a part of an organized emergency medical services system;

(d) Has been certified in Kentucky as an EMT-B instructor for five (5) consecutive years;

(e) Has served as the lead instructor for at least five (5) complete EMT-B courses;

(f) Files, with the cabinet, a letter of request for appointment;

(g) Does not have an active pending investigation by the cabinet relating to his EMT certification; and

(h) Has not had a negative action relating to his EMT certification within the past five (5) years.

(2) A person who was certified as an EMT-instructor trainer prior to the effective date of this administrative regulation shall not be required to meet the requirements of subsection (1)(a), (c), and (e) of this section for initial appointment as an EMT-instructor trainer.

(3) A person who was certified as an EMT-instructor trainer prior to the effective date of this administrative regulation shall meet the requirements of subsection (4) of this section for reappointment as an EMT-instructor trainer.

(4) A person shall be eligible for reappointment as an EMT-B instructor trainer if he:

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- (a) Is currently certified in Kentucky as an EMT-B;
- (b) Is a currently certified in Kentucky as an EMT-B instructor;
- (c) Documents annual attendance at no less than one (1):
  - 1. Kentucky EMS Council Training Committee; and
  - 2. Kentucky EMS Council meeting;
- (d) Documents attendance and participation at one (1) conference at which continuing education hours for an EMT-B instructor or EMT-FR instructor is offered; and
- (e) Is recommended for reappointment by the cabinet.
- (5) An EMT-B instructor trainer shall function at the request and direction of the cabinet.
- (6) An EMT-B instructor trainer may serve as:
  - (a) An instructor liaison to assist an EMS educational institution lead instructor with questions that may arise during a training program;
  - (b) A representative of the cabinet who may monitor or evaluate:
    - 1. An EMT-B or EMT-first responder (EMT-FR) training program;
    - 2. EMS educational institutions; or
    - 3. Faculty performance in an EMT-B or EMT-FR training program;
  - (c) An examination representative as established in 902 KAR 13:160, Section 4 for a Kentucky EMT-B or NREMT-FR practical skills certification examination;
  - (d) A member of an EMT-B instructor teaching internship and evaluation committee as required in Section 3(3) of this administrative regulation;
  - (e) A liaison to an EMS regional advisor who may:
    - 1. Assist in an investigation relating to an EMT-B training program; or
    - 2. Provide information and assistance to cabinet staff relating to an EMT-B training issue; and
  - (f) A continuing education instructor at a time or location approved by the cabinet such as at an instructor conference.
- (7) An EMT-B instructor trainer may be utilized to:
  - (a) Provide advice and direction for the cabinet through the Kentucky EMS Advisory Council on an issue relating to the development and implementation of a standard relating to the EMT-B and EMT-B instructor training processes; and
  - (b) Assume other responsibilities as requested by the cabinet.
- (8) An EMT-B instructor trainer shall have the authority to act as a representative of the cabinet for the purposes to which they are assigned and as such shall have all rights as would normally be afforded a cabinet representative.
- (9) An action recommended by an EMT-B instructor trainer shall be reviewed for approval by the cabinet.
- (10) An EMT-B instructor trainer shall be eligible for travel reimbursement for an assignment made by the cabinet.

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

- (a) The United States Department of Transportation, National Highway Traffic Administration, 1994 National Standard Curriculum, EMT Instructor Training Program, Method of Instruction;
  - (b) The 1999 EMT-B Instructor Candidate Evaluation Manual (8/99);
  - (c) The Application for EMT-B Instructor Initial Certification (7/99);
  - (d) The Application for EMT-B Instructor Recertification, (7/99);
  - (e) The Emergency Medical Technician Basic Instructor Official Form for Documentation of Contact Hour Records for Certification Renewal 4/00).
- (2) This material may be inspected, copied, or obtained at the Department for Public Health, Division of Adult and Child Health, EMS Branch, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. [Emergency Medical Technician Instructor. A person shall be certified as an EMT-instructor if he has:
- (1) Been certified as an EMT by the cabinet;
  - (2) Assisted a Kentucky EMT-instructor for a minimum of one (1) complete EMT basic training course in which he:
    - (a) Participated in the conduct of each lesson;
    - (b) Conducted, under supervision of the course lead EMT-instructor, at least one (1) complete lesson during the course;
    - (c) Served as a small-group assistant to the course lead EMT-

- instructor during practical skill exercises;
  - (d) Conducted class demonstrations of manipulative skills;
  - (e) Performed other related duties as directed by the course lead EMT-instructor;
  - (f) Was recommended for final evaluation, in writing to the cabinet, by the lead EMT-instructor whom the candidate assisted in teaching the complete EMT basic training course; and
  - (g) Assisted throughout an EMT basic course that was completed no more than one (1) year prior to the date of the written recommendation submitted by the EMT-instructor.
- (3) Been evaluated by a panel of EMT-instructor trainers;
- (4) Received an evaluation score of no less than an absolute eighty (80) percent;
- (5) Attended a later scheduled annual training session for EMT-instructor candidates who have successfully completed the requirements outlined in subsections (1) through (4) of this section; and
- (6) Completed an application for EMT-instructor certification.

### Section 2. Reevaluation of EMT-Instructor Candidates by Panel.

- (1) If an EMT-instructor candidate fails to score at least eighty (80) percent on his initial evaluation, he shall be given another opportunity, upon application, to be reevaluated.
- (2) An EMT-instructor candidate who fails to score at least eighty (80) percent on the second attempt shall, upon application, be given another opportunity to be reevaluated if he:
  - (a) Drops out for a year, or one (1) evaluation course, if more than one (1) is held in a given year;
  - (b) Reapplies by having a current recommendation for evaluation submitted in writing by the lead EMT-instructor for whom the EMT-instructor candidate has assisted throughout an entire EMT basic course; and
  - (c) Assisted throughout an EMT basic course that was completed no more than two (2) years previous to the date of the updated written recommendation submitted by the lead EMT-instructor.
- (3) A candidate who is not successful on two (2) attempts, but reapplies after meeting the requirements of subsection (2)(a), (b), and (c) of this section shall be allowed two (2) additional attempts to successfully complete the EMT-instructor evaluation course.

### Section 3. Certification of an EMT-instructor-trainers. A person shall not be certified as an EMT-instructor-trainer unless he has:

- (1) Complied with all requirements of Section 1 of this administrative regulation; and
- (2) Been evaluated by the Kentucky EMS Council and recommended to the cabinet for certification as an EMT-instructor-trainer.

### Section 4. Renewal of EMT-instructor Certification. (1) If the certification of an EMT-instructor is not renewed, it shall become invalid two (2) years from the date of issue. In order to obtain renewal, the EMT-instructor shall meet all requirements of 902 KAR 13:050, Section 3;

- (2) A Kentucky EMT-instructor who was certified before the effective date of this administrative regulation shall have completed a 1995 Kentucky EMT-Instructor Roll-Out Training Program on the 1994 National Standard Curriculum (NSC) EMT-Basic. A Kentucky-certified EMT-instructor who has not completed a 1995 Kentucky EMT-instructor Roll-out Training Program on the 1994 NSC EMT-basic shall not:

- (a) Teach an EMT basic course;
  - (b) Teach an EMT continuing education class;
  - (c) Serve as an EMT certification practical skills advisor;
  - (d) Serve as a lead instructor or assistant to the lead instructor;
  - (e) Evaluate the accompanying practical skills examination for an EMT transition course as outlined in 902 KAR 13:050, Section 12; or
  - (f) Be eligible for renewal of the EMT-instructor certification.
- (3) After the last scheduled Kentucky EMT-Instructor Roll-Out Training Program, a candidate accepted for evaluation shall not be eligible for EMT-instructor certification until he has:
- (a) Successfully completed a Kentucky EMT transition course as outlined in 902 KAR 13:050, Section 12; and
  - (b) Completed the requirements of Sections 1 and 2 of this administrative regulation. The conference referenced in Section 1(5) of this administrative regulation shall include the methods of instruction related to the 1994 NSC.



(4) Effective January 1, 1997, future candidates eligible for evaluation shall have:

(a) Met the requirements in Section 1(2) of this administrative regulation by participating in an EMT-basic course conducted according to the 1994 NSC; and

(b) Completed the requirements in subsection (3)(a) of this section:

(5) An instructor who obtained Kentucky EMT-instructor certification and whose certification is not eligible for renewal due to the conditions outlined in subsection (2)(a) of this section, may regain certification status if:

(a) He repeats the requirements of Section 1 and 2 of this administrative regulation; and

(b) The EMT course in which he assisted was in accordance with the 1994 NSC EMT-Basic.

(6) A Kentucky EMT-instructor who is denied renewal of his certification for not meeting the requirements in subsection (2)(a) of this section, may request an administrative hearing in accordance with the guidelines specified in 902 KAR 13:090, Section 5:

**Section 5. Instructors Certified in Other States.** A person who is certified in another state as an EMT-instructor and who wishes to become certified in Kentucky as an EMT-instructor, shall:

(1) Comply with the challenge examination procedures outlined in 902 KAR 13:050, Section 10; and

(2) Comply with the requirements of Sections 1 and 2 of this administrative regulation.]

RICE C. LEACH, M.D., Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

**PUBLIC HEARING:** A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If no notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

#### REGULATORY IMPACT ANALYSIS

Agency Contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 250 emergency medical technician instructors (EMT-Is).

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented to the extent available from the public comments received. This administrative regulation will have no effect on the cost of living and employment in this state.

(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. This administrative regulation will have no effect on the cost of doing business in any geographical area of this state.

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

1. First year following implementation: None

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None.

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(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: 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: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were rejected because this administrative regulation establishes uniform requirements for certification of EMT instructors and a student teaching internship and evaluation process.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: EMT instructors certified in Kentucky will be better prepared to teach EMT classes because they will have completed a national standard curriculum, a student internship, and a standard evaluation to prepare them for teaching.

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

(c) If detrimental effect would result, explain detrimental effect: The certification process for EMT-B instructors would be less accountable and less responsive to local needs.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

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

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? Yes. Tiering was applied in that although a new process is established to prepare and certify individuals as EMT-B instructors, the administrative regulation provides certain accommodations to individuals who had previously entered the process described in the current administrative regulations.

#### CABINET FOR HEALTH SERVICES Department for Public Health Division of Adult and Child Health (Amendment)

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

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS 194A.030, 211.964[–EO–96-862]

NECESSITY, FUNCTION, AND CONFORMITY: [EO–96-862; effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.] KRS 211.964 requires the Cabinet for Health Services to promulgate administrative regulations relating to emergency medical technicians (EMTs). The function of this administrative regulation is to establish procedures which an emergency medical technician-basic (EMT-B) shall be [EMTs are] authorized to perform.

Section 1. Authorized [Certified] EMT-B Procedures. [(1)] Except for the procedures authorized in Sections 2 and 3 of this administrative regulation, a Kentucky (KY) certified EMT-B shall be authorized to:

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(1) Perform any of the procedures not requiring physician medical direction established in the initial training curriculum of the "United States Department of Transportation, National Highway Traffic Administration, 1994 National Standard Curriculum, Emergency Medical Technician-Basic," incorporated by reference in 902 KAR 13:050, or Kentucky required supplemental curricula that have been approved by the cabinet following review and recommendation by the Kentucky EMS Council established pursuant to KRS 211.952.

(2) Of current Kentucky-required supplemental training and procedures not requiring physician medical direction that have been approved by the cabinet established in 902 KAR 13:170 for statewide use, an EMT basic shall be authorized to:

(a) Assess patient body temperature following training according to Kentucky supplemental curriculum "Application of Noninvasive Temperature Monitoring";

(b) Transport a patient with an intravenous (I.V.) infusion entry point maintained patent by a heparin or saline lock placement, to which no I.V. infusion fluid is attached;

(c) Transport a patient encountered in a prehospital setting who has a preestablished I.V. infusion to the nearest appropriate medical facility based on local medical protocol. The preestablished I.V. infusion solution may be established on any location of the body and may contain an additive that is monitored in accordance with training in the cabinet approved curriculum "Kentucky Initial Training Curriculum for the Emergency Medical Technician Basic (EMT-B) in the Monitoring of Preestablished Patient Intravenous Infusions" incorporated by reference in 902 KAR 13:170; and

(d) During a prehospital ambulance transport to an appropriate medical facility discontinue a preestablished infusion by closing the flow valve; or

(3) For future consideration, an EMT-B may be authorized to perform another procedure not requiring physician medical direction for which the training curriculum objectives and associated scope of practice by an EMT-B has been approved by the cabinet following review and recommendation for approval by the Kentucky EMS Council, for use in a pilot program as established in Section 3 of this administrative regulation, or for statewide implementation.

Section 2. A Kentucky (KY) certified EMT-B shall be authorized to perform any procedures requiring physician medical direction, as established in the 1994 DOT EMT: Basic National Standard Curriculum, incorporated by reference in 902 KAR 13:050 or Kentucky-required supplemental curricula approved by the cabinet pursuant to 902 KAR 13:170 following the Kentucky EMS Council review process identified in Section 1 of this administrative regulation.

(1) Of current Kentucky-required training and procedures requiring physician medical direction that have been adopted by the cabinet for statewide use, an EMT-B who is employed by an employer that has a contract or other agreement with a physician medical director shall, if approved by their physician medical director, be authorized to:

(a) Utilize an automated external defibrillator (AED) as referenced in the 1994 DOT EMT: Basic National Standard Curriculum, incorporated by reference in 902 KAR 13:050 and in accordance with the requirements of 902 KAR 13:120;

(b) Test the blood glucose level of a person using an automated testing device pursuant to laboratory licensing requirements established by the Department of Health and Human Services, Health Care Financing Administration, as identified in the cabinet-approved curriculum "Kentucky Initial Training Curriculum for the Emergency Medical Technician-Basic (EMT-B) in Blood Glucose Analysis", incorporated by reference in 902 KAR 13:170;

(c) Assist, if employed as a basic life support partner with advanced life support personnel for a cabinet licensed advanced life support provider, in the preparation of intravenous fluids for administration by an advanced life support person authorized to establish intravenous access in accordance with training in the cabinet-approved supplemental curriculum "Kentucky Initial Training Curriculum for the Emergency Medical Technician-Basic (EMT-B) in the Monitoring of Preestablished Patient Intravenous Infusions", incorporated by reference in 902 KAR 13:170;

(d) Assist in the ventilation and care of a patient who has an endotracheal tube in place in accordance with training in the cabinet approved supplemental curriculum "Kentucky Emergency Medical

Technician-Basic (EMT-B) Initial Training in Advanced Airway Management", incorporated by reference in 902 KAR 13:170;

(e) Utilize noninvasive patient monitoring devices in accordance with training in the cabinet approved supplemental curricula "Kentucky Emergency Medical Technician-Basic (EMT-B) Initial Training with Noninvasive Monitoring Devices, incorporated by reference in 902 KAR 13:170, to perform:

1. "Application of Electrocardiogram Electrodes and Monitor";
2. "Application of Pulse Oximetry"; and
3. "Application of End Tidal CO2 Monitoring".

(f) According to training in the 1994 DOT EMT-Basic: NSC;

1. Administer patient prescribed epinephrine via use of an epinephrine auto-injecting device;

2. Administer patient prescribed nitroglycerin;

3. Administer activated charcoal;

4. Administer glucose containing substances via the oral route; and

5. Administer patient prescribed bronchodilators via the use of a metered dose inhaler.

(g) In accordance with training in the cabinet approved supplemental curriculum "Kentucky Emergency Medical Technician-Basic (EMT-B) Initial Training Curriculum in the Monitoring of Preestablished Patient Intravenous Infusions", incorporated by reference in 902 KAR 13:170, an EMT-B may:

1. Transport a discharged, stable patient who has a preestablished peripheral I.V. infusion from a health care facility to his place of residence. The I.V. infusion may be discontinued in accordance with the requirements of Section 1(2)(c) of this administrative regulation;

2. Provide interfacility transport for a stable patient who has a preestablished peripheral I.V. infusion and who does not otherwise require care by advanced level personnel. The preestablished I.V. infusion solution for interfacility transport shall be limited to contain;

a. Ringers solution;

b. Lactated ringers;

c. Normal saline;

d. Five (5) percent dextrose in water; or

e. A combination of items identified in clauses a through d of this subparagraph, but without another additive.

(h) According to the following described conditions and limited to solutions identified in paragraph (g)2 of this subsection, an EMT-B may:

1. Change the flow rate of a preestablished I.V. infusion during a prehospital to medical facility or during an interfacility transport; or

2. Add additional infusion solution, identical to that of the preestablished I.V. infusion solution, during a prehospital to medical facility or interfacility transport; or

(2) An EMT-B may perform another procedure under authorization of a physician medical director for which the training curriculum and associated scope of practice by an EMT-B has undergone the Kentucky EMS Council review process established in subsection (1) of this section and has been adopted by the cabinet for use in a pilot program as established in Section 3 of this administrative regulation, or for statewide implementation.

Section 3. Pilot Programs. (1) The cabinet shall authorize an EMS educational institution, Class I ground ambulance provider, Class III ground ambulance provider, or specialized Class I ground ambulance provider to pilot test and utilize a specialized training and associated procedure that has not been previously approved in this administrative regulation, if the EMS educational institution or ambulance provider;

(a) Submits a written request to the cabinet for approval before initiating a pilot program;

(b) Provides a written description of:

1. How the procedure shall be implemented and monitored;

2. The proposed training curriculum;

3. A list of instructors and their qualifications;

4. The beginning and ending dates of the field pilot testing program;

5. How the procedure, if used by an EMT-B, shall benefit or improve the quality of patient care; and

6. The methods to be used to evaluate the training and the authorized procedure.

(2) An EMS educational institution, Class I ground ambulance provider, Class III ground ambulance provider, or specialized Class I ground ambulance provider approved by the cabinet to conduct a pilot program shall agree, in writing:

(a) To submit periodic reports as required by the cabinet related to the progress of the pilot program; and

(b) To abide by the requirements established by the cabinet for the pilot program.

(3) An EMT-B who successfully completes an approved pilot program may perform the procedures relevant to the training received in the pilot program.

(4) The cabinet may establish pilot program limitations on:

(a) The geographic area or service location where the procedure may be performed;

(b) The performance of the procedure related to:

1. Specific events;

2. Disasters; or

3. Directives; or

(c) The performance of an invasive or medication administered procedure related to:

1. Physician medical director oversight; or

2. Protocols established and supervised by the medical director of the ground ambulance provider. [as otherwise provided in subsections (2) and (3) of this section, certified EMTs may perform any of the procedures as set forth in the "Basic Emergency Medical Technician: National Standard Curriculum (NSC)," Third Edition, 1984, published by the United States Cabinet of Transportation, National Highway and Traffic Safety Administration, Washington, D. C. 20590, incorporated by reference in 902 KAR 13:050, and in the accompanying texts which have been chosen by the lead instructor and approved by the implementing agency. Texts utilized shall be:

(a) Currently in publication;

(b) The most current edition available at the time the course begins. Courses initiated prior to the effective date of this administrative regulation shall utilize a text which meets the 1984 NSC standards. Pilot programs of the 1994 NSC and statewide courses initiated on or after the effective date of this administrative regulation shall utilize a text which meets the 1994 NSC standards;

(c) Maintained on file in the office of the implementing agency; and

(d) Available, upon request, for public inspection during normal office hours or during course hours.

(2) An EMT may:

(a) Transport a stable patient with an IV infusion entry point maintained patent by a heparin lock placement, to which no IV infusion fluid is attached;

(b) Transport interfacility or facility to home a stable patient who has a preestablished peripheral IV infusion; and as authorized by local medical control may perform procedures for the maintenance and, if needed, discontinuation of the preestablished peripheral IV infusion if he has completed the training requirements specified in 902 KAR 13:130;

(c) Transport a patient having a preestablished IV infusion who is encountered in a prehospital setting to the nearest appropriate medical facility based on local protocol; and

(d) Discontinue the preestablished IV infusion by closing the flow valve.

(3) An EMT shall not:

(a) Perform the initiation of intravenous (IV) fluid infusion;

(b) Remove a preestablished IV needle or catheter from a patient;

(c) Perform a cricothyrotomy;

(d) Relieve a tension pneumothorax through the use of needles;

(e) Insert an endotracheal airway, an esophageal obturator airway, or an esophageal gastric tube airway;

(f) Perform external cardiac defibrillation except by use of automatic or semiautomatic defibrillation equipment authorized according to the requirements specified in 902 KAR 13:120; or

(g) Use medical antishock trousers unless:

1. The EMT has completed a Kentucky emergency medical technician course during which the use of medical antishock trousers was taught; or

2. The EMT is currently certified as an emergency medical technician and has completed training on the medical antishock trousers and successfully passes an examination administered by the cabinet consisting of both written and practical application examinations. The

training and examination shall be conducted by an EMT instructor or instructor-trainer in accordance with the criteria set forth in the "Basic Emergency Medical Technician: National Standard Curriculum," Third Edition, 1984, on or after the effective date of this administrative regulation, the 1994 National Standard Curriculum EMT-Basic, which is incorporated by reference in 902 KAR 13:050, and the standards and protocols of the cabinet; or

3. The EMT has completed an emergency medical technician course in another state or country which included the use of medical antishock trousers and has taken and passed an examination in the use of medical antishock trousers; and

4. The EMT uses medical antishock trousers in accordance with the standards and the protocol of the cabinet.

(4) An EMT who successfully completes a transition course and passes the accompanying practical skills examination, as outlined in 902 KAR 13:050, Section 12(1)(d), may perform the procedures requiring physician medical oversight (e.g. assistance in the administration of certain prescribed medications or automatic defibrillation) if:

(a) The EMT works with a basic life support (BLS) ambulance service that:

1. Chooses to provide the procedures and has a written contract with a physician medical director, licensed to practice in Kentucky; or

2. Has an alternate method for ambulance service physician medical oversight that has been approved by the cabinet.

(b) These procedures may also be performed by an EMT who:

1. Meets the transition course requirements; and

2. Works with a public safety organization that is affiliated with a BLS ambulance service which meets the physician medical oversight requirements.

Section 2. 1994 National Standard Curriculum (NSC) EMT-Basic Pilot Program. (1) As outlined in 902 KAR 13:050, Section 1, prior to the statewide implementation of the 1994 NSC, EMT-Basic, a cabinet approved implementing agency may participate in a pilot program to conduct and evaluate the 1994 NSC EMT-Basic.

(2) Each approved pilot program shall agree to abide by the requirements of the cabinet, outlined in 902 KAR 13:050, for EMT training and certification.

(3) In addition to the requirements of the cabinet, outlined in 902 KAR 13:050, an implementing agency conducting a 1994 NSC EMT-Basic Pilot Program shall be responsible for:

(a) Establishing applicant requirements;

(b) Establishing EMT student training and examination standards; and

(c) Submitting summary reports to the cabinet as requested, but minimally at the midpoint and at the completion of the 1994 NSC Pilot Program.

(4) A student successfully completing a pilot program shall be eligible to apply for the Kentucky certification examination utilizing the National Registry of EMTs written and practical examination in lieu of the Kentucky four (4) part written examination and practical examination outlined in 902 KAR 13:050, Section 3. Scoring standards for the examination shall be consistent with the policy of the National Registry of EMTs.

(5) For a candidate who has successfully completed a Kentucky 1994 NSC EMT-Basic Pilot Program, the passing score for the Kentucky written examination utilizing the National Registry of EMTs written examination shall be sixty-five (65) percent. Scoring standards and eligibility for retesting of the National Registry of EMTs written and practical examinations shall be consistent with the policy of the National Registry of EMTs.

(6) An EMT student who completes a cabinet approved 1994 NSC EMT-Basic Pilot Program and is Kentucky certified by utilization of the National Registry examination shall be subject to the standards for disciplinary actions specified in 902 KAR 13:090.

(7) A cabinet approved 1994 NSC EMT-Basic Kentucky Pilot Program shall not be initiated after the effective date of this administrative regulation.

Section 3. Other Requested Pilot Programs. (1) A cabinet approved Kentucky EMT training implementing agency or Kentucky licensed ambulance service desiring to pilot test an EMT procedure not previously authorized in this administrative regulation shall:

(a) Apply to the cabinet for approval before initiating a pilot pro-

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gram; and

(b) ~~Provide a written description of how the procedure shall be implemented and monitored, and how the procedure, if used by an EMT, shall benefit patient care.~~

(2) ~~An agency approved by the cabinet to conduct a pilot program shall agree, in writing, to submit periodic reports to the cabinet related to the progress of the pilot program and to abide by the requirements of the cabinet.~~

(3) ~~An EMT who completes a cabinet approved pilot program may perform the procedures relevant to the training received in the pilot program in accordance with requirements established by the cabinet including limitations on:~~

(a) ~~The geographic area or service location where the procedure may be performed;~~

(b) ~~The performance of the procedure to specific events, disasters, or directives;~~

(c) ~~The performance of the procedure under a physician medical director oversight and protocol directed authority; or~~

(d) ~~Other limited or broad scope practice as approved by the cabinet.]~~

RICE C. LEACH, M.D., Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If no notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

### REGULATORY IMPACT ANALYSIS

Agency Contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 12,500 emergency medical technicians (EMTs).

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. This administrative regulation will have no effect on the cost of living and employment in this state.

(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. This administrative regulation will have no effect on the cost of doing business in any geographical area of this state.

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

1. First year following implementation: None

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(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: 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: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were rejected because this administrative regulation permits EMT-Bs to perform additional life saving skills in the prehospital setting.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation would have a positive effect on public health because it permits EMT-Bs to perform additional life saving skills in the prehospital setting.

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

(c) If detrimental effect would result, explain detrimental effect: EMT-Bs in Kentucky would be unable to perform certain life saving skills in the prehospital setting.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or 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 because this administrative regulations establishes uniform authorized procedures for all EMT-Bs.

### CABINET FOR HEALTH SERVICES Department for Public Health Division of Adult and Child Health (Amendment)

#### 902 KAR 13:090. Disciplinary actions.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS Chapter 13B, 194A.030, 194A.050, 211.964[-EO-96-862]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.964 directs the Cabinet for Health Services to adopt administrative regulations relating to emergency medical technicians (EMTs). The function of this administrative regulation is to establish grounds and [establishes] procedures for taking disciplinary action against an applicant for certification or a certified EMT [emergency medical technician (EMT), EMT-first responder, EMT-first responder instructor, EMT-instructor, or EMT-instructor-trainer. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services].

Section 1. Denial, Revocation, Suspension, Probation, and Restriction of Certificates. The cabinet may deny, revoke, suspend, probate, or restrict the certificate of a person who:

(1) Has engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(2) Uses drugs or controlled substances to the extent it affects [may effect] his ability to perform the duties of an EMT, or becomes a drug dependent person or drug abuser as defined in KRS 222.011(8);

(3) Uses alcohol to the extent that it affects [may affect] his ability to perform the duties of an EMT or becomes an alcoholic person who suffers from alcoholism as defined in KRS 222.011(3);

(4) Has or develops a physical or mental disability or other condition that continued practice or performance of his duties is [may be] dangerous to patients or the public;

(5) Fails to:

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(a) Follow the appropriate standards of care or established patient care protocols in the management of a patient;

(b) Administer medicine or treatment in a responsible manner in accordance with:

1. His level of certification;

2. The legal order [Orders] of a physician who is the medical director of the EMT; [or]

3. Locally approved medical protocols; or

4. The legal order of a physician who is not the medical director of the EMT if the physician:

a. Is physically present with the patient;

b. Can be identified as a licensed physician in the United States of America;

c. Agrees to assume responsibility for the patient; and

d. Agrees to accompany the patient to the receiving medical facility;

(c) [Maintain patient confidentiality;

(d) Meet the applicable requirements for certification or recertification pursuant to:

1. 902 KAR 13:050 for an EMT-B; [—EMT-instructor or EMT-instructor-trainer; or]

2. 902 KAR 13:110 for an EMT first responder or EMT first responder instructor; or

3. [(e)] Meet the requirements for an applicant for certification pursuant to 902 KAR 13:020; or

— [(f)] Meet the requirements for an EMT instructor or EMT instructor trainer pursuant to 902 KAR 13:070 for an EMT-B instructor;

(6) Unlawfully breaches patient confidentiality;

(7) [(6)(a)] Reproduces or reconstructs, or attempts to reproduce or reconstruct, a portion of a training or certification [an emergency medical technician] examination for the purpose of assisting another to cheat on the examination; or

(8) [(b)] Disseminates information for purposes of reproduction or reconstruction of a portion of a training or certification [an emergency medical technician] examination in order to assist another to cheat on the examination;

(9) [(7)] Cheats, or assists another to cheat, on an examination for certification [recertification, challenge, or reentry];

(10) [(8)] Does not meet the qualifications, minimum requirements, special requirements, and basic competency areas established [outlined] in the:

(a) "Emergency Medical Technician-[/]Basic Functional Position Description"; or

(b) The "Emergency Medical Technician First Responder Functional Position Description" [—The "Emergency Medical Technician/Basic Functional Position Description", April 1993, is incorporated by reference, and may be inspected, copied, or obtained from the Office of the Commissioner for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday];

(11) [(9)] Issues a check for a certificate or is certified as a result of a check being issued on an invalid account or an account which does not have sufficient funds to pay the fee for the certificate required by 902 KAR 13:030;

(12) [(10)] Discriminates in the provision of services on the basis of race, sex, age, religion, color, creed, or national origin;

(13) [(11)] Practices outside or beyond the scope of his level of certification, or represents he is qualified at a level other than his current certification;

(14) [(12)] Takes or possesses, without authorization, for personal use or gain, medicines, supplies, equipment, or personal items of a patient;

(15) [(13)] Materially alters a certificate, or uses or possesses an altered certificate;

(16) [(14)] Obtains or attempts to obtain a certificate by fraud, forgery, deception, misrepresentation, or subterfuge; or assists another to obtain a certificate by fraud, forgery, deception, misrepresentation, or subterfuge.

(17) [(15)] Falsifies an application for certification or recertification;

(18) [(16)] Falsifies a patient record;

(19) [(17)] Has had an EMT, paramedic [EMT-first responder, EMT-first responder instructor, EMT-instructor, EMT-instructor-trainer], or equivalent certificate denied, suspended, revoked, or restricted in another state while holding a Kentucky certificate;

(20) [(18)] Uses or attempts to use his certificate to obtain or attempts to obtain a [any] benefit to which he is not entitled by duress, coercion, fraud, or misrepresentation;

(21) [(19)] Is not at least eighteen (18) years of age when applying [at the time of application] for certification;

(22) [(20)(a)] been convicted of a felony or misdemeanor described in KRS 335B.010(4); or

(23) [(b)] Has been convicted of another relevant crime as established in Section 2 of this administrative regulation which are [other crimes] directly related to the ability of a person to perform the duties of an EMT.

Section 2. Relevant Crimes. In determining if a crime directly relates to the ability of a person to perform the duties of an EMT, the cabinet shall apply the test established in KRS 335B.020(2) to the following crimes:

(1) Offenses under KRS Chapter 189 (traffic regulations punishable by fine or imprisonment or both);

(2) Offenses under KRS Chapter 189A (driving under the influence); and

(3) Offenses under:

(a) KRS Chapter 218A (controlled substances);

(b) KRS Chapter 507 (criminal homicide);

(c) KRS Chapter 508 (assault and related offenses);

(d) KRS Chapter 509 (kidnapping and related offenses);

(e) KRS Chapter 510 (sexual offenses);

(f) KRS Chapter 511 (burglary and related offenses);

(g) KRS Chapter 512 (criminal damage to property);

(h) KRS Chapter 513 (arson and related offenses);

(i) KRS Chapter 514 (theft and related offenses);

(j) KRS Chapter 515 (robbery);

(k) KRS Chapter 521 (bribery and corrupt influences);

(l) KRS Chapter 523 (perjury and related offenses);

(m) KRS Chapter 525 (riot, disorderly conduct and related offenses);

(n) KRS Chapter 527 (offenses relating to firearms and weapons);

(o) KRS Chapter 528 (gambling);

(p) KRS Chapter 529 (prostitution offenses); and

(q) KRS Chapter 506 (Inchoate offenses).

Section 3. Presumptive Denial of Certification for Conviction of a Relevant Crime. Convictions for the following crimes shall be grounds for presumptive denial or revocation of an EMT certification:

(1) Capital offenses;

(2) Class A, Class B, and Class C felonies;

(3) Class D felonies, if the conviction occurred within the last five (5) years;

(4) Crimes involving sexual misconduct including forcible rape;

(5) Sexual or physical abuse of:

(a) Children;

(b) The elderly; or

(c) The infirm;

(6) Child pornography;

(7) Incest involving a minor;

(8) Assault on an elderly or infirm person;

(9) Crimes in which the victim is a patient or otherwise under the care and protection of the EMT or applicant including:

(a) Abuse;

(b) Theft; or

(c) Financial exploitation;

(10) Crimes involving the use of alcohol or illegal drugs, while on duty as an EMT;

(11) Traffic offenses defined as:

(a) Three (3) or more convictions for driving under the influence (DUI) within the last five (5) years; or

(b) A DUI conviction or more than two (2) separate moving violations incurred while operating an emergency vehicle; or

(12) Four (4) or more misdemeanor convictions within the last five (5) years.

Section 4. Restricted Certification for Conviction of a Relevant Crime. A person convicted of a relevant crime may be eligible for a restricted EMT certificate with a particular employer or a particular type of employment if:



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- (1) He has not been convicted of a Class D felony within five (5) years prior to the request for certification;
- (2) He has not been convicted of another felony;
- (3) He:
  - (a) Has completed the terms of his sentencing; or
  - (b) Is on unsupervised probation;
- (4) The crime does not fall under the conditions for presumptive denial or revocation established in Section 3 of this administrative regulation;
- (5) He has not been convicted of traffic offenses defined as:
  - (a) Two (2) convictions for driving under the influence (DUI) within the last five (5) years; or
  - (b) A moving violation incurred while operating an emergency vehicle; or
- (6) He has not been convicted of more than three (3) misdemeanors within the last five (5) years.

Section 5. Probationary Certification for Conviction of a Relevant Crime. A person convicted of a relevant crime may be eligible for a probationary EMT certificate if:

- (1) The crime does not fall under the conditions for presumptive denial or revocation established in Section 3 of this administrative regulation;
- (2) The crime does not meet the conditions for a restricted certificate established in Section 4 of this administrative regulation;
- (3) He has not been convicted of traffic offenses defined as one (1) conviction for driving under the influence (DUI) within the last five (5) years; or
- (4) He has not been convicted of more than two (2) misdemeanors within the last three (3) years.

Section 6. Persons Certified While Incarcerated. (1) [Restricted Certificate:] The cabinet may issue a restricted [restrict-the] certificate to [of] a person who is certified or obtains certification as an EMT-B, or EMT first responder while incarcerated in a prison, correctional facility, reformatory, or jail to function as an EMT-B, or EMT first responder only within the scope of an ambulance service operated by that facility during the period of his incarceration.

(2) If a restricted certificate is issued to a person who is incarcerated in a prison, correctional facility, reformatory, or jail, the certificate shall automatically expire upon release of the person from incarceration.

Section 7. [3:] Cease and Desist Order. If the cabinet has reasonable cause to believe that a person may cause harm or create an imminent danger to the public if his certificate is not denied, suspended, revoked, probated or restricted, the cabinet may issue an order directing a person to immediately cease and desist functioning as an EMT-B, EMT first responder, EMT first responder instructor, or EMT-B instructor[, or EMT-instructor-trainer if the cabinet has reasonable cause to believe that the person may cause harm or create an imminent danger to the public if his certificate is not denied, suspended, revoked, or restricted].

Section 8. [4:] Notice Procedures. (1) The cabinet shall notify a person by certified mail sent to his last known address of record of an action to deny, revoke, suspend, or restrict his certificate, and of his right to request a hearing.

(2) The written notice of the cabinet shall comply with KRS 13B.050.

(3) Failure of an EMT to notify the cabinet of a change of address or to accept or claim the certified notice at his last known address of record shall not:

- (a) Delay or negate the disciplinary action;
- (b) Change the effective date of the action; or
- (c) Suspend, alter, or negate the time period allowed to respond to the action or request a hearing.

(4) [(2)] The written notice shall state the substance of each offense charged with sufficient detail to reasonably apprise him of the nature, time, and place of the violation.

Section 9. [5:] Hearings. (1) An administrative hearing [Administrative hearings] shall be conducted in accordance with 902 KAR 1:400.

(2) The hearing shall be conducted by a hearing officer appointed by the cabinet in accordance with 902 KAR 1:400.

(3) If an applicant or certificate holder does not request a hearing within twenty (20) days of the written notice of intended action, the action shall be final.

(4) If a person receives a certificate and his check for the certification fee is later returned unpaid due to an invalid account or insufficient funds, the certificate shall be automatically suspended until:

(a) The fee is paid in full by cash, certified check, or money order; or

(b) The person requests a hearing on the suspension.

Section 10. Disclosure and Publication of Disciplinary Actions. (1) [(5)] The cabinet may disclose to the public and publish in the EMS newsletter, or similar publication:

(a) The name of a person whose certificate has been denied, suspended, revoked, or restricted and the time period involved;

(b) The administrative regulation violated; and

(c) The nature of the violation.

(2) [(6)] If a person is employed as an EMT, EMT first responder, EMT first responder instructor, EMT instructor, or EMT instructor trainer at the time when a final decision is made by the cabinet to deny, suspend, revoke, or restrict a certificate, the cabinet may notify the employer of record of the action taken.

(3) [(7)] If a person fails to abide by a decision of the cabinet to deny, suspend, revoke, or restrict his certificate, the person shall be in violation of KRS 211.962 and may be charged with a Class A misdemeanor under KRS 211.990(5).

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The "Emergency Medical Technician-Basic Functional Position Description", April, 1993; and

(b) The "Emergency Medical Technician First Responder Functional Position Description", October, 1998.

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

RICE C. LEACH, M.D., Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If no notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

### REGULATORY IMPACT ANALYSIS

Agency Contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 15,500 emergency medical technicians (EMTs), EMT-instructors, and EMT-first responders.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented to the extent available from the public comments received. This administrative regulation will have no effect on the cost of living and employment in

this state.

(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. This administrative regulation will have no effect on the cost of doing business in any geographical area of this state.

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

1. First year following implementation: None
2. Second and subsequent years: As above.
- (3) Effects on the promulgating administrative body: None
- (a) Direct and indirect costs or savings:

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(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: 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: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were rejected because this administrative regulation complies with the requirements of KRS Chapter 13A.

(8) Assessment of expected benefits: This administrative regulation will establish, in administrative regulation, uniform policies for taking disciplinary action against the certification of an emergency medical technician.

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

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

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or 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 because this administrative regulation applies to all levels of emergency medical technician (EMT) certification.

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

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

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS 194A.030, 211.964

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.964

requires [directs] the Cabinet for Health Services to promulgate [Human Resources to adopt rules and] administrative regulations relating to emergency medical technicians (EMTs). The function of this administrative regulation is to establish [a new classification of emergency medical technician, the emergency medical technician first responder (EMT first responder), and to establish] requirements for

emergency medical technician first responder (EMT-FR) and EMT-FR instructor training, examinations, and certifications.

Section 1. Training Course Requirements. (1) The emergency medical technician- [EMT] first responder training course shall:

[(1)](a) Be conducted by a cabinet-approved emergency medical services (EMS) educational institution that meets the requirements of 902 KAR 13:160;

(b) Not commence until the sponsoring agency has been certified by the cabinet as an EMS educational institution;

(c) Be a minimum of forty-seven and one-half (47 1/2) hours in duration;

(d) Follow the United States (U.S.) Department of Transportation, (DOT), National Highway Traffic Safety Administration, 1995 EMT First Responder-National Standard Curriculum (1995 EMT-FR NSC); and

(e) Include training in:

1. Acquired Immune Deficiency Syndrome (AIDS) as required by KRS 214.610;

2. Proper use of automated external defibrillators (AEDs);

3. Proper use of oxygen therapy delivery devices including bag-valve-mask;

4. Proper use of a cervical collar and long spine board immobilization;

5. Proper use of the sphygmomanometer and stethoscope for obtaining blood pressure; and

6. Cardiopulmonary resuscitation (CPR) that meets the educational objectives of:

a. The American Heart Association;

b. The American National Red Cross; or

c. The National Safety Council.

(2) The CPR course shall:

(a) Be taught by a person who is:

1. An American Heart Association CPR instructor;

2. An American National Red Cross CPR instructor;

3. A National Safety Council CPR instructor;

4. An EMT-B instructor; or

5. An EMT-FR instructor; and

(b) Include instruction and testing in:

1. One (1) rescuer CPR;

2. Two (2) rescuer CPR;

3. Techniques of changing from one (1) rescuer to two (2) rescuers during the performance of CPR;

4. Techniques of changing rescuers during the performance of two (2) rescuer CPR;

5. Techniques for relief of obstruction of the airway;

6. CPR for infants and small children; and

7. Barrier to mouth, barrier to nose and barrier to stoma resuscitation for adults, small children and infants. [Include the curriculum of the "Emergency Medical Services: First Responder Training Course", (March 1979), U.S. Department of Transportation, National Highway Traffic Safety Administration, Washington, D.C. 20590, and the accompanying text "First Responder" (Third Edition), (1991) The Brady Company, Prentice-Hall, Inc., Englewood Cliffs, N.J. 07632.

(b) A copy of these publications is incorporated by reference. They shall be on file in the office of the Emergency Medical Services Branch, Department for Health Services, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40601, and shall be available for public inspection and copying Monday through Friday from 8 a.m. until 4:30 p.m.;

(2) Be at least forty (40) hours in duration;

(3) Utilize equipment, texts, and other materials approved by the cabinet;

(4) Not begin until all equipment, texts, and other materials specified are available, in proper quantities, in proper working condition, and placed in secure storage;

(5) Share equipment between courses if it is available equally to all EMT first responder classes;

(6) Be taught by an instructor approved by the cabinet pursuant to Section 2 of this administrative regulation;

(7) Have one (1) assistant instructor for every ten (10) students during a practice session.

(b) A certified emergency medical technician or paramedic may be used as an assistant for practice sessions;



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(8) Have a class certification number assigned by the cabinet;  
(9) Be limited to a maximum of thirty (30) students;  
(10) Permit more than one (1) lesson absence per student if the absence is made up:

- (a) With the approval of the instructor; or
- (b) In a subsequent EMT first responder course;
- (11) Require each student to sign in for each lesson on attendance sheets provided by the cabinet; and
- (12) Require the instructor at the end of each course, to provide the cabinet with the:

- (a) "Final Course Records Form";
- (b) "Answer Sheet";
- (c) "Final Practical Exams";
- (d) "Application for Certification";
- (e) The fee prescribed by 902 KAR 13:030, Section 1(3);
- (f) Two (2) "Master Student Attendance Sheets"; and
- (g) "Attendance sheets" for each lesson.
- (13)(a) The following forms are incorporated by reference:
  - 1. "Final Course Records Form" (11/87);
  - 2. "Kentucky First Responder Examination Answer Sheet" (88-89);
  - 3. "Application for Certification" (7/90);
  - 4. "Master Student Attendance Sheet" (11/87); and
  - 5. "Attendance Sheet" (11/87).

(b) They may be inspected, copied or obtained from the Emergency Medical Services Branch, Department for Health Services, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. through 4:30 p.m., Monday through Friday.]

Section 2. EMT First Responder Instructors. [(1)] A person shall be eligible for certification as an EMT-FR instructor [not hold himself out as an EMT first responder instructor] if he:

- (1) Submits to the cabinet:
    - (a) An application for EMT-FR instructor certification; and
    - (b) Pays the fee as required in 902 KAR 13:030;
  - (2) Is a Kentucky-certified:
    - (a) EMT-FR trained in the 1995 EMT-FR NSC;
    - (b) EMT-B trained in the 1994 EMT-B National Standard Curriculum; or
    - (c) EMT-paramedic trained in the 1994 EMT-B National Standard Curriculum.
  - (3) Meets the requirements of Section 1(1)(d) of this administrative regulation;
  - (4) Has completed a cabinet-approved basic instructional methodology course that consists of a minimum of sixteen (16) contact hours that shall include:
    - (a) Adult learning techniques;
    - (b) Use of audio visuals;
    - (c) Small group dynamics; and
    - (d) Evaluation techniques.
  - (5) Provides documentation that he has had at least two (2) years experience teaching or providing emergency medical services;
  - (6) Has completed instructor orientation on the 1995 EMT-FR NSC;
  - (7) Has completed a cabinet-approved HIV and AIDS Train the Trainer Course; and
  - (8) Is not subject to disciplinary action pursuant to 902 KAR 13:090.
- [(a) Is not an EMT-instructor certified by the cabinet; or  
(b) Has not been approved by the cabinet to teach the EMT first responder course.
- (2) Upon submission of appropriate documentation to the cabinet, the following shall be eligible for approval:
- (a) An individual certified by the:
    - 1. Kentucky Law Enforcement council to teach the first responder course; and
    - 2. Cabinet as an EMT or EMT first responder.
  - (b) An individual certified by the:
    - 1. Commission on Fire Protection Personnel Standards and Education as a fire protection instructor; and
    - 2. Cabinet as an EMT or EMT first responder.
  - (c) A physician, registered nurse, paramedic, or emergency medical technician who has:
    - 1. Completed a basic instructional methodology course approved

by the cabinet; and

2. Experience, or is active in teaching or providing emergency medical services.}]

Section 3. Requirements for Applicants for Initial Kentucky EMT-FR Certification. An [Each] applicant for initial EMT-FR certification shall be eligible for certification if he:

- (1) Submits to the cabinet a signed Kentucky Application for EMT First Responder Certification;
  - (2) Provides evidence of current registration as an EMT-FR by the National Registry of Emergency Medical Technicians (NREMT);
  - (3) Meets the Acquired Immune Deficiency Syndrome (AIDS) education requirements of KRS 214.610;
  - (4) Pays the fees as required in 902 KAR 13:030; and
  - (5) Is not subject to disciplinary action pursuant to 902 KAR 13:090.
- (6) A person applying for certification or recertification pursuant to of 902 KAR 13:070, Section 6, shall not be required to hold current registration through the NREMT but shall provide evidence that they have received a passing score on the written examination and practical skills examination required for NREMT registration. [:
- (1) Be eighteen (18) years of age or older;
  - (2) Not be habitually addicted to or an abuser of alcoholic beverages, drugs, or controlled substances; and
  - (3) Understand and be able to read, speak, and write the English language.}]

Section 4. EMT First Responder Certification Examination. (1) The cabinet shall prescribe the format and content of the EMT-FR [EMT's] certification examination, which shall include, the practical and written testing requirements of the NREMT-FR Examination Coordinators Manual.

(2) A person shall not evaluate or proctor an EMT-FR certification examination if he:

- (a) Served as lead instructor or assistant instructor for the student;
  - (b) Supervises or is supervised by the applicant for certification;
  - (c) Is a family member; or
  - (d) Has a conflict of interest that could potentially bias the evaluator or proctor toward or against the student in the performance of his duties.
- (3) An EMT-FR student who does not become Kentucky-certified within two (2) years after the EMT-FR course completion date shall repeat the EMT-FR course before he may become certified.
- (4) The EMS educational institution or EMS testing agency shall:
- (a) Secure skill examination evaluators who shall meet requirements of 902 KAR 13:160, Section 4(3);
  - (b) Verify the eligibility of the student to test or initially retest for the Kentucky EMT-FR certification skills examination. Eligibility for subsequent testing or retesting shall be verified in conjunction with the EMS Branch, [consist of two (2) parts:

- (1) Written:
  - (a) A passing grade of seventy-five (75) percent shall be required.
  - (b) If an applicant's grade average is seventy (70) percent or more, the applicant may, upon proper application, retake the written examination.
  - (c) If the applicant fails again, he shall be required to retake the entire EMT first responder course before being eligible for reexamination.
- (2) Practical:
  - (a) The applicant shall pass all parts of the final practical examination:
    - (b) If he fails to pass all portions of the final practical examination, he shall be permitted one (1) opportunity to retake the part which he failed to pass.
    - (c) If the applicant fails again to pass that particular part of the examination, he shall be required to retake the entire EMT first responder training course before being eligible for reexamination.
  - (3) Examiners:
    - (a) Except as provided in paragraph (b) of this subsection, examiners for EMT first responder course practical examinations shall be:
      - 1. EMT-instructors certified by the cabinet; or
      - 2. EMT first responder instructors approved by the cabinet pursuant to Section 2 of this administrative regulation.
    - (b) An instructor who is employed by the organization for whom

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the EMT first responder course is conducted shall not be used as an examiner in the practical examination of that course.]

Section 5. Expiration of Certification. (1) An EMT first responder (EMT-FR) certificate shall expire two (2) [three (3)] years from the date of issuance.

(2) Upon expiration of his certification, an EMT-FR shall not perform a procedure authorized for a certified EMT-FR pursuant to Section 9 of this administrative regulation, unless he is certified to do so under other credentials.

(3) If the certification of an EMT-FR expires, he may obtain EMT-FR certification if he:

(a) Successfully repeats the entire EMT-FR training course including the certification examinations; and

(b) Meets the requirements of Section 3 of this administrative regulation.

Section 6. Renewal of EMT-FR Certification and Continuing Education Requirements. (1) Effective July 1, 2002, an EMT-FR who was initially certified by the cabinet prior to the effective date of this administrative regulation, shall:

(a) Attain continuing education, taught by an EMT-FR instructor or a person who meet the requirements of 902 KAR 13:050, Section 4(2), prior to the expiration date of his certification that:

1. Meets or exceeds the requirements of the NREMT; and  
2. Includes at least seventeen (17) contact hours, of which, two (2) shall be in AIDS education as required by KRS 214.610;

(b) Provide written evidence to the cabinet of completion of current training in CPR which meets the requirements of Section 1(1)(e)6 of this administrative regulation;

(c) Submit to the cabinet, prior to the expiration date of his certificate:

1. A signed Application for EMT-FR Certification Renewal; and  
2. A record of his continuing education hours on a form that:  
a. Has been signed by the instructor;  
b. Has been signed by the EMT-FR; and  
c. Contains a certification as to the truth of the information supplied.

3. Pays the fees as required in 902 KAR 13:030.

(2) An EMT-FR, who applies for renewal as an EMT-FR, who is initially certified by the cabinet after the effective date of this administrative regulation, shall be eligible for Kentucky EMT-FR certification if he:

(a) Provides documentation that he has during his two (2) year certification period completed a minimum of seventeen (17) contact hours of continuing education that includes:

1. Thirteen (13) hours equivalent to the United States (U.S.) Department of Transportation (DOT) Refresher Course;

2. Two (2) hours of continuing education that meets the AIDS education required by KRS 214.610;

(b) Provides documentation that he has met, prior to his certification expiration date, the requirements of certification renewal, including having obtained continuing education hours as required in subsection (1) of this section;

(c) Submits to the cabinet, prior to the expiration date of his certificate:

1. A signed Application for EMT-FR Certification Renewal; and  
2. A record of his continuing education hours on a form which:  
a. Has been signed by the instructor;  
b. Has been signed by the EMT-FR; and  
c. Contains a certification as to the truth of the information supplied;

(d) Provides written documentation from a CPR instructor, EMS educational institution instructor or chief administrative officer, or organization training officer verifying completion of the CPR requirements as outlined in Section 1(1)(e)6 of this administrative regulation;

(e) Is not subject to a disciplinary action identified in 902 KAR 13:090; and

(f) Pays the required fee established in 902 KAR 13:030, Section 1(3)(f).

(3) An EMT-FR shall submit a completed application for recertification postmarked to the cabinet no later than thirty (30) days after the expiration date of the certificate.

(4) If the application for renewal is not postmarked to the cabinet within thirty (30) days of the certification expiration date, the applicant shall not be considered for renewal.

(5) An EMT-FR who is a member of the National Guard or a military reserve unit and who is called to active duty by Presidential Order under 10 USC 121 and 673b, shall, upon written request to the cabinet, be given an extension for a period up to one (1) year after the release of the EMT-FR from active duty or return to the United States, whichever occurs first.

(6) An EMT-FR who attends the entire minimum twenty (20) hour EMT-FR transition course (TC) as described in Section 8 of this administrative regulation and does not successfully pass the accompanying practical skills examination may apply the hours earned in the EMT-FR TC hour-for-hour toward the required seventeen (17) continuing education hours described in subsection (1) of this section, except that the hours earned in the TC shall not:

(a) Apply toward the required two (2) hours of AIDS education required by KRS 214.610; or

(b) Apply as credit for update training to the 1995 EMT-FR NSC referenced in Section 1(1)(d) of this administrative regulation.

(7) An EMT-FR who attends the entire minimum twenty (20) hour EMT-FR TC and successfully passes the accompanying practical skills examination, may:

(a) Utilize the hours earned in the TC in accordance with the requirements of subsection (6) of this section; and

(b) Receive credit for completing the required update training to the 1995 EMT-FR NSC. [In-service Training or Continuing Education Requirements. (1) Prior to the renewal of an EMT first responder certificate, an EMT first responder shall complete the training or continuing education requirements of this section:

(2) During his certification period, he shall:

(a) Complete:

1. Twelve (12) hours of in-service training, or continuing education; or

2. A combination thereof;

(b) Be certified in cardiopulmonary resuscitation (CPR) as required by the:

1. American Heart Association; or

2. American National Red Cross; and

(c) Submit evidence of the training and certification required by this subsection to the cabinet not less than thirty (30) days prior to the expiration of his EMT first responder certificate.

(3) An applicant for recertification shall receive credit for completion of in-service training or continuing education on a subject:

(a) Covered by the U.S. Department of Transportation EMT first Responder curriculum; or

(b) For which instruction is authorized by the cabinet.

(4) Each subject or training course claimed shall be countersigned by the instructor of the subject or course.

(5) Training received as a requirement for continuing education in medicine, nursing, paramedic, or as an EMT in a coal mining situation required by KRS 351.127 shall be eligible for in-service training or continuing education credit if it meets the criteria of subsection (2) of this section.

(6)(a) The EMT first responder shall submit to the cabinet a "First Responder Official Record of Continuing Education or In-service" (9-30-91) record of his in-service training or continuing education on a form:

(b) The form shall be:

1. Signed by the EMT first responder;

2. Contain a certification as to the truth of the information supplied; and

3. A statement that misrepresentation of the information may be cause for suspension or revocation of a certificate.

(c) "First Responder Official Record of Continuing Education/In-service" (9-30-91), is incorporated by reference and may be obtained from the Emergency Medical Services Branch, Department for Health Services, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621, between 8 a.m. and 4:30 p.m., Monday through Friday.

(7) The following shall not be eligible for credit as in-service training or continuing education:

(a) Ambulance runs, rescues, firefighting, emergency responses, or similar actual emergency activities; and

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~~(b) Instruction in material, techniques or procedures not authorized to be performed by EMT first responders.]~~

Section 7. Renewal of EMT-FR Instructor Certification. (1) Unless it is renewed, the certification of an EMT-FR instructor shall expire two (2) years from the date of issuance.

(2) An applicant for EMT-FR instructor renewal shall:

(a) Submit to the cabinet a signed and completed application for EMT-FR instructor renewal;

(b) Provide documentation that he has obtained continuing education that meets the AIDS education required by KRS 214.610;

(c) Provide documentation of current CPR instructor certification;

(d) Provide documentation of current EMT-basic or EMT first responder certification;

(e) Provide documentation of having provided a minimum of twelve (12) hours of active teaching of EMT first responders or EMT-FR candidates during the previous two (2) years;

(f) Provide documentation of at least twelve (12) hours of active involvement with the delivery of prehospital patient care or transportation services within an EMS system during the previous two (2) years; and

(g) Pays the fees as required in 902 KAR 13:030.

(3) A Kentucky-certified EMT-B instructor who has not renewed his certification, shall not:

(a) Teach an EMT-FR course;

(b) Teach an EMT-FR continuing education class;

(c) Serve as a lead instructor or assistant to the lead instructor;

or

(d) Be eligible for renewal of the EMT-FR instructor certification.

(4) If the certification of an EMT-FR instructor expires, he shall meet the requirement of Section 2 of this administrative regulation before he may be eligible for certification. [Instructor-Requirements for EMT-First Responder-In-service-Training-and-Continuing-Education. The following persons shall be considered qualified to conduct in-service training and continuing education courses for EMT first responders:

(a) A physician licensed pursuant to KRS Chapter 314;

(b) A registered nurse licensed pursuant to KRS Chapter 314;

(c) A paramedic certified by the State Board of Medical Licensure;

(d) An emergency medical technician instructor or instructor trainer certified by the Cabinet for Human Resources; or

(e) An instructor who:

1. Is certified by a state or federal agency to teach a subject; and

2. Teaches a course which qualifies for EMT first responder in-service training or continuing education.

(2) As applicable, a physician, registered nurse, paramedic or emergency medical technician instructor currently licensed or certified by another state of the United States of America shall be considered as meeting the requirements of subsection (1)(a) through (e) of this section.]

Section 8. Kentucky EMT-FR Transition Course. (1) An EMT-FR currently certified in Kentucky who completed his EMT-FR training based on a version other than the 1995 EMT-FR NSC shall, by December 31, 2002:

(a) Successfully complete the 1995 EMT-FR Transition Course (TC) based on the first responder refresher, NSC medical and trauma skills examination within two (2) attempts; or

(b) If unsuccessful in completing the course identified in paragraph (a) of this subsection, attend a complete twenty (20) hour EMT-FR TC and pass the skills examination within two (2) attempts.

(2) A Kentucky certified EMT-FR who holds out-of-state certification shall not be required to take the Kentucky EMT-FR TC if he provides documentation that he has completed equivalent training in another state prior to December 31, 2002.

(3) An EMT-FR, currently certified in Kentucky, who completed his EMT-FR training in a Kentucky 1995 NSC EMT-FR Pilot Program or a 1995 NSC EMT-FR course shall not be required to complete the EMT-FR TC.

(4) An EMT-FR, currently certified in Kentucky, who completed his EMT-FR training in a Kentucky 1995 NSC EMT-FR Pilot Program or a 1995 NSC EMT-FR course may complete the EMT-FR TC in order to obtain continuing education hours to meet the requirements of Section 6 of this administrative regulation for EMT-FR re-

certification.

(5) An EMT-FR TC shall be coordinated by an agency or organization approved by the cabinet such as:

(a) An EMS educational institution;

(b) A licensed Class I ambulance service; or

(c) An acute care facility.

(6) An agency or organization sponsoring a 1995 NSC EMT-FR TC shall:

(a) File with the cabinet, a written notice of intent to sponsor an EMT-FR TC at least two (2) weeks prior to the planned starting date of the course;

(b) Assume the responsibility for conducting the EMT-FR TC;

(c) Ensure that the course is at least twenty (20) hours in duration. This shall not include time for the course practical examination; and

(d) Utilize texts that shall:

1. Meet the requirements of the 1995 EMT-FR NSC;

2. Be currently in publication;

3. Be the most current edition available when the course begins;

4. Be maintained on file in the office of the sponsoring agency; and

5. Be available upon request during normal office hours or during course hours.

(e) Have available supplies and equipment, if needed, during course lessons, skills practice sessions, and examinations;

(f) Not permit a student to be on call while classes are in session; and

(g) Provide a designated lead instructor for lectures who:

1. Is an EMT first responder instructor certified by the cabinet; and

2. Has completed a Kentucky EMT-FR instructor orientation training program on the 1995 EMT-FR NSC.

(7) If there are more than ten (10) students enrolled in an EMT-FR TC, there shall be a minimum ratio of one (1) assistant instructor for each ten (10) enrolled students during skill practice sessions.

(8) An assistant instructor shall be available to assist as an evaluator for the course practical examination.

(9) An assistant instructor shall be Kentucky-certified or licensed as one (1) of the following:

(a) An EMT-B or EMT-FR instructor;

(b) A physician licensed by the Kentucky Board of Medical Licensure (KBML);

(c) A Kentucky certified paramedic who:

1. Holds current instructor credentials in the American Heart Association Advanced Cardiac Life Support or Pediatric Advanced Life Support; or

2. Is a Level 1 fire service instructor;

(d) A Kentucky licensed registered nurse who:

1. Has completed a EMT-FR TC; and

2. Is a certified emergency nurse; or

3. Has evidence of three (3) consecutive years experience in an acute medical facility emergency department who:

a. Holds current instructor credentials in the American Heart Association Advanced Cardiac Life Support or Pediatric Advanced Life Support; or

b. Is a Level 1 fire service instructor; or

(e) A Kentucky certified EMT-B or EMT-FR who:

1. Holds current instructor credentials as:

a. An American Heart Association instructor;

b. An American National Red Cross instructor; or

c. A National Safety Council instructor; and

2. Holds current certification by:

a. The Commission on Fire Protection Personnel Standards and Education as a Level 1 or higher fire protection instructor; or

b. The Kentucky Law Enforcement Council as an instructor; or

3. Has completed a cabinet-approved basic instructional methodology course that consists of a minimum of sixteen (16) contact hours to include:

a. Adult learning techniques;

b. Use of audio visuals;

c. Small group dynamics; and

d. Evaluation techniques.

(10) The sponsoring agency or organization shall:

(a) Submit to the cabinet an application for approval to conduct

an EMT-FR TC;

- (b) Submit to the cabinet the original copy of the:
  1. Results of the course skill station examination; and
  2. Master grade sheet;

(c) Maintain for a minimum of five (5) years or until December 31, 2006, whichever comes first, the original copy of the:

- 1. Lesson attendance;
  - 2. Required remediation;
  - 3. Validation that a student has demonstrated competency in the eleven (11) psychomotor skill objectives which are required in order to take the accompanying course practical skills examination; and
  - 4. Master attendance sheet.
- (d) Provide a certificate of completion which specifies:
- 1. The hours earned toward certification renewal; and
  - 2. An indication if the student was successful in completing the EMT-FR TC by passing the accompanying skill examination.

(e) Assure that the accompanying course skill examination shall be administered with at least one (1) evaluator per station.

(11) The skill station shall be designed to test one (1) or more skills. On the date of the examination, the EMT-FR candidate shall randomly choose if the station to be tested shall feature a medical or trauma patient condition, and at the same time the EMT-FR candidate shall randomly choose a scenario which shall be tested.

(12) At the completion of the skills examination, an EMT-FR TC student shall be informed of his pass-or-fail status.

(13) If an EMT-FR TC student fails to pass the required stations, he shall be permitted one (1) opportunity to retest the same station or stations which he failed, except that on the date of the retest, he shall randomly choose the scenario for the station he is testing.

(14) The retest may be administered by the same sponsoring agency or organization, that sponsored the EMT-FR TC in which the EMT-FR was enrolled, except that the evaluator shall not be the same evaluator who evaluated the EMT-FR during his first examination.

(15) If an EMT-FR again fails to pass the required skill station examination, he shall be required to retake the entire EMT-FR TC before he may be eligible for reexamination.

(16) Until December 31, 2002, an EMT-FR may be allowed a maximum of two (2) attempts, with a maximum of one (1) retest on each attempt, to pass the accompanying practical skills examination.

(17) An EMT-FR who has not been successful in passing the skill examination retest on the second attempt by December 31, 2002, shall not be eligible for Kentucky EMT-FR certification unless he retakes and successfully completes the entire EMT-FR course. [Cardiopulmonary Resuscitation Requirement. (1) During the second year of the certification period, the EMT first responder shall obtain or renew certification in cardiopulmonary resuscitation and related techniques as follows:

(a) The course shall be conducted:

1. By, or under the authority of, the American Heart Association or the American National Red Cross; or

2. Under its authority, by an instructor certified by the American Heart Association or the American National Red Cross;

(b) The course shall be:

1. Taught for record; and

2. Certified by the instructor to the American Heart Association or the American National Red Cross as meeting all applicable standards of the organization;

(c) The course shall provide instruction and testing in:

1. One (1) rescuer cardiopulmonary resuscitation;

2. Two (2) rescuer cardiopulmonary resuscitation;

3. Techniques of changing from one (1) rescuer to two (2) rescuers during the performance of cardiopulmonary resuscitation;

4. Techniques of changing rescuers during the performance of two (2) rescuer cardiopulmonary resuscitation;

5. Techniques for relief of obstruction of the airway;

6. Cardiopulmonary resuscitation of infants and small children; and

7. Mouth to mouth or mouth to nose resuscitation for adults, small children, and infants.

(d) The course shall provide for individual skill testing of all adult and infant related skills in subsection (1) of this section.

(2) The applicant for renewal of certification shall forward to the cabinet a copy of both sides of the CPR card issued to him indicating

successful completion of the CPR course as required in Section 6(1) of this administrative regulation.]

Section 9. Authorized Procedures. A Kentucky certified EMT-FR shall be authorized to:

(1) [first responders may] Perform a procedure established [any of the procedures set forth] in the U.S. DOT 1995 EMT-FR NSC [:

(a) U.S. Department of Transportation] Curriculum;

(2) Possess and administer medical oxygen, including bag-valve mask;

(3) Utilize an automated external defibrillator (AED) in accordance with 902 KAR 13:120 for an EMT-FR;

(4) Apply a cervical collar and perform long spine board immobilization; and

(5) Utilize a sphygmomanometer and stethoscope for obtaining blood pressure.

Section 10. Reciprocity. A person shall be eligible for direct reciprocity for Kentucky certification as an EMT-FR if he meets the requirements of Section 3 of this administrative regulation.

Section 11. Exemptions from EMT-FR Administrative Regulations. The Kentucky certification requirements for an EMT-FR shall not apply to:

(1) United States military personnel or employees of the United States government while engaged in the performance of their official duties under federal laws; or

(2) An EMT-FR who is certified in another state who comes into Kentucky:

(a) To transport a patient into or through the state; or

(b) For the purpose of returning a patient to:

1. His out-of-state residence; or

2. To a medical facility in his out-of-state residence.

Section 12. Conversion of EMT Certification to EMT-FR Certification. (1) If a Kentucky or out-of-state currently certified EMT-B requests to convert his certification status to EMT-FR, he shall:

(a) Submit a written request to the cabinet to have his EMT-B certification converted to EMT-FR;

(b) Have successfully completed an EMT-B TC or EMT-FR TC; and

(c) Have successfully completed, within the past two (2) years, the continuing education requirements listed in Section 6(1)(a) of this administrative regulation.

(2) If an EMT-B converts his certification to an EMT-FR, he shall not be allowed to convert back to EMT-B status, unless he meets the EMT-B certification requirements of 902 KAR 13:050, Section 1.

Section 13. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The United States Department of Transportation, National Highway Traffic Safety Administration, 1995 First Responder-National Standard Curriculum;

(b) The United States Department of Transportation, National Highway Traffic Safety Administration, 1995 First Responder-National Standard Curriculum Refresher Course;

(c) The Kentucky EMT First Responder Curriculum Supplemental, (8/98);

(d) The "Application for Emergency Medical Technician First Responder Certification" form (EMS Branch-FR-101), revised (02/98);

(e) First Responder Official Record of Continuing Education Inservice form (FR-102) (old curriculum), revised 09/96;

(f) First Responder Official Record of Continuing Education Inservice form (FR-102A), revised (new curriculum) 11/98;

(g) (FR-103) FR HIV AIDS Affidavit, (06/98);

(h) (FR-104) FR Implementing Agency Agreement, revised 06/98;

(i) (FR-105) The EMT First Responder Course Syllabus (6/98);

(j) FR-107 FR Final Course Records Form, revised 03/98;

(k) FR-108 FR Course Master Grade Sheet, revised 04/98;

(l) FR-110 FR Certification Renewal Application, revised 02/98;

(m) FR-112 FR Transition Course Syllabus, revised 04/98;

(n) FR-113 FR TC Participant Competency Record, revised

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04/98;

(o) FR-114, FR Transition Course Application, revised 04/98;

(p) FR-115 FR Transition Course Approved Document, revised 05/98;

(q) FR-116 FR Transition Course Supplies and Equipment, revised 05/98;

(r) FR-118 FR Transition Course Agency Application, revised 05/98;

(s) FR-119 FR Implementing Agency Agreement, Renewal, revised 06/98;

(t) FR-120 FR Certification Application Return Form, revised 05/98;

(u) FR-121 FR Challenge Grade Form, revised 05/98;

(v) FR-122 FR Challenge Attendance Sign-in Sheet, revised 06/98;

(w) FR-124 FR Challenge Certification Application, revised 02/98; and

(x) Fr-125 Transition Course Master Grade Sheet.

(2) This material may be inspected, copied or obtained at the Department for Public Health, Division of Adult and Child Health, EMS Branch, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. "Emergency Medical Services: First Responder Training Course" (March 1979); and

(b) Accompanying text entitled "First Responder," (Third Edition), (1991) The Brady Company, Prentice-Hall, Inc.]

RICE C. LEACH, M.D., Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

**PUBLIC HEARING:** A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If no notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

### REGULATORY IMPACT ANALYSIS

Agency Contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 2,000 EMT first responders.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented to the extent available from the public comments received. This administrative regulation will have no effect on the cost of living and employment in this state.

(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. This administrative regulation will have no effect on the cost of doing business in any geographical area of this state.

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

1. First year following implementation: None

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None.

(a) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(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: 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: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were rejected because this administrative regulation establishes minimum requirements for training, examination, and certification of EMT first responders that are consistent with national standards and the National Standard Curriculum.

(8) Assessment of expected benefits: This administrative regulation will establish new EMT first responder training, examination, and certification requirements to meet the training and testing requirements of the revised 1995 National Standard Curriculum, allow EMT first responders to perform additional prehospital skills, require EMT first responders to obtain registration from the National Registry of Emergency Medical Technician so that the skill level of EMT first responders in Kentucky will be comparable to the skill level of EMT first responders in other states, establish EMT first responder training in approved emergency medical institutions, and provide certification for EMT first responder instructors.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will have a positive effect on public health in Kentucky because EMT first responders will be required to obtain training based on the revised 1995 National Standard Curriculum and permit EMT first responders to provide additional prehospital medical care.

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

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or 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 because this administrative regulation applies only to the EMT first responder and EMT first responder Instructor certification of emergency medical technician (EMT).

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes, if a local government pays for training and recertification of emergency medical technician first responders.

2. State what unit, part or division of local government this administrative regulation will affect the local government or only a part or division of the local government. This administrative regulation will affect the part or division of a local government that provides pre-hospital emergency medical services.

3. State the aspect or service of local government to which this administrative regulation relates. Prehospital emergency medical services.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. This administrative regula-

tion may affect a local government if the local government chooses to pay for training and recertification of emergency medical technician first responders. Since this policy varies across the state, there is no way to determine the impact on local expenditures.

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

**902 KAR 14:070. License procedures and fee schedule for ambulance providers.**

RELATES TO: KRS 211.950 to 211.956, 216B.010 to 216B.130, 216B.990

STATUTORY AUTHORITY: KRS Chapter 13B, 211.952, 216B.020(4), 216B.042, 216B.095, 216B.105, 216B.410; EO 96-862, 1996 Ky. Acts ch. 233]

NECESSITY, FUNCTION, AND CONFORMITY: [Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.] KRS 216B.042 and 216B.105 requires that the Cabinet for Health Services regulate health facilities and health services. KRS 211.952 requires the cabinet to establish a single lead agency within the Department for Public Health, with the responsibility for promulgating administrative regulations for licensing, inspecting, and regulating ambulance providers. This administrative regulation provides specific requirements for obtaining and maintaining a license to operate an ambulance service and establishes the fee schedule for a license.

Section 1. Definitions. (1) "Advanced life support (ALS)" means certified and licensed emergency medical professionals who provide prehospital medical care such as:

- (a) Basic life support services;
- (b) Advanced airway management such as endotracheal intubation;
- (c) Defibrillation; and
- (d) Administration of intravenous fluids and pharmaceuticals under the authority of a physician medical director.

(2) "Ambulance service" means an ambulance provider as defined in KRS 211.950(2) and 211.952(2)(c)1, 2, 3, and 4.

(3) "Basic life support" (BLS) means certified or licensed emergency medical personnel who provide prehospital medical care such as:

- (a) First aid;
- (b) Cardiopulmonary resuscitation;
- (c) Airway management;
- (d) Cervical spine control;
- (e) Breathing assistance;
- (f) Hemorrhage control; and
- (g) Basic patient movement procedures.

(4) ["Continuing education" means the provision of information or training within the scope of an individual's level of certification.

(5) "Licensing agency" means the Cabinet for Health Services, Department for Public Health.

(6) "Nonemergency health transportation (NEHT)" means an ambulance provider which meets the requirements of 902 KAR 14:060 and is licensed by the cabinet to provide health care transportation on a scheduled basis to individuals whose impaired health condition requires special transportation considerations, supervision, or handling but does not indicate a need for emergency medical treatment during transit or emergency medical treatment upon arrival at the final destination. NEHT providers shall not transport a patient who requires basic or advanced life support or a patient who has in place a temporary invasive device or equipment such as an intravenous administration device or airway maintenance device, excluding urinary catheters; or a patient who requires close observation or monitoring preceding or following an invasive technique.

(7) "Specialized ground ambulance provider" means a Class I, Class II, or air ambulance provider which is licensed by the cabinet to provide health care and transportation on an emergency or nonemergency scheduled basis that:

- (a) May be unavailable to the general public; and
- (b) Has specialized or limited functions such as interfacility transfer of critical patients who may require special consideration of:
  - 1. Equipment requirements;
  - 2. Personnel requirements; or
  - 3. Hours of operation.]

Section 2. Licenses. (1) [A person shall not establish a BLS or ALS ground ambulance service, BLS or ALS air ambulance service, or NEHT service in Kentucky without first obtaining a certificate of need, except as provided in Section 5 of this administrative regulation, and shall not operate a BLS or ALS air or ground ambulance service, or NEHT service without first obtaining a Kentucky Ambulance License, Form EMS-2 (12/94), incorporated by reference, from the licensing agency.

(2) Effective July 15, 1996, the licensing agency shall not license a new BLS or ALS ground ambulance service.

(3) Effective December 31, 1996, the licensing agency shall not license a new NEHT service.

(4) Effective July 15, 1996, the following classes of ambulance providers shall be licensed: Class I, Class II, Class III, Air, or NEHT. A person shall not establish a Class I, Class II, or Class III ground [or air] ambulance service in Kentucky without first obtaining a certificate of need, except as provided in Section 5 of this administrative regulation, and shall not operate a Class I, Class II, Class III, or air ambulance service without first obtaining a Kentucky Ambulance License, Form EMS-2 (6/96), incorporated by reference, from the licensing agency.

(2) [(5)] The license shall be conspicuously posted in a public area of the facility.

(3) [(6)] An ambulance provider shall file a "Kentucky Application for Ambulance Service Licensing", Form EMS-1 (6/96) [an application] with the Department for Public Health, Emergency Medical Services Branch, 275 East Main Street, Frankfort, Kentucky 40621, [in accordance with the following schedule:

—(a) An ambulance provider licensed prior to July 15, 1996 shall file a "Kentucky Application for Ambulance Service Licensing", Form EMS-1 (10/94), incorporated by reference.

—(b) An ambulance provider licensed after July 15, 1996 shall file a "Kentucky Application for Ambulance Service Licensing", Form EMS-1 (6/96), incorporated by reference.

—(c) An ambulance provider licensed as a NEHT service prior to December 31, 1996 shall file an "Application for License to Operate a Nonemergency Health Transportation Service", Form EMS-1N (12-94), incorporated by reference.]

(4) [(7)] An applicant for a license shall, as a condition precedent to licensing or relicensing, be in compliance with applicable administrative regulations under 902 KAR Chapter 14.

(5) [(8)] The licensee shall, as a condition of licensing or relicensing, be in compliance with the reporting requirements established by the licensing agency, unless otherwise exempted by statute:

(6) [(9)] The licensee shall maintain and submit completed reports required by:

- (a) KRS 216B.410;
- (b) 902 KAR 14:080, Section 3(2)(a);
- (c) 902 KAR 14:082, Section 3(2)(a);
- (d) 902 KAR 14:084; or
- (e) 902 KAR 14:090, Section 10; and
- (f) The licensing agency.

(7) [(10)] A license shall expire one (1) year following the date of issuance, unless otherwise provided in the license certificate.

(8) [(11)] A license may be renewed upon payment of the prescribed fee and compliance with the provisions for licensing.

(9) [(12)] A license to operate shall be issued only for the person, service area, and premises, including the number of ambulances named in the application, and shall not be transferable.

(10) [(13)] A new application shall be filed if a change of ownership occurs. A change of ownership for licenses shall be deemed to occur if more than fifty (50) percent of an existing facility, capital stock, or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one (1) person from another.

(11) [(14)] Upon filing a new application for a license due to change of ownership, the new license shall be automatically issued for the remainder of the current licensure period. [No additional fee shall



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be charged for the remainder of the licensure period.]

(12) ~~(15)~~ There shall be full disclosure to the licensing agency of the changes, such as name and address, of:

(a) A person having direct or indirect ownership interest of ten (10) percent or more in the service;

(b) Officers and directors of the corporation, if a service is organized as a corporation; and

(c) Partners, if a provider is organized as a partnership.

Section 3. Licensing Inspections. (1)(a) Compliance with licensing administrative regulations may be ascertained through on-site inspections of the provider by representatives of the licensing agency.

~~(b) On-site inspections may be conducted annually if any deficiencies were found during an inspection, and biannually if no deficiencies were found during the past two (2) years involving critical equipment, policy and documentation as established by the licensing agency.~~

(2) Representatives of the licensing agency shall have access to the service during hours the service operates.

(3) A regulatory violation identified during an inspection shall be transmitted in writing to the provider by the licensing agency.

(4)(a) The provider shall submit a written plan for the elimination or correction of the regulatory violations to the licensing agency within ten (10) days of receipt of the statement of deficiencies [violation].

~~(b) The plan shall specify the date, method, or equipment which will be used to correct each deficiency cited [by which the violation shall be corrected].~~

~~(5)(a) Following a review of the plan, the licensing agency [shall notify the provider in writing of the acceptability of the plan. The licensing agency] may conduct a follow-up visit to verify compliance with the plan.~~

(b) If a portion or all of the plan is unacceptable, the licensing agency shall specify in writing the reasons for the unacceptability. The provider shall modify or amend the plan and resubmit it to the licensing agency within ten (10) days after receipt of notice that the plan is unacceptable.

(6) Unannounced inspections may be conducted on complaint allegations, follow-up visits, and relicensing inspections. Inspections shall be conducted utilizing the procedures outlined under this section.

(7) The licensing agency may deny, revoke, modify, or suspend the license of a provider which:

(a) Fails to submit, amend, or modify a plan of correction in order to eliminate or correct regulatory violations;

(b) Fails to eliminate or correct regulatory violations;

(c) Falsifies an application for licensing;

(d) Tampers with, alters, or changes a license issued by the licensing agency;

(e) Attempts to obtain or obtains a license by fraud, forgery, deception, misrepresentation, or subterfuge;

(f) Provides false or misleading advertising;

(g) Falsifies, or causes to be falsified, a patient record or ambulance run report;

(h) Provides an unauthorized level of service;

(i) Has a history of staff violations which have resulted in disciplinary action under 902 KAR ~~[13:020 and]~~ 13:090;

(j) Fails to provide the licensing agency or its representative with true information upon request, or obstructs an investigation regarding alleged or confirmed violations of administrative regulations promulgated under:

1. KRS 211.950 to 211.958;

2. KRS 211.960 to 211.968;

3. KRS 211.990(5); and

4. KRS 216B; and

5. KRS 311.654; or

(k) Issues a check for a license on an invalid account or an account with insufficient funds to pay the fee specified in Section 4 of this administrative regulation.

(8) The licensing agency or its authorized representative may issue an order directing a provider to immediately cease and desist operating an ambulance, or providing services, if the licensing agency has reasonable cause to believe that an ambulance or service is unsafe or is being operated in an unsafe or unprofessional manner that is likely to cause harm or create imminent danger to the health and safety of the public.

(9) The licensing agency may deny, revoke, modify, or suspend

the license of an ambulance provider if an owner of the service is convicted of obtaining a fee by:

~~(a) [1-] Fraud or misrepresentation; or~~

~~(b) [2-] Submitting fraudulent or misleading claims for reimbursement to individuals, private insurance companies, or governmental agencies;~~

(10) The licensing agency shall provide notice and an opportunity for an administrative hearing related to denial, revocation, modification, or suspension of a license in accordance with the provisions of KRS 216B.105.

Section 4. Fee Schedule. The annual licensing fee, including renewals, shall be as follows:

(1) Nonvolunteer ambulance providers: eighty (80) dollars;

(2) Volunteer ambulance providers in which a majority of the ambulance runs are made by attendants who do not receive compensation for their work: twenty (20) dollars.

Section 5. Licensing Without a Certificate of Need. (1) A person proceeding to alleviate emergency circumstances pursuant to 900 KAR ~~6:050, Section 12~~ ~~[6:040, Section 9]~~, may be granted a temporary license to operate an ambulance service in Kentucky pending the approval or ~~[of]~~ disapproval of his application for a certificate of need. The temporary license shall expire forty-five (45) days after notice of approval of the certificate of need or thirty (30) days after notice of disapproval of certificate of need.

(2) An ambulance service owned and operated by a city government which provides services in coterminous cities outside the ambulance service's designated service area pursuant to KRS 216B.020(4) may be licensed in accordance with the provisions of this administrative regulation without a certificate of need as if they had a certificate of need.

Section 6. Incorporation ~~[Material Incorporated]~~ by Reference. (1) The following material is incorporated by reference:

~~(a) [and may be inspected, obtained, or copied at the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday:~~

~~(1) Kentucky Ambulance License, Form EMS-2 (12/94);~~

~~(2) Kentucky Application for Ambulance Service Licensing, Form EMS-1 (10/94);~~

~~(3) Application for License to Operate a Nonemergency Health Transportation Service, Form EMS-1N (12/94);~~

~~(4) Kentucky Ambulance License, Form EMS-2 (6/96).~~

~~(b) [(5)] Kentucky Application for Ambulance Service Licensing, Form EMS-1 (6/96).~~

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

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS

Agency Contact person: Robert Calhoun

(1) Type and number of entities affected: This regulation applies to approximately 269 ambulance services licensed 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. The proposed amendments will have no impact on the cost of living or employment in Kentucky.

(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. This administrative regulation will have minimal effect on the cost of doing business in any geographical area of this state.

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

1. First year following implementation: None

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(4) Assessment of anticipated effect on state and local revenues: It is anticipated that the following additional annual fee income will result if this administrative regulation is implemented:

Additional licensing fee for services with more than 2 ambulances: \$6,150

Replacement ambulance inspection/permitting fee: \$4,250

Additional ambulances inspection/permitting fee :  
\$3,000

Estimated total: \$13,400

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

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

(a) Geographical area in which administrative regulation will be implemented: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternate methods were rejected because this administrative regulation complies with the requirements of KRS Chapter 13A.

(8) Assessment of expected benefits: This administrative regulation will provide regulatory relief for ambulance services that normally operate without cited deficiencies by enabling them to be inspected every two years instead of annually. It will also provide funds to administer the program and make the fee structure more commensurate with the difference in workloads between small and very large ambulance services.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The proposed changes in frequency of licensing inspections should provide incentives for ambulance services to ensure that all ambulances are operated according to minimum standards in order to avoid deficiencies. This will have a beneficial impact on the public's health.

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

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or 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. The proposed amendments to this administrative regulation contain minimum standards applicable to all ambulance providers across the state.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes, this administrative regulation could relate to local governments that choose to hold a license to operate ambulance services.

2. State what unit, part or division of local government this administrative regulation will affect the local government or only a part or division of the local government. This administrative regulation will affect a local government or unit of local government that chooses to hold a license to operate an ambulance service.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation will relate to the operation of a licensed ambulance service should the local government choose to hold such a license.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. This administrative regulation will have little or no effect on the expenditures and revenues of local government.

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

902 KAR 14:080. Class I ground ambulance providers.

RELATES TO: KRS 189.910 to 189.950, 211.950 to 211.956, 216B.010 to 216B.130, 216B.990(1), (2)

STATUTORY AUTHORITY: KRS 194A.030, 211.952, 216B.020(4), 216B.042, 216B.095, 216B.410, 1998 GA HB 132

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires that the Cabinet for Health Services regulate health facilities and health services. KRS 211.952(2)(c) requires the cabinet to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers. The function of this administrative regulation is to provide minimum licensing requirements for Class I ground ambulance providers.

Section 1. Definitions. (1) "Advanced life support (ALS)" means a Class I ground ambulance provider which:

(a) Utilizes certified and licensed emergency medical professionals to provide prehospital medical [Medicare] care such as:

1. Basic life support services (BLS);

2. Advanced airway management such as endotracheal intubation;

3. Defibrillation;

4. Administration of intravenous fluids and pharmaceuticals under the authority of a physician; and

(b) Meets the requirements established in Sections 1 through 10 of this administrative regulation and is licensed by the cabinet to provide health care and transportation on an emergency basis.

(2) "Ambulance" means a vehicle as defined in KRS 211.950(2) which is permitted by the cabinet to be a principle vehicle utilized by an ambulance provider for the provision of:

(a) Emergency care and transportation; or

(b) Nonemergency patient transportation without the use of red lights and sirens. ["Back-up ambulance" means an ambulance as defined in KRS 211.950 which complies with the requirements of Section 4(5) through (9) of this administrative regulation, and is licensed by the cabinet to provide emergency care and transportation if:

(a) One (1) of the licensed primary ambulances is not in service; and

(b) ~~All of the primary ambulances are on runs and extreme circumstances dictate its use.~~

(3) "Base station" means the primary physical location of the ambulance service that includes the administrative offices, telephone communications, vehicles and the required supporting documentation of the service.

(4) "Basic life support (BLS)" ["BLS"] means a ground ambulance provider which:

(a) Utilizes at least two (2) certified or licensed emergency medical personnel to provide prehospital medical care such as:

1. First aid;
2. Cardiopulmonary resuscitation;
3. Airway management;
4. Cervical spine control;
5. Breathing assistance;
6. Hemorrhage control; and
7. Basic patient movement procedures; and

(b) Meets the requirements established in Sections 1 through 7 and Section 8, if applicable, of this administrative regulation and is licensed by the cabinet to provide health care and transportation on an emergency basis.

(5) "Call received time" means the time the notification is made by dispatch of an emergency or potential emergency and the need for the emergency ambulance service to physically respond.

(6) "Continuing education" means the provision of information, education, or training [within the scope of an individual's level of certification].

(7) "CPR" means cardiopulmonary resuscitation as conforming to the basic rescuer course of the American Heart Association; the National Safety Council; or the basic life support professional rescuer course of the American Red Cross, which shall include as a minimum one (1) and two (2) person CPR, airway obstruction, and airway adjuncts for adults, children, and infants.

(8) "Deficiency" means a violation that was found, by a cabinet representative, when a service failed to comply with these administrative regulations.

(9) "Dispatch center" means the location where:

(a) Incoming calls are initially received requesting an ambulance; and

(b) Contact is made with the ambulance provider for direction to the patient scene.

(10) "Emergency" means services provided after the sudden onset of a medical condition or injury manifesting itself by acute symptoms of such severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in any of the following:

- (a) Placing the patient's health in serious jeopardy;
- (b) Serious impairment to bodily functions; or
- (c) Serious dysfunction of any bodily organ or part.

(11) "Emergency medical technician-basic (EMT-B)" means a person certified pursuant to 902 KAR 13:010 through 902 KAR 13:100.

(12) "Emergency medical technician-first responder" means a person certified pursuant to 902 KAR 13:110.

(13) "Employee" means a person [ambulance provider medical personnel] who may be paid or volunteer, full time or part time and has been approved by the administrator of the ambulance service to work within their qualifications and have documentation required by this administrative regulation.

(14) "Interfacility care" means BLS or ALS emergency or non-emergency medical [health] care provided to a patient during ambulance transportation between two (2) health care facilities.

(15) "Licensing agency" means the Cabinet for Health Services, Department for Public Health.

(16) "Paramedic (EMT-P)" means a person certified pursuant to 201 KAR 9:101 through 201 KAR 9:136.

(17) "Prehospital care" means emergency health care provided to a patient before and during ambulance transportation to a hospital.

~~(14) "Primary ambulance" means an ambulance as defined in KRS 211.950(1) which is licensed by the cabinet to be a principle vehicle utilized by an ambulance provider for the provision of:~~

- ~~(a) Emergency care and transportation; or~~
- ~~(b) Nonemergency runs.~~

(18) "Provider" means a Class I ground ambulance provider as

defined in KRS 211.950(2), and 211.952(1)(c)2.

(19) "Response time" means the time from which a call is received at the dispatch center, until an ambulance arrives at the patient scene.

(20) "Satellite" means a physical location where an ambulance is based from on a twenty-four (24) hour basis. The satellite must have an actual street address.

~~[(16) "Provider" means a Class I ground ambulance provider as defined in KRS 211.950(2), and 211.952(1)(c)2.]~~

(21) "Sharps" means a portion, or the whole unit, of medical supplies used in treatment procedures that may puncture the skin (e.g., needles, glass ampules, etc.).

(22) "Specialized ground ambulance provider" means a Class I ground ambulance provider which meets the requirements of Section 12 [11] of this administrative regulation and is licensed by the cabinet to provide medical [health] care and transportation on an [a] emergency or scheduled basis that:

(a) May be unavailable to the general public; and

(b) Has specialized or limited functions such as interfacility transfer of critical patients who may require special consideration of:

1. Equipment requirements;
2. Personnel requirements;
3. Hours of operation.

## Section 2. Class I Ground Ambulance Licensing Requirements.

(1) The following licensing requirements shall apply to Class I providers:

(a) A person shall not provide, advertise, or profess to engage in the provision of Class I, or specialized Class I emergency medical care or transportation that originates in Kentucky without having first obtained a certificate of need and a license from the cabinet.

(b) An ambulance provider shall:

1. Comply with local, state, and federal statutes and regulations;
2. Provide emergency medical services to anyone regardless of race, color, religion, sex, national origin, age, medical condition, sexual orientation, or ability to pay.

(c) The license shall be displayed in a prominent place at the service base station. The following information shall be included on the license:

1. Identity and physical location of the base station;
2. Number and physical location of satellites [substations], if any, to be operated by the licensee;

3. Designation of the specific geographic area to be served by the licensee, shall conform with the certificate of need issued for the service. The service shall provide with their annual renewal application an accurate map and a written description which delineates the boundaries of the area served by the Class I provider, [allowing for a maximum of thirty (30) minutes initial response time for ninety-five (95) percent of the population within the service area for all emergency calls.] The provider shall not be precluded from responding to emergency calls outside of its geographic service area if it has been determined that the Class I ground ambulance provider has the closest available unit. When providing:

a. Mutual aid to another ambulance provider or by a written mutual aid agreement with another Kentucky licensed Class I ambulance provider. The following priorities shall be followed for establishing a mutual aid agreement:

(i) A Class I provider which is licensed to serve the same service area; or

(ii) A Class I ground ambulance provider which serves part of the same service area or a contiguous service area;

b. Disaster assistance;

c. Nonemergency transfers from damaged or closed health facilities; or

d. Interfacility care to residents of its service area, who are patients in facilities outside of its service area, for the purpose of returning the patients to their home service area or transporting them to another health facility;

4. Designation of the levels of care which the ambulance provider shall be authorized to provide (i.e., BLS or ALS, or specialized BLS or ALS); and

5. Designation of the number of primary ambulances to be operated by the provider.

(d) ~~[No new or replacement back-up ambulances shall be licensed. A provider with currently licensed back-up ambulances shall,~~

upon application for renewal of the license, declare the total number of ambulances to be operated with no distinction made between primary and back-up vehicles. This total shall not exceed the total number of ambulances previously licensed.

(f) ~~Each ambulance licensed shall be staffed, equipped, and available to respond to emergency calls at all times.~~

(g) Each ambulance provider shall provide the licensing agency with the make, model, year, vehicle identification [serial] number and license tag number of each ambulance permitted [licensed].

(e) [(h)] The licensee shall:

1. Notify the licensing agency of any change in the number, type, or use of the ambulances to be operated; and

2. Meet the following requirements:

a. An ambulance shall not be operated until after the licensing agency has been notified and has verified, through a physical inspection, that it meets the requirements of this administrative regulation [~~if the ambulance represents an expansion of service (e.g., an increase in the number of ambulances), the licensing agency shall verify that a certificate of need has been granted prior to the inspection;~~ and

b. The licensing agency shall be notified, on the next licensing agency business day, following disposition of any prior approved ambulance operated by the ambulance provider (i.e., discontinued from service, change in use by the same ownership, or sale to another identified licensed ambulance provider).

(f) [(i)] The licensing agency procedures shall not preclude the ambulance provider from utilizing a replacement ambulance on a temporary basis if a previously approved ambulance is out of service for maintenance. The following requirements shall apply:

1. The licensing agency shall be [immediately] notified within twenty-four (24) hours (or on the next business day) by phone of the need for an ambulance provider to operate a temporary replacement [unit]. Within five (5) days, the ambulance provider shall send the licensing agency:

a. Written notice of the make, model, year, license tag number, and vehicle identification number for both vehicles; and

b. Assurances that the temporary replacement ambulance meets the General Services Administration KKK-A-1822 standard requirements and the requirements of this administrative regulation;

2. A temporary replacement ambulance shall not be utilized for more than thirty (30) days unless the licensing agency has verified, through a physical inspection, that it meets the requirements of this administrative regulation; and

3. ~~[If the ambulance provider plans to utilize the replacement ambulance for more than thirty (30) days, the provider shall notify the licensing agency of the anticipated length of time the replacement will be in use; and~~

4-] The licensing agency shall be notified if the replaced unit is back in service.

(g) [(j)] The licensing agency shall maintain identifying records on all ambulances according to established procedures.

(2) A licensed Class I provider shall have on file proof of professional and vehicular liability insurance.

(3) The following situations shall be exempt from the provisions of this administrative regulation:

(a) First aid or transportation provided in accordance with KRS 216B.020(2)(f);

(b) A vehicle serving as an ambulance during a major catastrophe;

(c) An ambulance operated by the United States government;

(d) An ambulance from an out-of-state licensed ambulance provider making a nonemergency run originating from a Kentucky facility for the purpose of returning a patient who is not a Kentucky resident to his state of residence;

(e) A person proceeding to alleviate emergency circumstances pursuant to 900 KAR 6:050, Section 12; and

(f) An ambulance service owned and operated by a city government which provides services in coterminous cities outside the ambulance service's designated service area pursuant to KRS 216B.020(4).

(g) An ambulance service licensed in an adjoining state that responds to a mutual aid request for emergency assistance in an unusual circumstance from a Kentucky licensed Class I ground ambulance service if:

1. The Kentucky service has insufficient resources to meet the emergency needs; and

2. Another ambulance service in Kentucky:

a. Is unavailable;

b. Has already responded; or

c. Is physically unable to reach the incident.

Section 3. Class I Management Requirements. A Class I ambulance provider shall:

(1) Establish lines of authority (i.e., an organizational chart) to include the designation of an:

(a) Administrator responsible for assuring compliance with this administrative regulation during the daily operation of the service; and

(b) A designee who shall serve if necessary in the absence of the administrator.

(2) Maintain adequate records and reports at the ambulance service base station to be made available for review as deemed necessary by the cabinet, including:

(a) An original, microfilm, electronic equivalent, or similar copy procedure of a run form as authorized in KRS 216B.410 for all runs originating in Kentucky pursuant to the following requirements of subparagraphs 1, 2, 3, and 4 of this paragraph;

1. [Prior to April 1, 1999:] A Class I provider shall utilize:

a. [The EMS run form, EMS-8A "Kentucky Emergency Medical Service Ambulance Run Report" (2/91); or

b. The EMS-8A and EMS-8B "Kentucky Emergency Medical Ambulance Run Report" (9/98), filling in all nonshaded portions of the run report form as appropriate for each patient and each run;

2. Effective April 1, 1999, a Class I provider shall utilize:

a-] The EMS-8A and EMS-8B "Kentucky Emergency Medical Ambulance Run Report" (9/98), filling in all nonshaded portions of the run report form as appropriate for each patient and each run;

b. A run form developed by the Class I provider that shall:

(i) Contain all of the required run data of the EMS-8A and EMS-8B (9/98); and

(ii) Be submitted to the cabinet for review and approval prior to being utilized to ensure consistency with the reporting requirements of KRS 216B.410(1); or

c. An electronic ambulance run reporting system which shall:

(i) Contain all of the required run data of the EMS-8A and EMS-8B (9/98); and

(ii) Provide required run form data to the cabinet in a format compatible with the electronic information system requirements of the cabinet. To ensure consistency with the reporting requirements of the cabinet the cabinet shall, upon request by the provider, supply a copy of file layout requirements to the provider.

2. [3-] A copy of completed run report forms shall be kept as required by KRS 216B.410(1) and guidelines established by the licensing agency in a manner of confidentiality and safekeeping for a minimum of five (5) years from the date on which the service was rendered, or in the case of a minor, until five (5) years after the minor reaches eighteen (18) years of age; and

3. [4-] The third copy of the run form, or an electronic equivalent in a format consistent with the electronic information system requirements of the cabinet, shall be forwarded to the cabinet or to a data contractor designated by the cabinet within thirty (30) days following the end of the month in which the run occurred.

(b) Personnel files on each ambulance driver and attendant that shall be maintained as required by KRS 216B.410(8)(a) and (b) for:

1. A minimum of five (5) years, or longer if specified in local government archives approved schedules, following termination or retirement from employment; or

2. Five (5) years following the demise of the employee.

(c) Individual ambulance driver and attendant personnel files that shall, as a minimum, contain evidence of:

1. [Training;

2. Experience;

3-] Current credentials [including proof] of [GPR certification, or] EMT or paramedic certification with corresponding numbers and expiration dates, or nursing or physician license;

2. [4-] Current [and valid] driver's license;

3. [5-] A preemployment criminal and Department of Transportation driver's records check for each individual added to the service;

4. Work-related [6-] health records [to include:

a. Written evidence of a preemployment health assessment having been conducted by a physician or a licensed advanced registered

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nurse-practitioner (ARNP) stating the employee is capable of performing assigned job duties; and

b. Health records which meet the requirements of KRS 216B.410(3).

(3) [Maintain and follow written administrative, personnel, medical, and other operational policies and procedures that are reviewed on an annual basis by the ambulance provider in order to assess their effectiveness. The policies and procedures shall be developed to include the following areas:

(a) Organizational structure, staffing, and allocation of responsibility and accountability;

(b) Ambulance service mutual aid agreements and agreements with other ambulance providers;

(c) Personnel performance guidelines; and

(d) A written plan to assure that a continuing education program shall be provided for its staff. The program shall include:

(a) [7-] Evidence of continuing education for staff regarding acquired immune deficiency syndrome (AIDS) and infection control, including the handling of infectious waste in accordance with Centers for Disease Control guidelines.

(b) A written [2-A] plan for response to, and the protection and decontamination of, the patient, ambulance, equipment, and staff if called upon to transport a patient exposed to hazardous materials [chemicals];

(c) A written [3-A] plan for assessing all other staff continuing education needs, with a coordinated development of methods to meet those needs; and

(d) [4-] The maintenance of training rosters or other written records to support continuing education conducted by, or at the request of, the licensee.

(4) A written [(e)-A] plan for the quality assessment of patient care including a periodic review of ambulance run report forms, and evaluation of staff performance related to patient care.

[(f) Policies and procedures concerning:

1. Vehicle maintenance;

2. Standard operating procedures (SOPS);

3. Patient protocols;

4. Ambulance response;

5. Transport limitations; and

6. Patient destination.]

(5) Ambulance services shall have a written emergency operations plan (EOP) for handling multicasualties incidents and disasters which shall address the following:

(a) Landing zones for helicopters;

(b) Casualty collection sites;

(c) Casualty evacuation sites;

(d) Training for personnel;

(e) Personnel participation in county emergency management disaster exercises;

(f) Personnel who will respond to the emergency operations center in a disaster.

Section 4. Class I Operating Requirements. (1) A Class I ambulance provider shall provide emergency care and transportation on a twenty-four (24) hour, seven (7) days a week, basis. This provision may be met through a call system [or by a written mutual aid agreement with another Kentucky-licensed Class I ambulance provider. The following priorities shall be followed for establishing a mutual aid agreement:

(a) A Class I provider which is licensed to serve the same service area;

(b) A Class I ground ambulance provider which serves part of the same service area or a contiguous service area].

(2) If a Class I ground ambulance provider determines he is unable to have an ambulance en route responding within five (5) minutes from the initial emergency call from the dispatch or emergency transfer request from dispatch or facility, the provider shall contact the closest available Class I ground ambulance provider and notify the dispatch center that they are unable to have a ambulance en route to the emergency scene.

(3) A Class I ground ambulance provider may [also] enter into [additional] mutual aid agreements with other Kentucky licensed Class I ground ambulance providers on an occasional basis to meet the needs of its service area for providing scheduled nonemergency

transportation by contacting the closest available provider to the patient.

[(3) If a Class I ground ambulance provider is unable to respond to an emergency call, the provider shall activate their mutual aid agreement with the closest available Class I ground ambulance provider or ambulance service licensed in another state as described in Section 2(3)(g) of this administrative regulation.]

(4) If a Class I ground ambulance provider provides nonemergency transfers, the response must be made within sixty (60) minutes or less unless a requesting medical facility approves of a delay that will not compromise the patient's care. If the sixty (60) minutes time frame cannot be met then the licensee shall have and activate its mutual aid agreement. [receives and declines a request for an emergency interfacility transfer, the licensee shall activate its mutual aid agreement. If none of the mutual aid partners are willing or able to accept the emergency interfacility transfer, any Kentucky-licensed Class I ground ambulance provider may accept the transfer.]

(5) A provider who accepts a transfer outside of its service area shall require documentation from the facility or the provider licensed for the service area indicating that a good faith effort was made to utilize the provider licensed for the area.

(6) A Class I ambulance provider shall not refuse an emergency request if a unit is available in the service area. If a Class I ambulance provider also makes nonemergency runs, at least one (1) ambulance shall be held in reserve by the licensee to respond to emergency calls within the geographic service area of the licensee to be used in that area.

(7) In areas where fire departments, rescue squads, or other organizations provide first response to medical emergencies, in order to provide for the coordinated delivery of emergency medical services and the orderly transfer of patients to the ambulance service upon their arrival, the Class I ambulance provider shall enter into a mutual aid agreement with the first response organization. These agreements shall be in writing and shall address the following:

(a) The type of mutual aid assistance to be provided (e.g., ALS or BLS medical care, ALS or BLS medical first response, extrication);

(b) Response personnel including levels of training and provisions for joint in-service training where appropriate;

(c) Response vehicles including unit identifiers and the station or location from which the vehicles will be operated;

(d) How and what manner the mutual aid agreement shall be activated including dispatch and notification procedures;

(e) Radio and other communications procedures between the ambulance provider and the other response agency;

(f) On-scene coordination and scene control including medical direction when several agencies respond to same incident;

(g) Exchange of patient information, records, and reports;

(h) Terms of the agreement including effective date and provision for amendment or termination.

(8) Ambulances used in the provision of Class I ambulance services shall:

(a) Be maintained in good operating condition and in full repair;

(b) Be designed to provide for the medical care and transportation of patients;

(c) Comply fully with ambulance design criteria contained in "Federal Specifications for Ambulances", KKK-A-1822-D (11/94) (GSA federal specifications) in effect at the time the ambulance is manufactured, except for color and provider identification;

(d) Comply with KRS 189.910 through 189.950 regarding the use of lights and siren.

(9)(a) The Class I ambulance provider shall require that a certification decal or sticker be supplied by the manufacturer of newly purchased ambulances, indicating that the ambulance met GSA federal specifications on the date it was manufactured. The certification decal shall be located on a permanent surface, such as in the ambulance oxygen tank compartment, or as later identified in a GSA federal specification revision.

(b) A Class I ambulance provider shall require, for units that are later modified, the conversion company to supply a letter to verify the modification meets or exceeds the GSA federal specification requirements, except for color or provider identification, as incorporated in the GSA federal specifications on the ambulance original date of manufacture.

(10) In addition to the GSA federal specifications, the following

state licensing requirements shall be maintained:

(a) The heating system shall maintain a temperature of not less than sixty-five (65) degrees Fahrenheit in the driver and patient compartments in winter weather conditions;

(b) The air conditioning system shall maintain a temperature of not more than eighty-five (85) degrees Fahrenheit in the driver and patient compartments in summer weather conditions; and

(c) The name of the ambulance provider shall appear on the exterior surface of the ambulance:

(11)(a) A preventive maintenance program for each ambulance and its equipment shall be developed and implemented to keep them in optimum working order to protect the health and safety of the patient and ambulance personnel.

(b) Documentation shall be maintained by the ambulance provider to support evidence of periodic inspections or calibrations required for maintenance and operation of the ambulance and its equipment.

(9) [(12)] The interior of the ambulance and its equipment shall be checked after each use to ensure that they are kept and maintained in a clean and sanitary condition, unless precluded by emergency conditions.

(10) [(13)] Nothing in this administrative regulation shall be construed to prevent a licensed Class I provider from providing medical first response emergency prehospital care at or below the level for which they are licensed through the utilization of the following:

- (a) Designated, provider owned response vehicles;
- (b) Provider or personally owned supervisor vehicles;
- (c) Employee personally owned vehicles.

(11) [(14)] The licensed Class I provider shall determine the minimum equipment required for tiered response vehicles operating under their license.

(12) [(15)] Class I ambulances and medical first response vehicles shall be operated in accordance with the provisions of KRS 189.910 to 189.950.

(13) [(16)] Vehicles used to provide medical first response services shall be insured by the employee or through the insurance policies of the Class I provider.

(14) [(17)] A communications system shall be developed, coordinated, and maintained by each ambulance provider. The communication system shall meet the following requirements:

(a) Radio equipment used in emergency medical services vehicles shall be appropriately licensed through the Federal Communications Commission. Copy(s) of the current Federal Communications Commission license(s) shall be on file in the ambulance services office.

(b) If a local or regional dispatch center or 911 arrangement exists for all or part of the service area of a provider, the ambulance provider shall have a signed affiliation agreement with the dispatch center for coordination of emergency calls. If an ambulance provider is unable to secure a written affiliation agreement with the dispatch center, the ambulance provider shall have on file proof of a good faith attempt to obtain an affiliation agreement;

(c) [(b)] A Class I ambulance shall be equipped with two (2) way radio communication equipment capable, under normal conditions, of contacting the ambulance dispatch center and the receiving hospital;

(d) [(c)] A minimum of one (1) portable communication device per ambulance, on the ambulance radio frequency, shall be provided for personnel if away from the ambulance;

(e) [(d)] A Class I provider shall have an acceptable plan to assure that all calls are promptly answered, and runs are dispatched in an expedient manner in accordance with subsection (1) of this section; and

(f) [(e)] An ambulance provider shall provide orientation to all drivers and attendants related to communication, equipment on vehicle, vehicle fire extinguishers, response, mutual aid, cleaning of equipment, stretcher use, run sheets and other SOPs that have been established by the service [protocols that have been established by the service].

(15) [(18)](a) [In accordance with policies and procedures of the Class I provider concerning patient destination and ambulance response and transport limitations, a patient shall be transported to:

- 1. The hospital emergency room of the patient's choice; or
- 2. The hospital emergency room chosen by the patient's physician;

(b) Nothing in this subsection shall preclude Class I provider personnel from transporting a patient to:

sonnel from transporting a patient to:

1. A hospital emergency room other than the one (1) chosen by the patient or his doctor, or an appropriate emergency medical facility chosen by the attendant, if the attendant determines that it shall be necessary in order to save the patient's life or limb.

2. A hospital emergency room or emergency medical facility other than the one (1) chosen by the patient or his physician if the Class I provider is operating under an approved local or regional diversion plan or medical triage protocols developed in conjunction with a consortium of physicians, hospitals, and ambulance providers, and which has been approved by the Kentucky Emergency Medical Services Council under KRS 211.952(5).

(b) [(c)] The Kentucky emergency medical service ambulance run report form shall require ambulance service personnel to state:

1. The name and city of the hospital to which the patient was transported; and

2. If the destination was chosen by the:

- a. Patient;
- b. Patient's physician; or
- c. Medical service personnel. If the destination was chosen by the medical service personnel, the attendant shall document the medical necessity on the form's case narrative section.

Section 5. Ground Ambulance Specifications. (1) Ambulances used in the provision of Class I ambulance services shall:

(a) Be maintained in good operating condition and in full repair without obvious problems relating to tires, exhaust, body integrity, warning devices, and mechanical reliability which would be recognized by the average lay person who is not an automotive mechanic;

(b) Be designed to provide for the medical care and transportation of patients;

(c) Have tires that meet the manufacturer's standards for the gross vehicle weight of the vehicle. No tire shall display exposed tire cord or have tread depth less than 2/32 on back tires and 4/32 on front tires when measured in any two (2) adjacent grooves at three (3) locations spaced equally around the tire. Retread tires shall not be used on ambulances.

(2) All ground ambulances shall meet or exceed the following minimum physical characteristics:

(a) Comply fully with ambulance design criteria contained in "Federal Specifications for Ambulances", KKK-A-1822 (GSA federal specifications) in effect at the time the ambulance is manufactured, except for color and provider identification.

(b) The Class I ambulance provider shall require that a certification decal or sticker be supplied by the manufacturer of newly purchased ambulances, indicating that the ambulance met GSA federal specifications on the date it was manufactured. The certification decal shall be located on a permanent surface, such as in the ambulance oxygen tank compartment, or as later identified in a GSA federal specification revision.

(c) A Class I ambulance provider shall require, for units that are later modified, the conversion company to supply a letter to verify the modification meets or exceeds the GSA federal specification requirements, except for color or provider identification, as incorporated in the GSA federal specifications on the ambulance original date of manufacture.

(3) In addition to the GSA federal specifications, the following state licensing requirements shall be maintained:

(a) The heating system shall maintain a temperature of not less than sixty-five (65) degrees Fahrenheit in the driver and patient compartments in winter weather conditions as determined by a standard automotive testing thermometer;

(b) The air-conditioning system shall maintain a temperature of not more than eighty-five (85) degrees Fahrenheit in the driver and patient compartments in summer weather conditions as determined by a standard automotive testing thermometer.

(4) The name of the ambulance provider shall appear on both sides of the exterior surface of the ambulance. The name shall be the incorporated name or d/b/a as it appears on the Kentucky ambulance license.

(a) The service may request approval from the cabinet to display an abbreviated or shortened version of their name, to serve as a unique identifier.

(b) This requirement shall not preclude a Class 1 provider from



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adding additional names from another entity on the ambulance due to a joint venture, however the name as licensed by Kentucky EMS shall be the larger, visible and readable by the public.

Section 6. Basic Life Support Personnel. (1) A BLS Class I provider shall be staffed to provide, at least two (2) attendants for each run. One (1) attendant shall remain with the patient, in the patient compartment, at all times during transport;

(2) There shall be no more patients, personnel, and other persons than can be safely secured by means of seat safety belts or similar devices in the ambulance during transportation; and

(3) ~~All personnel shall be capable of performing their job duties, and shall not cause the patient or other personnel any undue jeopardy;~~

(4) The driver on each BLS or ALS ambulance run shall:

(a) Be at least eighteen (18) years of age, with current driver's [motor vehicle operator's] license;

(b) Have at least two (2) years of licensed driver/operator experience;

(c) Complete an initial [a] defensive driving training program that is eight (8) hours long, developed by the ambulance provider or in conjunction with another agency or organization. [The defensive driving training program shall be repeated for each driver at least every four (4) years.]

1. The training program shall consist of two (2) [four (4)] hours review of driving a vehicle under emergency conditions; and

2. Documentation shall be available to support training in at least the following areas:

a. A two (2) hour review of KRS 189.910 through 189.950 regarding emergency vehicles.

b. Performing forward and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose, for two (2) hours.

c. A two (2) hour review of defensive driving techniques and procedures by hands-on experience or exposure by visual aids, such as video tapes, slides, or planned demonstrations.

d. The refresher defensive driving training program shall be repeated for each driver at least every two (2) years with the course being four (4) hours in duration. One (1) hour for each of the following:

(i) The training program shall consist of one (1) hour review of driving a vehicle under emergency conditions; and

(ii) Review of KRS 189.910 through 189.950 regarding emergency vehicles for one (1) hour; and

(iii) Forward and back-up driving maneuvers in a controlled situation, such as in an obstacle course designed specifically for this purpose for one (1) hour; and

(iv) Review of defensive driving techniques and procedures by hands-on experience or exposure by visual aids, such as video tapes, slides, or planned demonstrations for one (1) hour.

(4) ~~[(5)]~~ One (1) ambulance attendant on each prehospital emergency or nonemergency BLS ground ambulance run shall be certified or licensed for one (1) of the following levels:

(a) Emergency medical technician (EMT);

(b) Paramedic;

(c) Registered nurse (RN) licensed by the Kentucky Board of Nursing (KBN); or

(d) Physician licensed by the Kentucky Board of Medical Licensure (KBML).

(5) ~~[(6)]~~ The second ambulance attendant, who may also be the driver, shall have certification or licensing for one (1) of the following levels:

(a) EMT-first responder;

(b) EMT;

(c) Paramedic;

(d) RN licensed by the KBN; or

(e) Physician licensed by the KBML.

(6) ~~[(7)]~~ Personnel who on occasion may serve as an attendant or a driver shall meet the qualifications for both roles. Documentation shall be required in personnel files for personnel who:

(a) Serve as drivers only in a three (3) person crew; and

(b) Do not render any type of first aid or medical treatment; or

(c) Serve as patient care providers [attendants] only.

(7) An ambulance provider that has documented a lack of EMT-

basics or EMT-first responders available to staff its ambulances may request a waiver on minimum staffing. The waiver request must be accompanied by an acceptable plan to address the shortage of EMTs in the area served by the ambulance provider. If a waiver is approved by the licensing agency, an attendant with drivers training as defined by this section, current CPR and current AIDS certificate can be a second attendant that drives the ambulance. An ambulance so staffed in this manner may only be utilized for making scheduled, nonemergency transfers. The noncertified attendant shall be enrolled in a EMT-first responder or EMT-basic course within three (3) months of the hire date and become certified within six (6) months of enrolling the EMT-first responder or EMT-basic course.

Section 7. [6.] Equipment and Supplies. A Class I ground ambulance used in the provision of emergency care and ambulance transportation shall carry and maintain, in full operational order, the following minimum equipment and supplies:

(1) Suction, ventilation, and blood pressure equipment.

(a) Fixed and portable suction apparatus including:

1. Rigid tonsillar catheters; and

2. Flexible catheters in the sizes six French (6F), 8F, 10F and 14F;

3. Bulb syringe for infant and neonate suction;

(b) Disposable bag-valve-mask ventilation units in 250 ml, and 1000 ml with oxygen reservoir and oxygen tubing with adult and infant size masks (capable of use with oxygen and tubing);

(c) Nasopharyngeal and oropharyngeal airway kits in sizes for adult and children with water soluble lubricant [airways in newborn, infant, child, and adult sizes]; and

(d) Adult, obese adult, [infant]; and child sphygmomanometer cuffs with stethoscope. A permanently mounted sphygmomanometer shall not satisfy this requirement.

(2) Oxygen equipment.

(a) Fixed oxygen tank size H or M and portable oxygen tank [tanks with a filled;] minimum size D, with a filled secured spare portable tank, minimum size D [cylinder];

(b) Pressure gauge and flow rate regulator (range of zero to fifteen (15) liters per minute);

(c) Oxygen humidifier and attachment for use on the fixed oxygen tank;

(d) ~~Adaptor and tubing;~~

(e) ~~Transparent simple oxygen masks for adults, children, and infants;~~

(f) ~~Transparent nonrebreather oxygen masks for adults and children; and~~

(g) ~~[(g)] Nasal cannulas for adults and children[, and infants].~~

(3) Bandages and tape.

(a) Two (2) sterile universal dressings at least ten (10) inches by thirty (30) inches, compactly folded and packaged;

(b) Twenty-five (25) sterile gauze pads, various sizes [four (4) inches by four (4) inches];

(c) Ten (10) soft roller self-adhering bandages, various sizes;

(d) Four (4) rolls of adhesive tape, minimum of two (2) sizes;

(e) ~~Five (5) [Ten (10)] triangular bandages with large safety pins;~~

and

(f) Two (2) sterile burn sheets.

(4) Miscellaneous supplies.

(a) ~~Two (2) eye protector pads and shields or an approved substitute;~~

(b) ~~Two (2) [One (1) roll of aluminum foil, or an] occlusive dressings [substitute approved by the licensing agency];~~

(c) Shears for bandages;

(d) Hand held flashlight, two (2) D cell minimum, capable of providing adequate lighting to assess a scene or a patient away from the ambulance;

(e) ~~One (1) penlight [Two (2) penlights];~~

(f) Two (2) sterile obstetrical kits;

(g) One (1) bottle of [syrup of ipecac (with current expiration date) or one (1) bottle of] activated charcoal (if in suspension, shall have current expiration date);

(h) Sterile irrigation fluids with current expiration date, ~~if stocked on the ambulance, shall be obtained and maintained according to local, state, and federal statutes and regulations];~~

- (i) Instant glucose with current expiration date;
- (j) Cold packs;
- (k) Bite stick;
- (l) Effective January 1, 2002, an automated external defibrillator (AED) will be required on all non-ALS ambulances licensed in the state of Kentucky. [Thermometer.];

(5) Splints and immobilization devices.

(a) Lower extremity traction splint, or equivalent as approved by the cabinet, for use in EMT training;

(b) Splints for arm, full leg, and foot (e.g., [inflatable air splints;] padded boards, ladder splints, vacuum splints, or acceptable substitute approved by the cabinet);

(c) Immobilization devices.

1. Short spine board with straps or other acceptable extrication device, in adult size as determined by the cabinet; and

2. Adult and pediatric size long spine board with straps and cervical immobilization accessories;

3. An orthopedic "scoop" stretcher or other full-body immobilization device as determined by the cabinet.

(d) Five (5) rigid, stiff cervical collars in five (5) different sizes including pediatric size [large, medium, small-adult, no-neck, and pediatric sizes];

(e) A CPR [short-spine] board or an acceptable substitute, as determined by the cabinet; shall be provided for administering CPR].

(6) Safety supplies and equipment.

(a) Two (2) five (5) pound size or larger, ABC multipurpose fire extinguishers, approved by Underwriters Laboratory, Coast Guard, or Factory Mutual. One (1) shall be accessible to the driver [located] in the driver's compartment or in an outside compartment on the driver's side [driver-compartment] and the other located in the patient compartment;

(b) Multiposition stretcher with wheels and a minimum of three (3) straps for securing the patient, and a mechanism to secure the stretcher while in transit;

(c) One (1) pocket mask with an isolation valve [per patient attendant];

(d) One (1) clean scrub gown (or substitute, such as disposable coveralls), disposable mask, and gloves per patient attendant and driver;

(e) One (1) acceptable particulate filter face mask per attendant meeting federal standards set by the Occupational Safety and Health Administration (OSHA) and one (1) face mask per patient meeting OSHA standards for use during transport of patients known to be infected with tuberculosis;

(f) A means of cleansing the hands shall be provided, such as the provision of a solution or disposable towelettes;

(g) Hospital type disinfectants;

(h) Plastic bags for disposal of waste materials;

(i) Puncture resistant containers for disposal of sharp objects; if sharps are carried;

(j) Two (2) clean blankets, sheets, pillows, and pillowcases; and

(k) Tissues or similar substitute; and

(l) An emesis container or similar substitute.

(7) Additional medical supplies and equipment desired for storage in the ambulance for authorized persons responding to the scene who are licensed or certified to provide medical skills that require training beyond the authorized EMT level may be considered for approval by the cabinet through the normal waiver process. [For eligibility, the ambulance provider shall include documentation to assure a system of accountability for the storage and handling of the additional medical supplies and equipment. The cabinet shall have the authority to deny approval of the arrangement if it is determined that the arrangement shall not be in the best interest of quality patient medical care or safety of the patient and personnel.];

Section 8. [7:] Extrication and Other Rescue Equipment. (1) A Class I provider shall provide and maintain in full operational order the following minimum light access and extrication equipment on the ambulance:

(a) Two (2) pairs of eye protection goggles;

(b) Two (2) pairs of heavy work gloves;

(c) Two (2) hard hats;

(d) One (1) spring-loaded window punch or acceptable substitute;

and

(e) Six (6) reflective triangles or strobes, [at least ten (10) inches in height, flares;] or equivalent warning devices.

(2)(a) For response to trauma scenes requiring extrication, a ground ambulance provider shall provide one (1) vehicle for the equipment, which need not be an ambulance, equipped with the following fully operational, more extensive access and extrication equipment:

1. Two (2) fifty (50) foot long seven-sixteenths (7/16) or one-half (1/2) inch static or dynamic nylon ropes;

2. One (1) pair of pliers, vise grip;

3. One (1) wrench, with adjustable, stable open end;

4. One (1) set of screw drivers, four (4) sizes, regular blade;

5. One (1) set of screw drivers, four (4) sizes, Phillips type;

6. One (1) double action tin snip;

7. One (1) crow bar with pinch point;

8. One (1) hacksaw with twelve (12) blades; and

9. One (1) hammer, three (3) pound size;

10. One (1) fire axe;

11. One (1) wrecking bar;

12. One (1) bolt cutter, with one and one-fourth (1 1/4) inch jaw opening;

13. One (1) four (4) ton porta-power jack and spreader tool;

14. One (1) shovel, short handle, with pointed blade;

15. One (1) shovel, long handle, with pointed blade;

16. One (1) come-along tool or other acceptable winching device; and

17. Two (2) fire proof blankets.

(b) A Class I provider which has a written agreement for this provision with a rescue squad, fire department, or an emergency service agency that meets the requirement established by the cabinet, shall not be required to provide the more extensive access and extrication equipment on the ambulance.

Section 9. [8:] Medical Directors. (1) A [An-ALS] Class I provider shall have a written agreement with a physician medical director by January 1, 2002. All ALS and BLS services shall have a medical director for use of an AED and prescribed medicine as defined in 902 KAR 13:120, Section 4(1) through (2)(g).

(2) A [An-ALS] Class I provider shall provide evidence that the medical director shall:

(a) Be a physician licensed by the KBML;

(b) Meet the qualifications specified in 201 KAR 9:171, Section 2(6). Evidence shall be on file to verify that the qualifications of the medical director have been reviewed by the KBML to assure compliance with 201 KAR 9:171, Section 2(6);

(c) Have completed a residency program in emergency medicine approved by the Accreditation Committee for Graduate Education or be a physician who holds, or is in the process of completing, certification in advanced cardiac life support, and certification in advanced trauma life support or basic trauma life support, or have on file written approval from the KBML;

(d) Participate and oversee quality assurance of runs, training and practice of BLS or ALS skills.

(e) Assume responsibilities in accordance with 201 KAR 9:171, Sections 2(1) through (5); and

(f) [(e)] Assume other responsibilities as agreed upon between the medical director and the director of the ambulance service.

Section 10. [9:] Class I ALS Providers. (1) A Class I ALS provider shall meet the requirements of Sections 1 through 9 [8] of this administrative regulation. It shall also meet the following additional requirements:

(a) Evidence in the form of a letter shall be on file to verify that the ALS written medical protocols have been reviewed by the KBML.

(b) ALS services shall be provided on a twenty-four (24) hour, seven (7) days a week basis. This provision shall [may] be met through a call system or by a written mutual aid agreement with another Kentucky licensed Class I ALS provider.

(c) In order to foster development of full-time ALS coverage in counties where ALS services have not been previously available, the licensing agency may grant a waiver of the twenty-four (24) hour, seven (7) day a week requirement to a new ALS provider.

(d) A waiver of this requirement shall not exceed a period of twelve (12) months. If requested by the ALS provider, and approved

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by the licensing agency, additional waivers may be granted for just cause, such as inability to obtain certified paramedics.

(2) In addition to the BLS equipment required in Section 6 of this administrative regulation, at the point of patient contact and transportation, a Class I ALS provider shall carry on each vehicle, and maintain in full operational order, the supplies and equipment as provided for in protocols established in subsection 1(a) of this section and shall include the following:

- (a) An endotracheal intubation set consisting of:
  1. Laryngoscope handle [in adult and pediatric sizes];
  2. Straight laryngoscope blades in sizes 0, 1, and 2;
  3. Curved laryngoscope blades in sizes 3 and 4;
  4. Extra batteries and bulbs for handles and blades [and handles]; and
5. Seven (7) different sizes of endotracheal tubes for oral and nasal placement in adult and pediatric sizes [uncuffed tube sizes 3.0; 3.5; 4.0; 4.5; 5.0; and 5.5; and cuffed tube sizes 5.5; 6.0; 6.5; 7.0; 7.5; and 8.0];
- (b) Stylettes in adult and pediatric sizes;
- (c) Magill forceps in adult and pediatric sizes;
- (d) One-half (1/2) inch wide twill tape or equivalent for securing endotracheal tubes;
- (e) Water soluble lubricant for lubrication of endotracheal and nasotracheal tubes;
- (f) Bite block or substitute;
- (g) A portable monitor defibrillator that:
  1. Is capable of displaying a visual display of cardiac electrical activity;
  2. Is capable of providing a hard copy of cardiac electrical activity measure;
  3. Is capable of delivering direct current energy over a variable range which is suitable for pediatric and adult usage;
  4. Has adult and pediatric external paddle electrodes or pads, capable of utilization for immediate monitoring of heart activity and delivery of countershock in both the adult and pediatric patient;
  5. Is capable of being operated from internal rechargeable batteries;
  6. Has synchronized countershock capability for cardioversion[. This requirement applies only to equipment purchased after the effective date of this administrative regulation];
  7. Has a patient monitoring cable which has the following accessories:
    - a. Electrode paste or gel or equivalent;
    - b. Electrode pads with current date or equivalent for use with the patient monitoring cable; and
    - c. One (1) additional roll of paper for hard copy printout.
  - (h) Needles, sterile, disposable: minimum of three (3) sizes shall be maintained in eighteen (18) to twenty-five (25) gauge;
  - (i) Syringes, disposable: minimum three (3) sizes shall be maintained in 1cc to 20 [30]cc sizes;
  - (j) Appropriate containers for the collection of blood samples;
  - (k) Tourniquet appropriate for use with venipuncture procedure;
  - (l) Dextrostix (r) or equivalent for the measure of blood glucose levels;
  - (m) Disposable, individually packaged antiseptic wipes;
  - (n) Intravenous fluids as required by the KBML or protocol, macrodrip and microdrip fluid sets, extension sets and accessory items;
  - (o) Intravenous catheter over needle devices in fourteen (14) [twelve (12)] to (24) gauge;
  - (p) Butterfly needles in nineteen (19) and twenty-three (23) gauge;
  - (q) Intraosseous needles;
  - (r) Pediatric drug dosage tape or equivalent which shall provide easy reference for pediatric and infant treatment and drug dosages; and
  - (s) Meconium aspiration device or equivalent consistent with service medical protocols.
  - (t) Nasogastric tubes in size 5F, 8F pediatric sizes, sizes 10 to 18 French adult, and sizes 50 or 60 cc catheter-tipped syringes or equivalent;
  - (u) Water soluble lubricant; and
  - (v) Infant or neonate suction apparatus;

(3) A Class I ALS provider shall stock and maintain drugs and

medications as required by:

(a) Protocols established in accordance with Section 9 [8] of this administrative regulation; and

(b) Local, state, and federal statutes and regulations;

(4) All drugs must be maintained at a temperature range of fifty-nine (59) degrees Fahrenheit to eighty-six (86) degrees Fahrenheit.

(5) Controlled drugs shall be stored in a locked compartment or equivalent approved by the cabinet. An ambulance provider which stores and utilizes controlled substances shall have protocols approved by the cabinet's drug control branch.

(6) [(5) With the exception of the supplies or equipment listed in subsection (2)(p), (q), (r), and (u) of this section, and supplies and equipment listed in subsection (2), (3), and (4) of this section which require specific sizes to accommodate adult, pediatric, and infant patients.] Nothing in this administrative regulation shall be construed to require a Class I ALS provider to maintain the equipment [required in subsections (2), (3) and (4) of this section] if the equipment in this section is not required by the medical protocols of the ALS Class I ground ambulance provider.

(7) No ambulance or response vehicle operated by a Class I ground ambulance provider shall be marked with the words "Advanced Life Support", "Paramedic", or similar words which convey essentially the same meaning on its exterior surface visible to the public unless it meets all requirements of this section with regard to equipment, supplies and staffing.

Section 11. [10:] Advanced Life Support Personnel. (1) Each permitted [licensed] Class I ALS ambulance shall be staffed according to the requirements of 201 KAR 9:171, Section 5.

(2) If medical first response emergency medical service vehicles are utilized by the Class I ALS provider, the vehicles shall:

(a) Be staffed by a minimum of one (1) person who has minimum training and current certification as a paramedic.

(b) Have available the minimum equipment and supplies required by Sections [6;] 7, 8, and 10 [9] of this administrative regulation. This may be accomplished through the coordinated response of an ambulance from a separate ambulance provider under the provisions of a written mutual aid agreement on file with both providers.

Section 12. [11:] Class I Specialized Providers. (1) A Class I provider which does not provide prehospital emergency care to the general public, such as industrial based providers, neonatal transfers, and interfacility transfers requiring BLS or ALS shall be licensed as a Class I specialized provider.

(2) A BLS Class I specialized provider which complies with Sections 1 through 9 [7; and 8 if applicable;] of this administrative regulation, if applicable, and an ALS Class I specialized provider which complies with Sections 9 and 10 [8 and 9] of this administrative regulation, may, with prior approval by the licensing agency, be allowed certain variances.

(3) A specialized license shall specify the limitations of the provider which have been approved by the cabinet;

(4) In reference to Section 4(1) of this administrative regulation, a Class I specialized provider shall not be required to provide emergency care and ambulance transportation on a twenty-four (24) hour, seven (7) days a week basis.

(5) In reference to Section 4(16)(a) of this administrative regulation, a Class I specialized provider shall not be required to have an affiliation agreement with a local or regional dispatch center or 911 service.

(6) A BLS Class I specialized ground ambulance provider shall be required to meet the equipment, supplies, and personnel requirements as listed in Sections 6 through 9 [and 7] of this administrative regulation, with certain waivers recommended by the EMS Council and [variations as] approved by the cabinet.

(7) An ALS Class I specialized ground ambulance provider shall be required to meet the equipment, supplies, and personnel requirements as listed in Sections 6 through 11 [7; and 9] of this administrative regulation, with certain waivers recommended by the EMS Council and [variations as] approved by the cabinet.

[(8) A Class I specialized provider desiring variations in equipment, supplies, or personnel shall submit the requests in writing for consideration and approval by the cabinet;]

Section 13. Request for Waiver. (1) A Class 1 ambulance provider licensed or contemplating licensure under this administrative regulation may request in writing to the cabinet, through the Kentucky EMS Council, that certain provisions of this article be waived.

(2) A request shall justify that a proposed waiver, if approved, shall not jeopardize the quality of patient care.

(3) The Kentucky EMS Council may recommend approval of a request based on at least one (1) of the following:

(a) Circumstances where public health and safety is a factor;

(b) Extenuating or mitigating circumstances that warrant consideration to assure the delivery of emergency medical services;

(c) Substitution of equipment authorized by this article; or

(d) Testing of new procedures, techniques, and equipment in a pilot study authorized by the Kentucky EMS Council and supervised by the designee of Kentucky EMS Council.

(4) The licensing agency in consultation with the Kentucky EMS Council shall establish time limits and conditions on all approved waivers.

(5) The licensing agency in consultation with the Kentucky EMS Council shall review each approved waiver annually and either continue or revoke each approved waiver.

Section 14. [Section 12:] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) [Form EHS-8A, "Kentucky Emergency Medical Service Ambulance Run Report," (2/91):

(b) [Form EMS-8A, "Kentucky Emergency Medical Services Ambulance Run Report", (9/98).

(b) [(c)] Form EMS-8B, "Kentucky Emergency Medical Services Ambulance Run Report", (9/98).

(c) [(d)] "Federal Specifications for Ambulances", KKK-A-1822 D (11/94), General Services Administration, Federal Supply Service, Washington, D.C. 20406.

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

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

#### REGULATORY IMPACT ANALYSIS

Agency Contact person: Robert Calhoun

(1) Type and number of entities affected: This regulation applies to approximately 259 ground ambulance providers licensed 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. This administrative regulation will have minimal effect on the cost of living and employment in this state.

(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. This administrative regulation will have minimal effect on the cost of doing business in any geographical area of this state.

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

1. First year following implementation: None

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None.

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

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

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

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

(a) Geographical area in which administrative regulation will be implemented: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected:

(8) Assessment of expected benefits: This administrative regulation will provide regulatory relief to ground ambulance providers in Kentucky by amending or eliminating former regulatory requirements and providing a waiver process whereby ground ambulance providers can request waivers from regulatory requirements while still enduring that the public will be served.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Ground ambulance services will be better able to serve their communities and protect the public's health.

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

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or 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. The proposed amendments to this administrative regulation contain minimum standards applicable to all ambulance providers across the state.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes, this administrative regulation could relate to local governments that choose to hold a license to operate a ground ambulance service.

2. State what unit, part or division of local government this administrative regulation will affect the local government or only a part or division of the local government. No particular unit, part, or division of local government is particularly affected by this administrative regulation.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation will relate to the operation of a licensed ambulance service should the local government choose to hold such a license.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full

year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact. This administrative regulation will have little or no effect on the expenditures or revenues of local government.

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

**902 KAR 14:090. Air ambulance service providers.**

RELATES TO: KRS 211.950 to 211.956, 216B.010 to 216B.130, 216B.990(1)(2)

STATUTORY AUTHORITY: KRS 211.952, 216B.042[~~EO 96-862, 1996 Ky. Acts ch. 233~~]

NECESSITY, FUNCTION, AND CONFORMITY: [~~Executive Order 96-862, effective July 2, 1996 reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services;~~] KRS 216B.042 requires the Cabinet for Health Services to regulate health facilities and health services. KRS 211.952(2)(c) as amended in the 1996 Regular Session of the General Assembly requires the cabinet to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers. This administrative regulation sets forth the licensure and operation requirements for air ambulance providers.

Section 1. Definitions. (1) "Air ambulance service" is defined in 902 KAR 14:070.

(2) "Air medical communications specialist (ACS)" means an emergency medical technician (EMT) certified by the cabinet acting in the air medical communications environment with training appropriate to the mission of the air ambulance service who shall have documented training in the following areas:

(a) Federal Aviation Administration (FAA) regulations and Federal Communications Commission (FCC) regulations pertinent to air ambulance operations:

- (b) Air medical radio communications;
- (c) Flight coordination and utilization;
- (d) Navigation and weather interpretation;
- (e) Flight following; and
- (f) Emergency procedures.

(3) "Airline transport pilot (ATP)" means a pilot who has received a certificate issued by the FAA which denotes the highest level of achievement a pilot may attain.

(4) "Advanced life support (ALS)" is defined in 902 KAR 14:070.

(5) "Basic life support (BLS)" is defined in 902 KAR 14:070.

(6) "FAA" means the Federal Aviation Administration.

(7) "FAR" means federal aviation regulations.

(8) "Flight nurse" means a registered nurse licensed by the Kentucky Board of Nursing (KBN) acting in the air medical environment with training appropriate to the mission of the individual air ambulance service who shall have documented service specific training in the following areas:

- (a) Altitude physiology;
- (b) Aircraft safety;
- (c) Survival techniques; and
- (d) Flight operations.

(9) "Flight paramedic" means a paramedic certified by the Kentucky Board of Medical Licensure (KBML) acting in the air medical environment with training appropriate to the mission of the individual air ambulance service. In addition, a flight paramedic shall have documented service specific training in the following areas:

- (a) Altitude physiology;
- (b) Aircraft safety;
- (c) Survival techniques; and
- (d) Flight operations.

(10) "Helipad" means a designated area, usually with a prepared surface, on a heliport, airport, landing or take-off area, apron or ramp, or movement area used for take-off, landing or parking helicopters.

(11) "IFR" means instrument flight rules.

(12) "Landing zone" means a prepared or unprepared area where a helicopter will be landing. The landing zone shall:

- (a) Be large enough to accommodate the aircraft being used;
- (b) Be free of dangerous obstacles;
- (c) Have an adequate approach and departure path; and
- (d) If landing at night, have a ground light source or sources marking boundaries.

(13) "Licensing agency" means the Cabinet for Health Services, Department for Public Health.

(14) "PIC" means pilot in command.

(15) "SIC" means second in command.

(16) "VFR" means visual flight rules.

Section 2. Air Ambulance Licensing. (1) A person shall not provide, advertise, or profess to engage in air ambulance services in Kentucky [~~air ambulance services~~] without having first obtained [~~a certificate of need from the cabinet and~~] a license from the licensing agency.

(2) The license shall designate the specific Kentucky geographic area to be served and shall be displayed in a prominent place at the service base station.

(3) The licensee shall designate the number of aircraft to be operated and provide the licensing agency with identifying information such as:

- (a) Type of aircraft;
- (b) Serial number; and
- (c) Aircraft identification.

(4) Additional aircraft shall not be operated until the licensing agency has been notified and has verified that the aircraft meets the requirements of this administrative regulation. The provider shall not be precluded from utilizing a similarly equipped aircraft [~~on a temporary basis without notifying the licensing agency~~] if the primary aircraft is out of service for maintenance.

(5) The air ambulance shall be permitted to the primary service maintaining ownership or leasehold.

(6) An individual aircraft may be designated for use by other licensed services so long as a memorandum of understanding between the primary aircraft owner/operator exists concerning replenishment of equipment and supplies, required maintenance, and proper reimbursement procedures.

(7) The licensee shall inform the licensing agency of:

(a) Arrangements for securing aircraft for temporary use[~~if necessary, prior to initial licensure~~]; and

(b) Be notified the next business day of an aircraft change if the primary aircraft is out of service for maintenance or if there is a need for use of a temporary aircraft.

(c) Changes which occur after initial licensure, such as change of service directors or location where aircraft shall be based.

Section 3. Standards for the Operation of an Air Ambulance. (1) An air ambulance provider shall:

(a) Have a physician medical director in accordance with the applicable requirements of Section (6) of this administrative regulation;

(b) Have established and advertised appropriate utilization criteria or protocols of air transport which have been reviewed and approved by the Kentucky Emergency Medical Services Council;

(c) Have an ongoing quality management program as outlined in Section 6(1)g of this administrative regulation.

(d) Have a mission statement which defines the precise geographical service area of the service, transport patient population and availability of services.

(2) [(4)] An air ambulance shall not be utilized for the transport of a patient unless:

(a) A request for transport has been made; and

(b) The physician medical director or medical control physician, has reviewed the known medical information of the patient and has deemed that air ambulance transportation of the patient meets the utilization criteria or protocol of the service; or

(c) The utilization protocol was used to determine appropriateness of air transport.

(3) [(5)] An air ambulance service shall develop, implement and maintain records of a review process, quality improvement program, or other form of regular review of air ambulance utilization.

(a) The utilization review shall include an examination of compliance with the air transport criteria for appropriate utilization of air transport. Compliance utilization will be based on one (1) of the fol-

lowing:

1. The extent or severity of patient injury or illness;
2. Conditions that may have greatly delayed or prevented ground ambulance transportation, to the detriment of the patient; or
3. The need for a higher level of care than was available at the referring facility or location or during ground ambulance transportation to the receiving facility.

(b) A semiannual cumulative report of the findings of the review of air ambulance utilization shall be on file at the air ambulance service base station.

(4) [(6)] A rotor wing air ambulance service operator shall provide proof that it:

(a) Complies with FAR pertaining to maintenance inspections, flight, and duty time;

(b) Complies with FAA and FAR required maintenance activities; and

(c) Holds FAR required air ambulance operations specifications.

(5) [(7)] A fixed wing air ambulance service operator shall provide proof that it:

(a) Complies with FAR which pertain to maintenance inspections, flight and duty time;

(b) Complies with FAA and FAR required maintenance activities; and

(c) Holds FAR required air ambulance operations specifications.

Section 4. Air Ambulance Aircraft. (1) Fixed and rotor wing air ambulance aircraft shall:

(a) Have an entry that allows patient loading and unloading without tilting the patient greater than thirty (30) degrees from the horizontal axis;

(b) Be climate controlled to prevent temperature extremes that would adversely affect patient care;

(c) Be configured in such a way that air medical personnel shall have access to the patient in order to begin and maintain both basic and advanced life support;

(d) Have interior lighting adequate to ensure complete observation of the patient;

(e) Have the capability of shielding the cockpit from light in the patient care area during night operation;

(f) Have an electric inverter [inverter], with two (2) outlets, to convert direct current (DC) to alternating current (AC) for operation of specialized equipment, such as an isolette or intra-aortic balloon pump.

(g) Have equipment, stretchers, and seating:

1. Arranged so as not to block rapid egress by air ambulance personnel or patients; and

2. Affixed or secured in FAA approved racks, compartments, or strap restraints which meet FAR "G" loading requirements; and

(h) Have a patient stretcher or litter which:

1. Has the capability to raise the head of the patient; and

2. Has appropriate devices to secure the patient to the stretcher.

(2) Fixed wing aircraft shall:

(a) Be [a twin-engine type; and

(b) Be pressurized if patient flights are to exceed 6000 feet mean sea level; and

(b) Provide proof of an FAR Part 135 certificate with an FAR required air ambulance specification.

Section 5. Air Ambulance Transportation Flight Personnel. (1) The rotor wing pilot in command shall possess commercial rotorcraft certification or ATP certification and a minimum of 2,000 rotorcraft flight hours as pilot in command.

(2) A rotor wing pilot shall:

(a) Be trained in accordance with operators FAR Part 235 air ambulance operations specifications;

(b) Have a minimum of ten (10) [the specific type of aircraft used by the provider as follows:

1. Have factory school or equivalent ground or flight training;

2. Have twenty-five (25) hours as pilot in command in the specific aircraft type prior to performing EMS missions;

(c) [:

3. Have completed a check ride which meets FAR part 135 requirements; and

4. Have five (5) hours local area orientation which shall include

mission specific night orientation of at least two (2) hours flight time; and

(d) [:

(b) Be specifically trained and experienced in flying the terrain and conditions unique to the flight program;

(c) Be oriented to the health care system of the hospital; and

(d) Have recurrent training on an annual basis which shall include:

1. A factory review, or FAA approved equivalent, of the aircraft and their systems; and

2. A ground school refresher and competency training in emergency procedures].

(3) The fixed wing pilot shall be trained in accordance with operators FAR Part 135 operations specifications.

(4) [possess a commercial pilot certificate with airplane, multiengine land, and instrument ratings or an ATP certificate with airplane and multiengine land ratings and shall:

(a) Be trained in the specific type of aircraft used by the provider as follows:

1. Have manufacturer's recommended aircraft training or approved equivalent; and

2. Have completed a check ride which meets FAR requirements.

3. The PIC shall have twenty-five (25) [100] hours as pilot in command in the specific aircraft and type prior to performing EMS missions; and

(b) Be readily available within a service defined call-up time to insure expeditious and timely response.

(c) Must have recurrent training every twelve (12) months which shall include:

1. A factory review of the aircraft and their systems; and

2. Appropriate curriculum as required by FAR.

(d) If flying IFR, a PIC shall have a minimum of 250 hours of instrument flying time which shall include;

1. 100 hours of night instrument flight time; and

2. No more than 125 hours of simulated instrument flight time].

Section 6. Air Ambulance Medical Personnel. (1) An ALS air ambulance provider shall have a written agreement with a physician medical director who shall be licensed to practice medicine or osteopathy in the state which the air medical service is based:

(a) Assume responsibilities in accordance with the provisions of 201 KAR 9:171, Sections 2(1) and (2);

(b) Provide medical consultation to and supervision of the medical flight personnel in accordance with the written agreement between the air ambulance service provider and the physician medical director;

(c) Grant authority for certified medical flight personnel to perform certain skills and procedures according to protocols;

(d) Retain and exercise authority to limit, suspend, or terminate approval of air ambulance medical flight personnel to perform skills and procedures previously granted under the established protocols;

(e) In his absence, approve or transfer authority for a supervising physician to temporarily act on the behalf of the air ambulance service during the period of absence.

(f) Participate in the continuing education of the air ambulance service medical flight personnel;

(g) Participate in the development of monthly quality improvement plans for the air ambulance service which shall include the:

1. Reason for and the appropriateness of air patient transport;

2. Mechanism or seriousness of injury or illness;

3. Interventions performed or maintained;

4. Transport outcome of the patient; and

5. Timeliness of the transport.

(h) Have operational knowledge of communications equipment and procedures.

(i) Review issues regarding prehospital and interhospital transport.

(j) Performs utilization reviews of flight program resources.

(k) Maintains working knowledge of disaster planning and mass casualty incident management.

(l) Ensures human resources needs are met while possessing a working knowledge of risk management and medicolegal issues including transfer administrative regulations.

(m) Must have knowledge or training in the basic principles of research.

(2) If flight paramedics are utilized, an ALS air ambulance provider



shall provide evidence that the qualifications of the medical director and medical protocols have been reviewed and recommended for approval by the Kentucky Emergency Medical Services Council and its delegated practice medical standards committee to assure compliance with the requirements of this section, and 201 KAR 9:171, Section 2(6). After review by the council, all information shall be forwarded to the Kentucky Board of Medical Licensure for their approval.

(3) The medical director shall have completed a residency program in emergency medicine approved by the Accreditation Committee for Graduate Education or shall:

(a) Be a physician who holds, or is in the process of completing certification in the American College of Surgeon's Advanced Trauma Life Support;

(b) Be a physician who holds, or is in the process of completing certification in the American College of Emergency Physician's Basic Trauma Life Support or its equivalent; or

(c) Be a physician who has on file written approval from the licensing agency or lead agency which has been granted based on the physician's ability to document qualification by:

1. Patient population;

2. Experience; and

3. Current competency in patient care consistent with the mission statement of the air ambulance service provider along with the following:

a. The ability to recognize and stabilize critical patients; and

b. Knowledge of emergency medical service and the extensive hospital referral systems including dispatch, communications, laws, regulations, and overall system operations.

(4) The medical director shall have on file documentation to verify completion of:

(a) Two (2) hours of education in altitude physiology and stressors of flight; and

(b) Two (2) hours of recurrent training in a relevant subject [altitude physiology] biannually.

(5) ALS flight medical personnel shall attend flight orientation training prior to acting as primary medical personnel. Flight orientation training shall include:

(a) Two (2) hours of altitude physiology;

(b) Aircraft specific operations and in-flight safety;

(c) Emergency egress and survival training;

(d) Scene safety;

(e) Use of extrication equipment;

(f) Scene triage;

(g) State EMS standard; and

(h) Communication equipment utilization and emergency procedures.

(6) Rotor wing patient missions shall have one (1) flight nurse and one (1) flight paramedic in attendance in the patient care area. A variance from the flight paramedic requirement, necessitated by staffing or patient care requirements shall [not] be permitted only after the medical director or their designee approves the action.

~~(7) [unless prior written approval is granted by the licensing agency:~~

~~(7) ALS fixed wing air ambulance service providers shall have a physician medical director who meets the requirements as described in subsection (1) of this section.~~

~~(8) ALS fixed wing patient missions shall have at least two (2) medical providers.~~

~~(8) [(9)] The first patient attendant on an ALS fixed wing patient mission shall be:~~

~~(a) A flight nurse; or~~

~~(b) A licensed registered nurse qualified by specific patient population, experience, and current competency in emergency and critical care.~~

~~(9) [(10)] The second patient attendant on an ALS fixed wing patient mission shall be:~~

~~(a) A licensed registered nurse qualified by specific patient population, experience, and current competency in emergency and critical care;~~

~~(b) A flight paramedic;~~

~~(c) A certified or registered respiratory therapist qualified by specific patient population, experience, and current competency in mission specific patient care; or~~

~~(d) A physician licensed and qualified by relevant training, experi-~~

ence, and current competency in mission specific patient care.

~~(10) [(11)] A staffing variance necessitated by staffing or patient care requirements shall not be permitted unless prior [written] approval is granted by the medical director or their designee [licensing agency].~~

~~(11) [(12)] BLS fixed wing patient missions shall have, in addition to the pilot, at least two (2) EMTs with air medical training consisting of:~~

~~(a) Flight physiology;~~

~~(b) Aircraft safety;~~

~~(c) Survival techniques;~~

~~(d) Two (2) hours of altitude physiology;~~

~~(e) Aircraft specific operations and in-flight safety;~~

~~(f) Emergency egress and survival training;~~

~~(g) State EMS standards;~~

~~(h) Communication equipment utilization; and~~

~~(i) Emergency procedures.~~

Section 7. Air Ambulance Equipment and Supplies. (1) Air ambulance equipment and supplies shall be maintained according to recommendations of the manufacturer.

(2) Equipment shall be functional at all altitudes and shall not interfere with aircraft avionics. Conversely, avionics shall not interfere with medical equipment operations.

(3) The following BLS equipment and supplies shall be required on fixed and rotor wing air ambulance aircraft:

(a) Fixed [and portable] suction apparatus including:

1. Ridged flexible suction tubing;

2. Flexible catheters French sizes;

~~(b) Hand operated mask ventilation units in 1000cc and 250 ml [adult, child, and infant] sizes capable of use with oxygen; [and]~~

~~(c) [2:] Oral-pharyngeal airways in adult, child, and infant sizes;~~

~~(d) Nasopharyngeal airways in adult, child, and infant sizes;~~

~~(e) [(b)] Adult, obese adult, child, and infant sphygmomanometer cuffs. A permanently mounted sphygmomanometer shall not satisfy this requirement;~~

~~(f) [(c)] Adult [and pediatric] stethoscopes;~~

~~(g) [(d)] Fixed and portable oxygen system to include:~~

~~1. Pressure gauge and flow rate regulator with a range from zero to fifteen (15) liters per minute;~~

~~2. Adapter and tubing;~~

~~3. Transparent nonrebreather oxygen mask in adult and pediatric [children] sizes; and~~

~~4. Nasal cannulas in adult and pediatric [children] sizes;~~

~~(h) [(e)] Bandages and tape;~~

~~(i) [(f) Two (2)] Sterile bulky absorbent dressings;~~

~~(j) [(g) Six (6)] Sterile gauze dressings four (4) inches by four (4) inches;~~

~~(k) [(h) Four (4)] Soft roller self-adhering bandages in various sizes;~~

~~(l) [(i) Four (4)] Rolls of adhesive tape in a least two (2) sizes;~~

~~(m) [(j) Two (2)] Triangular bandages with large safety pins;~~

~~(n) [(k) Two (2)] Sterile burn sheet [sheets];~~

~~(o) [(l)] Splints and spinal immobilization devices which shall include:~~

~~1. One (1) lower extremity traction splint;~~

~~2. Securing straps;~~

~~3. One (1) short spineboard or other upper spinal immobilization or extrication device;~~

~~4. One (1) full body spinal immobilization device; and~~

~~5. Rigid cervical collars with tracheal access in large, medium, [and] small adult and pediatric sizes;~~

~~(p) [(m)] Safety equipment and supplies which shall include:~~

~~1. An ABC multipurpose fire extinguisher which meets the FAA requirements for each specific aircraft and configuration;~~

~~2. [One (1) pocket mask with oxygen inlet and isolation valve;~~

~~3:] One (1) set of personal protective clothing and devices per medical attendant;~~

~~3. [4:] Towelettes, solution or other similar supplies for cleansing of the hands;~~

~~4. [5:] Plastic bags for disposal of waste material;~~

~~5. [6:] Puncture resistant container for disposal of sharp objects; and~~

~~6. [7:] Two (2) full sets of clean and appropriate linen.~~

~~(q) [(n)] An emesis container or similar substitute;~~

(r) [(e)] Environment, terrain, and mission specific rescue and survival supplies; and

(s) [-

(p)} Stretcher or litter with:

1. Head raising capabilities;

2. An FAA approved aircraft specific mechanism for securing the stretcher or litter in the aircraft during transit; and

3. An FAA approved aircraft specific patient to stretcher securing mechanism.

(4). The following ALS equipment will be available for use on both rotary and fixed wing aircraft while responding to and transporting an ALS patient:

(a) Endotracheal intubation set to include:

1. Adult laryngoscope handle with spare bulb and batteries;

2. Laryngoscope blades, curved 3 & 4;

3. Laryngoscope blades, straight 0, 1 and 2;

4. Endotracheal tubes to include;

5. Pediatric uncuffed 2.5 through 5.5;

6. Adult cuffed 5.5 through 8.0;

7. Stylettes;

a. Adult size; and

b. Pediatric size;

8. Magill forceps;

a. One (1) adult; and

b. One (1) pediatric;

9. One half (1/2) inch twill tape or substitute;

10. Water soluble lubricant;

11. One (1) bite block;

12. Advanced airway surgical tray to include:

a. Scalpel;

b. Hemostats;

c. Sutures;

d. Sterile barriers;

e. Skin disinfectant;

f. Chest tubes;

g. Various pediatric sizes; and

h. Various adult sizes.

13. Portable monitor defibrillator with:

a. Visual display;

b. Hard copy;

c. Variable range for adults and pediatrics;

d. External paddles for adults and pediatrics;

e. Internal rechargeable batteries;

f. Synchronized countershock;

g. Patient monitoring cable; and

h. Electrode pads or paste.

14. A variety of needles, syringes, I.V. equipment to include:

a. Fluids (normal saline), (lactated ringers) and (D5W);

b. Intraosseous needle;

c. Microdrip set;

d. Macro drip set;

e. Adult angiocaths; and

f. Pediatric angiocaths.

15. Central line access equipment (specify by protocol);

16. Nasogastric tubes;

a. Adult size; and

b. Pediatric size.

17. Pediatric drug dosage reference;

18. Neonate or infant suction apparatus; and

19. Approved drug list with medications present and within expiration date.

Section 8. ALS Air Ambulance Service Providers. (1) A rotor wing ALS air ambulance service shall meet the applicable requirements of Sections 1 through 7 of this administrative regulation. In addition, it shall also meet the following requirements:

(a) Evidence shall be on file to verify that the ALS written protocols have been reviewed by the appropriate agency;

(b) At the point of patient contact and transportation the air ambulance provider shall:

1. Carry and maintain in full operational order, the supplies and equipment as provided for in [~~protocols established in paragraph (a) of this subsection, as required in 201 KAR 9:171,~~] Section 7 of this administrative regulation.

2. Stock and maintain minimal medications needed for resuscitation, advanced cardiac life support, and any other medications as provided for in:

a. Protocols established in accordance with paragraph (a) of this subsection; and

b. Local, state and federal statutes and regulations.

(2) Controlled drugs shall be stored in a locked compartment or equivalent as approved by the cabinet.

(3) An air ambulance service which stores and utilizes controlled substances, shall have protocols approved by the cabinet's Drug Control Branch.

Section 9. Air Ambulance Services Communications. (1) An air ambulance service shall comply with FAR specifications for flight following and position plotting by a provider based or maintained communication center. The communication center shall be equipped with communications equipment and staffed by a properly trained ACS to receive and coordinate all calls as provided for by FAR. If providing fixed wing service, this requirement may be met by filing an FAA flight plan.

(2)(a) Rotor wing air ambulance service aircraft shall have radio capability to communicate:

1. Ground-to-air;

2. Air-to-air; and

3. Air-to-ground.

(b) Rotor wing aircraft radio capability shall include two (2) way radio communication equipment:

1. Compatible with the statewide ambulance to hospital emergency radio communication system; and

2. Capable of communicating with:

a. Ground personnel to properly coordinate the landing;

b. Physician medical director or medical control physician directing patient management; and

c. Primary medical responders on the ground who may be caring for the patient.

(3)(a) Fixed wing air ambulance service aircraft shall have radio capability to communicate:

1. Ground-to-air;

2. Air-to-air; and

3. Air-to-ground.

(b) Fixed wing aircraft radio capability shall include two (2) way radio communication equipment capable of communicating with ground personnel to properly coordinate the landing.

Section 10. Air Ambulance Records and Reports. (1) An air ambulance provider shall keep accurate records and reports concerning the transportation of an emergency patient which shall be maintained at the headquarters of the licensee and shall be available for periodic review as deemed necessary by the licensing agency.

(2) A [An] provider shall provide a full record to the receiving facility of any treatment administered at the pickup location or during transit. Required records and reports shall include a [~~the "Kentucky Emergency Medical Service Ambulance Run Report", Form EHS-8A, incorporated by reference, or equivalent~~] provider specific transport record based upon an approved data set that is acceptable to the licensing agency.

(3) Copies of completed run report forms shall be kept as required by KRS 216B.410(1) and guidelines established by the licensing agency in a manner of confidentiality and safekeeping for a minimum of five (5) years from the date on which the service was rendered, or in the case of a minor, until five (5) years after the minor reaches eighteen (18) years of age.

(4) The third copy of the run form, or electronic equivalent, shall be forwarded to the cabinet within thirty (30) days following the end of the month in which the run occurred.

(5) Personnel files on each attendant shall be maintained for:

(a) Five (5) years, or longer if specified in local government archives approved schedules, following termination or retirement from employment; or

(b) Five (5) years following the demise of the employee.

(6) Individual attendant personnel files shall contain:

(a) A resume of an employee's training and experience; and

(b) Current credentials including proof of [~~GPR certification, or~~] EMT or paramedic certification with corresponding numbers and expi-

ration dates, or nursing or physician license;

(c) A preemployment criminal records check for each medical attendant added to the service after the effective date of this administrative regulation;

(d) Health records to include:

1. Written evidence of a preemployment health assessment having been conducted by a physician or a licensed advanced registered nurse practitioner (ARNP) stating the employee is capable of performing assigned job duties; and

2. Health records which meet the requirements of KRS 216B.410(3).

(7) An air ambulance provider shall maintain and follow written administrative, personnel, medical, and other operational policies and procedures that are reviewed on an annual basis by the air ambulance provider in order to assess their effectiveness. The policies and procedures shall be developed to include the following areas:

(a) Organizational structure, staffing, and allocation of responsibility and accountability;

(b) Mutual aid agreements and agreements with other ambulance providers;

(c) Personnel performance guidelines; and

(d) A plan to assure that a continuing education program shall be provided for its staff. The program shall include:

1. Written documentation [Evidence] of continuing education for staff regarding acquired immune deficiency syndrome (AIDS) and infection control, including the handling of infectious waste in accordance with Centers for Disease Control guidelines;

2. A written plan for response to, and the protection and decontamination of, the patient, aircraft, equipment, and staff if called upon to transport a patient exposed to hazardous chemicals;

3. A written plan for assessing all other staff continuing education needs, with a coordinated development of methods to meet those needs; and

4. The maintenance of training rosters or other written records to support continuing education conducted by, or at the request of, the licensee.

(e) A written plan for the quality assessment of patient care including a periodic review of run report forms, and evaluation of staff performance related to patient care;

(f) Written policies and procedures concerning:

1. Aircraft maintenance;

2. Standard operating procedures (SOPS);

3. Patient protocols;

4. Transport response and limitations; and

5. Patient destination.

Section 11. Incorporation [Material-Incorporated] by Reference. (1) The following material is incorporated by reference:

(a) 2000 [and may be inspected, obtained, or copied at the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. to 4:30 p.m., Monday through Friday.

(1)-1995], United States Department of Transportation Federal Aviation Regulations and Airman's Information Manual, Parts 43, 91, and 135.

(b) [(2)] 1995, United States Department of Transportation Advisory Circulars No. 135-14A, Emergency Medical Services: Helicopters (EMS:H).

[(3)] Form CHS-8A, "Kentucky Emergency Medical Service Ambulance Run Report," (2/91).]

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

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in

attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

#### REGULATORY IMPACT ANALYSIS

Agency Contact person: Robert Calhoun

(1) Type and number of entities affected:

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received. This administrative regulation will have minimal effect on the cost of living and employment in this state.

(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. This administrative regulation will have minimal effect on the cost of doing business in any geographical area of this state.

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

1. First year following implementation: None

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(4) Assessment of anticipated effect on state and local revenues: It is anticipated that the following additional annual fee income will result if this administrative regulation is implemented:

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

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

(a) Geographical area in which administrative regulation will be implemented: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected:

(8) Assessment of expected benefits: This administrative regulation will provide funds to administer

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky:

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

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or 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. The proposed amendments to this administrative regulation contain minimum standards applicable to all ambulance providers across the state.

## FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes, this administrative regulation could relate to local governments that choose to hold a license to operate an air ambulance service.

2. State what unit, part or division of local government this administrative regulation will affect the local government or only a part or division of the local government. No particular unit, part, or division of local government is particularly affected by this administrative regulation.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation will relate to the operation of a licensed ambulance service should the local government choose to hold such a license.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact. This administrative regulation will have little or no effect on the expenditures or revenues of local government.

**CABINET FOR HEALTH SERVICES**  
**Department for Public Health**  
**Division of Public Health Protection and Safety**  
**(Amendment)**

**902 KAR 100:010. Definitions.**

RELATES TO: KRS 211.842 to 211.852, 211.990(4), 10 CFR 20.1003-20.1005

STATUTORY AUTHORITY: KRS 194A.050, 211.090, 211.844, 10 CFR 20.1003-20.1005

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.844 authorizes the Cabinet for Health Services to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation provides definitions as applicable to 902 KAR Chapters 100 and 105.

Section 1. Definitions. As used in these administrative regulations, these terms have the definitions set forth below:

(1) "A<sub>1</sub>" and "A<sub>2</sub>."

(a) "A<sub>1</sub>" means the maximum activity of special form radioactive material permitted in a Type A package;

(b) "A<sub>2</sub>" means the maximum activity of radioactive material, other than special form radioactive material, permitted in a Type A package;

(c) These values are listed in 902 KAR 100:070, Section 21, or may be derived under the procedure prescribed in 902 KAR 100:070, Section 20.

(2) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the rad and the gray (Gy).

(3) "Accelerator" means a machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one (1) MeV, such as the cyclotron, synchrotron, synchrocyclotron, betatron, linear accelerator, and Van de Graaff electrostatic generator.

(4) "Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

(5) "Act" means KRS 211.842 to 211.852.

(6) "Activity" means the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the curie (Ci) and the becquerel (Bq).

(7) "Address of use" means the building or buildings that are identified on the license and where radioactive material may be received, used or stored.

(8) "Adult" means an individual eighteen (18) or more years of age.

(9) "Agreement state" means a state with which the United States Nuclear Regulatory Commission or the United States Atomic Energy

Commission has entered into an effective agreement under subsection 274 b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(10) "Airborne radioactive material" means radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(11) "Airborne radioactivity area" means a room, enclosure, or area in which airborne radioactive material, composed wholly or partly of radioactive material, exists in concentrations:

(a) In excess of the derived air concentrations (DACs) specified in 902 KAR 100:019, Section 44; or

(b) To a degree that an individual is present in the area without respiratory protective equipment may exceed during the hours an individual is present in a week, an intake of six-tenths (0.6) percent of the annual limit on intake (ALI) or twelve (12) DAC-hours.

(12) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by off-site response organizations to protect persons offsite.

(13) "Aluminum equivalent" means the thickness of type 1100 (ninety-nine (99.0) percent minimum aluminum, 0.12 percent copper) aluminum affording the same attenuation, under specified conditions, as the material in question.

(14) "Analytical x-ray systems" means a system which utilizes x-rays for the examination of the structure of materials, such as x-ray diffraction and spectrographic equipment.

(15) "Annual limit on intake (ALI)" means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of five (5) rems (0.05 Sv) or a committed dose equivalent of fifty (50) rems (five-tenths (0.5) Sv) to an individual organ or tissue. (ALI values for intake by ingestion and by inhalation of selected radionuclides are given in 902 KAR 100:019, Section 44, Table I, Columns 1 and 2.)

(16) "Area of use" means a portion of a physical structure that has been set aside for the purpose of receiving, using or storing radioactive material.

(17) "As low as reasonably achievable (ALARA)" means making every reasonable effort to maintain exposures to radiation as far below the dose limits in 902 KAR 100:019 as practical, consistent with the purpose for which the licensed activity is undertaken. ALARA shall take into account the state of technology, the economics of improvement in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, in relation to the utilization of nuclear energy and radioactive materials in the public interest.

(18) "Attenuation" means the reduction of exposure rate upon passages of radiation through matter.

(19) "Attenuation block" means a block or stack, having dimensions twenty (20) cm by twenty (20) cm by three and eight-tenths (3.8) cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

(20) "Authorized nuclear pharmacist" means a pharmacist who is:

(a) Board certified as a nuclear pharmacist by the Board of Pharmaceutical Specialties; or

(b) Identified as an authorized nuclear pharmacist on a cabinet, Agreement State or U.S. Nuclear Regulatory license that authorizes the use of radioactive material in the practice of nuclear pharmacy.

(21) "Automatic exposure control" means a device which automatically controls one (1) or more technique factors in order to obtain at a preselected location a required quantity of radiation.

(22) "Authorized user" means a physician, dentist, or podiatrist, identified as an authorized user on a cabinet, U.S. Nuclear Regulatory Commission, or another agreement state license that authorizes the medical use of radioactive material.

(23) "Background radiation" means radiation from cosmic sources, naturally occurring radioactive materials, including radon (except as a decay product of source or special nuclear material), and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the license. Background radiation shall not include radiation from radioactive materials regulated by the Cabinet for Human Resources.

(24) "Beam axis" means a line from the source through the cen-

ters of the x-ray fields.

(25) "Beam limiting device" (collimator) means a device which provides a means to restrict the dimensions of the x-ray field.

(26) "Beam monitoring system" means a system designed to detect and measure the radiation present in the useful beam.

(27) "Becquerel" means a unit, in the International System of Units (SI), of measurement of radioactivity equal to one (1) transformation per second.

(28) "Bioassay (radiobioassay)" means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.

(29) "Brachytherapy" means a method of radiation therapy in which an encapsulated source or group of sources is utilized to deliver radiation at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

(30) "Broker" (waste broker) means a person who takes possession of low-level waste solely for the purposes of consolidation and shipment.

(31) "By-product material" means:

(a) Radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; or [and]

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations shall not constitute by-product material within this definition.

(32) "Cabinet" means Cabinet for Human Resources, or its duly authorized representatives.

(33) "Cabinet radiography" means industrial radiography conducted in an enclosure or cabinet shielded so that radiation levels at every location on the exterior meet the limitations specified in 902 KAR 100:019, Section 11.

(34) "Cabinet x-ray systems" means an x-ray system with the x-ray tube installed or used in a permanent enclosure in which the enclosure is intended to contain at least that portion of the material being irradiated. The enclosure may be the architectural structure or may be independent of the architectural structure, but regardless, the structure of the enclosure shall provide attenuation of the radiation to meet the requirements of 902 KAR 100:105, relating to the possession, use, and operation of x-ray systems, and shall exclude personnel from its interior during the generation of x-radiation. This definition shall not include x-ray systems used by licensed practitioners of the healing arts.

(35) "Calendar quarter" means not less than twelve (12) consecutive weeks nor more than fourteen (14) consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be arranged so that no day is included in more than one (1) calendar quarter and no day in a one (1) year period is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method observed of determining calendar quarters except at the beginning of a calendar year.

(36) "Calibration" means the determination of:

(a) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) The strength of a source of radiation relative to a standard.

(37) "Carrier" means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

(38) "Cephalometric device" means a device intended for the radiographic visualization and measurement of the dimensions of the human head.

(39) "Certified cabinet x-ray system" means an x-ray system which has been certified under 21 CFR 1010.2 as being manufactured and assembled according to the provisions of 21 CFR 1020.40.

(40) "Certified components" means components of x-ray systems which shall be subject to regulations promulgated under 21 CFR Subchapter J.

(41) "Certified system" means an x-ray system which has one (1) or more certified component.

(42) "CFR" means Code of Federal Regulations.

(43) "Changeable filters" means a filter, exclusive of inherent filtration, which can be removed from the useful beam through an electronic, mechanical, or physical process.

(44) "Class (or lung class or inhalation class)" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials shall be classified as D, W, or Y, which applies to a range of clearance half-times: for Class D (Days) of less than ten (10) days, and for Class W (Weeks) from ten (10) to 100 days, and for Class Y (Years) of greater than 100 days.

(45) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(46) "Collimator" means a device used to limit the size, shape, and direction of the primary radiation beam.

(47) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(48) "Committed dose equivalent ( $H_{T,50}$ )" means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the fifty (50) year period following the intake.

(49) "Committed effective dose equivalent ( $H_{E,50}$ )" means the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues ( $H_{E,50} = \sum W_T H_{T,50}$ ).

(50) "Computed tomography (CT)" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

(51) "Constraint (dose constraint)" means a value above which specified licensee actions are required.

(52) "Contact therapy system" means an x-ray system used for therapy with the x-ray tube port placed in contact with or within five (5) centimeters of the surface being treated.

(53) "Control panel" means that part of the x-ray control upon which are mounted the switches, knobs, push buttons, and other hardware necessary for manually setting the technique factors.

(54) "Controlled area" means an area, outside of a restricted area but inside the site boundary, to which access can be limited by the licensee or registrant for a reason.

(55) "Cooling curve" means the graphical relationship between heat units stored and cooling time.

(56) "Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

(57) "Curie" means a quantity of radioactivity. One (1) curie (Ci) is that quantity of radioactive material which decays at the rate of  $3.7 \times 10^{10}$  disintegrations per second (dps). Commonly used submultiples of the curie are the millicurie and the microcurie. One (1) millicurie (mCi) = 0.001 curie =  $3.7 \times 10^7$  dps. One (1) microcurie (uCi) = 0.000001 curie =  $3.7 \times 10^4$  dps.

(58) "Dead man switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

(59) "Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception.

(60) "Decommission" means to remove, as a facility or site, safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of license; or

(b) Release of the property under restricted conditions and termination of the license.

(61) "Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years. The source may also be used for other purposes.

(62) "Deep-dose equivalent ( $H_d$ )" which applies to external whole-body exposure, means the dose equivalent at a tissue depth of one (1) centimeter (cm) ( $1000 \text{ mg/cm}^2$ ).

~~[(61) "Depleted uranium" means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.]~~

(63) "Derived air concentration (DAC)" means the concentration of a given radionuclide in air which, if breathed by the reference man for

a working year of 2,000 hours under conditions of light work (inhalation rate one and two-tenths (1.2) cubic meters of air per hour), results in an intake of one (1) ALI. DAC values are given in 902 KAR 100:019, Section 44, Table I, Column 3.

(64) "Derived air concentration-hour (DAC-hour)" means the product of the concentration of radioactive material in air (expressed as a fraction or multiple of the derived air concentration for each radionuclide) and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one (1) ALI, equivalent to a committed effective dose equivalent of five (5) rems (0.05 Sv).

(65) "Diagnostic clinical procedure manual" means a collection of written procedures that describes each method, and other instructions and precautions, by which the licensee performs diagnostic clinical procedures where each diagnostic clinical procedure has been approved by the authorized user and includes the radiopharmaceutical, dosage, and route of administration.

(66) "Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

(67) "Diagnostic-type protective tube housing" means an x-ray tube housing so constructed that the leakage radiation measured at a distance of one (1) meter from the source cannot exceed 100 milliroentgens in one (1) hour if the tube is operated at its maximum continuous rated current for the maximum tube potential.

(68) "Diagnostic x-ray system" means an x-ray system designed for irradiation of a part of the human body for the purpose of diagnosis or visualization.

(69) "Direct scatter radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam. (See also "scattered radiation").

(70) "Disposal" means the disposition of waste as authorized by 902 KAR 100:021.

(71) "Distinguishable from background" means that the detectable concentration of a radionuclide is statistically different from the background concentrations of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurements technology, survey, and statistical techniques.

(72) "Dose" or "radiation dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent.

(73) "Dose commitment" means the total radiation dose to a part of the body that results from retention in the body of radioactive material. For purposes of estimating the dose commitment, it is assumed that from the time of intake the period of exposure to retained material shall not exceed fifty (50) years.

(74) "Dose equivalent ( $H_T$ )" means the product of the absorbed dose in tissue, quality factor, and other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).

(75) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment.

(76) "Effective dose equivalent ( $H_E$ )" means the sum of the products of the dose equivalent to the organ or tissue ( $H_T$ ) and the weighting factors ( $W_T$ ) applicable to each of the body organs or tissues that are irradiated ( $H_E = \sum W_T H_T$ ).

(77) "Embryo or fetus" means the developing human organism from conception until the time of birth.

(78) "Entrance or access point" means a location through which an individual may gain access to radiation areas or to radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(79) "Entrance exposure rate" means the roentgens per unit time at the point the center of the useful beam enters the patient.

(80) "Exclusive use" [~~also referred to in other administrative regulations as "sole use" or "full load"~~] means:

(a) The sole use of a conveyance by a single consignor in which initial, intermediate, and final loading and unloading are carried out under the direction of the consignor or consignee;

(b) The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment; and

(c) The consignor must issue specific instructions, in writing, for

maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

(81) "Exposure" means being exposed to ionizing radiation or to radioactive material.

(82) "Exposure rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

(83) "External dose" means that portion of the dose equivalent received from radiation sources outside the body.

(84) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(85) "Eye dose equivalent" means to the external exposure of the lens of the eye and means the dose equivalent at a tissue depth of three-tenths (0.3) centimeter (300 mg/cm<sup>2</sup>).

(86) "Facility" means the location at which one (1) or more devices or sources are installed or located within one (1) building, vehicle, or under one (1) roof and are under the same administrative control.

(87) "Field emission equipment" means equipment which uses an x-ray tube in which electron emission from the cathode is due solely to the action of an electric field.

(88) "Field station" means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary job sites.

(89) "Filter" means the material in the useful beam which usually absorbs preferentially the less penetrating radiations.

(a) "Inherent filtration" means the filter permanently in the useful beam. It includes the window of the x-ray tube and the permanent tube enclosure.

(b) "Added filter" means the filter added to the inherent filtration.

(c) "Total filter" means the sum of the inherent and added filters.

(90) "Fissile material" means special nuclear material consisting of or containing one (1) or more fissile radionuclides. Fissile radionuclides are plutonium-238, plutonium-239, plutonium-241, uranium-233, and uranium-235. Unirradiated natural and depleted uranium, and natural or depleted uranium that has been irradiated in thermal reactors only are not included in this definition. [Neither natural or depleted uranium is fissile material.] (Cabinet jurisdiction extends only to special nuclear material if quantities are not sufficient to form a critical mass as defined in this administrative regulation.)

~~[(a) Fissile Class I: a package which may be transported in unlimited numbers and in an unspecified arrangement, and which requires no nuclear-criticality safety controls during transportation. A transport index is not assigned for purposes of nuclear-criticality safety, but may be required because of external radiation levels.~~

~~(b) Fissile Class II: a package which may be transported together with other packages in an unspecified arrangement but, for criticality control, in numbers which do not exceed an aggregate transport index of fifty (50). These shipments require no other nuclear-criticality safety control during transportation. Individual packages may have a transport index not less than 0.1 and not more than ten (10).]~~

(91) "Fissile material package" means a fissile material packaging together with its fissile material contents.

(92) "Fluoroscopic imaging assembly" means a component which comprises a reception system in which x-ray photons produce a fluoroscopic image. It includes equipment housings, electrical interlocks if present, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

(93) "Focal spot" means the area projected on the anode of the x-ray tube by the electrons accelerated from the cathode and from which the useful beam originates.

(94) "Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(95) "General purpose radiographic x-ray system" means a radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

(96) "Generally applicable environmental radiation standards" means standards issued by the Environmental Protection Agency (EPA) under the authority of 42 USC sec. 2011 et seq. that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the



boundaries of locations under the control of persons possessing or using radioactive material.

(97) "Generator" (waste generator) means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, education or other activity.

(98) "Gonad shield" means a protective barrier for the testes or ovaries.

(99) "Gray (Gy)" means the SI unit of absorbed dose. One (1) gray shall be equal to an absorbed dose of one (1) Joule/kilogram (100 rads).

(100) "Half-value layer (HVL)" means the thickness of specified material which attenuates the beam of radiation to an extent that the exposure rate is reduced to one-half (1/2) of its original value. In this definition, the contribution of scattered radiation, other than that which might be present initially in the beam concerned, shall be deemed to be excluded.

(101) "Healing arts screening" means the testing of human beings using x-ray machines for the detection or evaluation of health indications if these tests are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to prescribe these x-ray tests for the purpose of diagnosis or treatment.

(102) "Heat unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes, and seconds, such as kVp x mA x seconds.

(103) "High radiation area" means an area, accessible to individuals, in which radiation levels may result in an individual receiving a dose equivalent in excess of one-tenth (0.1) rem (1m Sv) in one (1) hour at thirty (30) centimeters from the radiation source or from a surface that the radiation penetrates.

(104) "Human use" means the internal or external administration of radiation or radioactive materials to human beings.

(105) "Image intensifier" means a device which converts instantaneously by means of photoemissive surfaces and electronic circuitry an x-ray pattern into a light pattern of greater intensity than would have been produced by the original x-ray pattern.

(106) "Image receptor" means a device as a fluorescent screen or radiographic film which transforms incident radiation into a visual image or into another form which can be made into a visual image by further transformations.

(107) "Image receptor support" means for mammographic systems, that part of the system designed to support the image receptor in a horizontal plane during a mammographic examination.

(108) "Individual" means a human being.

(109) "Individual monitoring" means the assessment of:

(a) Dose equivalent by the use of devices designed to be worn by an individual;

(b) Committed effective dose equivalent by bioassay (see bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, such as DAC-hours; or

(c) Dose equivalent by the use of survey data.

(110) "Individual monitoring devices (individual monitoring equipment)" means devices designed to be worn by a single individual for the assessment of dose equivalent, such as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(111) "Industrial radiography" means the examination of the macroscopic structure of materials by nondestructive methods utilizing sources of radiation.

(112) "Injection tool" means a device used for controlled subsurface injection of radioactive tracer material.

(113) "Inspection" means an examination or observation, such as tests, surveys, and monitoring, to determine compliance with rules, administrative regulations, orders, and requirements of the cabinet.

(114) "Interlock" means a device arranged or connected so that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(115) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(116) "Irradiation" means the exposure of matter to ionizing radiation.

(117) "Kilovolt peak (kVp)" means the crest value in kilovolts of the potential difference of a pulsating potential generator. If only one-half (1/2) of the wave is used, the value refers to the useful half of the

wave.

(118) "Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

(119) "Leakage radiation" means radiation emanating from the diagnostic or therapeutic source assembly except for the useful beam.

(120) "Leakage technique factors" means the technique factors associated with the tube housing assembly which are used in measuring leakage radiation. They shall be defined as follows:

(a) For capacitor energy storage equipment, the maximum rated number of exposures in an hour for operation at the maximum rated peak tube potential with the quantity of charge per exposure being ten (10) milliampere seconds (mAs) or the minimum obtainable from the unit, whichever is larger.

(b) For field emission equipment rated for pulsed operation, the maximum rated number of x-ray pulses in an hour for operation at the maximum rated peak tube potential.

(c) For all other equipment, the maximum rated continuous tube current for the maximum rated peak tube potential.

(121) "Lens dose equivalent (LDE)" means applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm<sup>2</sup>).

(122) "License" means a license issued by the cabinet under 902 KAR Chapter 100.

(123) "Licensed material" means radioactive material received, possessed, used, transferred, or disposed under a general or specific license issued by the cabinet under 902 KAR Chapter 100.

(124) "Licensee" means the holder of a license.

(125) "Limits (dose limits)" means the permissible upper bounds of radiation doses.

(126) "Lixiscope" means a portable light-intensified imaging device using a sealed source.

(127) "Logging assistant" means an individual who, under the personal supervision of a logging supervisor, handles sealed sources or tracers that are not in logging tools or shipping containers or who uses survey instruments in well-logging activities.

(128) "Logging supervisor" means the individual who provides personal supervision of the utilization of sources of radiation at the well site.

(129) "Logging tool" means a device used subsurface to perform well-logging.

(130) "Lost or missing licensed material" means licensed material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

(131) "Low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e(2) of the Atomic Energy Act of 1954 (42 USC 2014).

(132) "Low specific activity (LSA) material" means radioactive material with limited specific activity that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one (1) of three (3) groups:

(a) LSA-I:

1. Ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores; or

2. Solid unirradiated natural or depleted uranium or natural thorium or their solids or liquid compounds or mixtures; or

3. Radioactive material, other than fissile material, for which the A<sub>2</sub> value is unlimited; or

4. Mill tailings, contaminated earth, concrete, rubble, other debris, and activated material in which the radioactive material is essentially uniformly distributed, and the average specific activity does not exceed 10<sup>-5</sup> A<sub>2</sub>/gram.

(b) LSA-II:

1. Water with tritium concentration up to 20.0 curies/liter (0.8 TBq/liter); or

2. Material in which the radioactive material is distributed throughout, and the average specific activity does not exceed 10<sup>-4</sup> A<sub>2</sub>/gram for solids and gases, and 10<sup>-5</sup> A<sub>2</sub>/gram for liquids.

(c) LSA-III: Solids (e.g., consolidated wastes, activated materi-

als) in which:

1. The radioactive material is distributed throughout a solid or a collection of solid objects; or

2. Is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.); and

3. The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for seven (7) days, would not exceed 0.1 A<sub>2</sub>; and the average specific activity of the solid does not exceed  $2 \times 10^{-5}$  A<sub>2</sub>/gram.

(a) Uranium or thorium ores and physical or chemical concentrates of those ores;

(b) Unirradiated natural or depleted uranium or unirradiated natural thorium;

(c) Tritium oxide in aqueous solutions provided the concentration does not exceed five (5.0) millicuries per milliliter; or

(d) Material in which the radioactivity is essentially uniformly distributed and in which the estimated average concentration per gram of contents shall not exceed:

1. 0.0001 millicurie of radionuclides for which the A<sub>2</sub> quantity in 902 KAR 100:070 is not more than 0.05 curie;

2. 0.005 millicurie of radionuclides for which the A<sub>2</sub> quantity in 902 KAR 100:070 is more than 0.05 curie, but not more than one (1) curie; or

3. 0.3 millicurie of radionuclides for which the A<sub>2</sub> quantity in 902 KAR 100:070 is more than one (1) curie; or

(e) Objects of nonradioactive material externally contaminated with radioactive material, if the radioactive material is not readily dispersible and the surface contamination, averaged over an area of one (1) square meter, does not exceed 0.0001 millicurie (220,000 disintegrations per minute) per square centimeter of radionuclides for which the A<sub>2</sub> quantity in 902 KAR 100:070 is not more than 0.05 curie, or 0.001 millicurie (2,200,000 disintegrations per minute) per square centimeter for other radionuclides.]

(133) "Low toxicity alpha emitter" means natural uranium, depleted uranium, natural thorium, uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than ten (10) days.

(134) "mA" means milliamperes.

(135) "Management" means the chief executive officer or that individual's designee.

(136) "mAs" means milliampere second.

(137) "Maximum normal operating pressure" means the maximum gauge pressure that would develop in the containment system in a period of one (1) year under the heat condition specified in 10 CFR Part 71.71(c)(1), in the absence of venting, external cooling by an ancillary system, or operational controls during transport.

(138) "Medical institution" means an organization in which several medical disciplines are practiced.

(139) "Medical use" means the intentional internal or external administration of radioactive material, or the radiation therefrom, to patients or human research subjects under the supervision of an authorized user.

(140) "Member of the public" means an individual except when the individual is receiving an occupational dose.

(141) "Microscopic analytical x-ray equipment" means a device which utilizes x-rays for examining the microscopic structure of materials. This includes x-ray diffraction and spectrographic equipment.

(142) "Mineral logging" means logging performed for the purpose of mineral exploration other than oil or gas.

(143) "Minor" means an individual less than eighteen (18) years of age.

(144) "Misadministration" means the administration of:

(a) A radiopharmaceutical dosage greater than thirty (30) microcuries of sodium iodide I-125 or I-131:

1. Involving the wrong patient or human research subject or wrong radiopharmaceutical; or

2. If both the administered dosage differs from the prescribed dosage by more than twenty (20) percent of the prescribed dosage and the difference between the administered dosage and prescribed dosage exceeds thirty (30) microcuries.

(b) A therapeutic radiopharmaceutical dosage, other than sodium

iodide I-125 or I-131:

1. Involving the wrong patient, or human research subject, radiopharmaceutical, or route of administration; or

2. If the administered dosage differs from the prescribed dosage by more than twenty (20) percent of the prescribed dosage.

(c) A gamma stereotactic radiosurgery radiation dose:

1. Involving the wrong patient or human research subject or treatment site; or

2. If the calculated total administered dose differs from the total prescribed dose by more than ten (10) percent of the total prescribed dose.

(d) A teletherapy radiation dose:

1. Involving the wrong patient, or human research subject, mode of treatment, or treatment site;

2. If the treatment consists of three (3) or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than ten (10) percent of the total prescribed dose;

3. If the calculated weekly administered dose is thirty (30) percent greater than the weekly prescribed dose; or

4. If the calculated total administered dose differs from the total prescribed dose by more than twenty (20) percent of the total prescribed dose.

(e) A brachytherapy radiation dose:

1. Involving the wrong patient or human research subject, radioisotope, or treatment site (excluding permanent implant seeds that were implanted in the correct site but migrated outside the treatment site);

2. Involving a sealed source that is leaking;

3. If, for a temporary implant, one (1) or more sealed sources are not removed upon completion of the procedure; or

4. If the calculated administered dose differs from the prescribed dose by more than twenty (20) percent of the prescribed dose.

(f) A diagnostic radiopharmaceutical dosage, other than quantities greater than thirty (30) microcuries of sodium iodide I-125 or I-131:

1. Involving the wrong patient or human research subject, radiopharmaceutical, route of administration, or if the administered dosage differs from the prescribed dosage; and

2. If the dose to the patient or human research subject exceeds five (5) rems effective dose equivalent or fifty (50) rems dose equivalent to an individual organ.

(145) "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.

(146) "Monitoring (radiation monitoring, radiation protection monitoring)" means the measurement of radiation levels, concentrations, surface area concentrations or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.

(147) "Natural thorium" means thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

(148) "Nonstochastic effect" means health effects, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect (also called a deterministic effect).

(149) "Normal form radioactive material" means radioactive material which has not been demonstrated to qualify as "special form radioactive material."

(150) "NRC" means the Nuclear Regulatory Commission or its duly authorized representatives.

(151) "Occupational dose" means dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose shall not include dose received from background radiation as a patient from medical practices, from voluntary participation in medical research programs, as a member of the public or from exposure to individuals administered radioactive material and released in accordance with 902 KAR 100:073, Section 25.

(152) "Output" means the exposure rate, dose rate, or a quantity related in a known manner to these rates from a teletherapy unit for a specified set of exposure conditions.

(153) "Operating procedures" means detailed written instructions, such as the normal operation of equipment and movable shielding, closing of interlock circuits, manipulation of controls, radiation moni-

toring procedures for personnel and areas, testing of interlocks, and recordkeeping requirements.

(154) "Package" means the packaging together with its radioactive contents as presented for transport.

(155) "Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 902 KAR 100:070. It may consist of one (1) or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

(156) "Patient" means an individual subjected to healing arts examination, diagnosis, or treatment.

(157) "Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

(158) "Permanent radiographic installation" means an installation or structure designed or intended for radiography and in which radiography is regularly performed.

(159) "Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state or other state, or political subdivision or agency thereof, and a legal successor, representative, agent or agency of the foregoing.

(160) "Personal supervision" means guidance and instruction by the supervisor who is physically present at the job site and watching the performance of the operation in proximity so that contact can be maintained and immediate assistance given as required.

(161) "Personnel monitoring equipment" means a device designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual, such as film badges, pocket dosimeters, and thermoluminescent dosimeters (TLD).

(162) "Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation.

(163) "Phototimer" means a method for controlling radiation exposures to image receptors by the amount of radiation which reaches a radiation monitoring device. The radiation monitoring device is part of an electronic circuit which controls the duration of time the tube is activated (see "automatic exposure control").

(164) "Physician" means an individual licensed to practice medicine or osteopathy in this state.

(165) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual dose limits.

(166) "Position indicating device" means a device on dental x-ray equipment used to indicate the beam position and to establish a definite source-surface (skin) distance. It may or may not incorporate or serve as a beam-limiting device.

(167) "Preregistrant" means a person who is preregistered with the cabinet for the intent of obtaining a radiation producing machine registerable under 902 KAR 100:110.

(168) "Preregistration" means preregistration with the cabinet as specified in 902 KAR 100:110.

(169) "Prescribed dosage" means the quantity of radiopharmaceutical activity as documented:

(a) In a written directive;

(b) In the diagnostic clinical procedures manual; or

(c) In an appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

(170) "Prescribed dose" means:

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction as documented in the written directive; or

(c) For brachytherapy, the total source strength and exposure time or the total dose, as documented in the written directive.

(171) "Primary dose monitoring system" means a system which monitors the useful beam during irradiation and which terminates irradiation if a preselected number of dose monitor units have been acquired.

(172) "Principal activities" means activities authorized by the license which are essential to achieving the purpose for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(173) "Protective apron" means an apron made of radiation absorbing materials of at least 0.25 mm lead equivalency. This requirement may be assumed to have been met if the HVL of the apron is not less than 0.25 mm lead at normal operating voltages.

(174) "Protective barrier" means a barrier of radiation absorbing material used to reduce radiation exposure.

(a) "Primary protective barrier" means a barrier sufficient to attenuate the useful beam to the required degree.

(b) "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.

(175) "Protective glove" means a glove made of radiation absorbing materials of at least 0.25 mm lead equivalency. This requirement may be assumed to have been met if the HVL of the glove is not less than 0.25 mm lead at normal operating voltages.

(176) "Public dose" means the dose received by a member of the public from sources of radiation from licensed or registered operations. It shall not include occupational dose or doses received from background radiation, as a patient from medical practices, from voluntary participation in medical research programs, or from exposure to individuals administered radioactive material and released in accordance with 902 KAR 100:073, Section 25.

(177) "Qualified expert" means an individual who has demonstrated to the satisfaction of the cabinet that he possesses the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs.

(178) "Quality factor (Q)" means the modifying factor that is used to derive dose equivalent from absorbed dose.

(a) Quality factors and absorbed dose equivalencies:

Type of Radiation	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent <sup>a</sup>
X-, gamma, or beta radiation	1	1
Alpha particles, multiple-charged particles, fission fragments, and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

<sup>a</sup>Absorbed dose in rad equal to one (1) rem or the absorbed dose in gray equal to one (1) sievert.

(b) If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rems per hour or sieverts per hour, as provided in paragraph (a) of this subsection, one (1) rem (0.01 sievert) of neutron radiation of unknown energies may, for purposes of the regulations in this part, be assumed to result from a total fluence of twenty-five (25) million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee may use the fluence rate per unit dose equivalent or the appropriate Q value from paragraph (c) of this subsection to convert a measured tissue dose in rads to dose equivalent in rems.

(c) Mean quality factors, Q, and fluency per unit dose equivalent for monoenergetic neutrons:

	Neutron Energy (MeV)	Quality Factor <sup>a</sup> (Q)	Fluency per Unit Dose Equivalent <sup>b</sup> (neutrons cm <sup>-2</sup> rem <sup>-1</sup> )
(thermal)	2.5 x 10 <sup>-6</sup>	2	980 x 10 <sup>6</sup>
	1 x 10 <sup>-7</sup>	2	980 x 10 <sup>6</sup>
	1 x 10 <sup>-6</sup>	2	810 x 10 <sup>6</sup>
	1 x 10 <sup>-5</sup>	2	810 x 10 <sup>6</sup>
	1 x 10 <sup>-4</sup>	2	840 x 10 <sup>6</sup>
	1 x 10 <sup>-3</sup>	2	980 x 10 <sup>6</sup>
	1 x 10 <sup>-2</sup>	2.5	1010 x 10 <sup>6</sup>
	1 x 10 <sup>-1</sup>	7.5	170 x 10 <sup>6</sup>
	5 x 10 <sup>-1</sup>	11	39 x 10 <sup>6</sup>
	1	11	27 x 10 <sup>6</sup>
	2.5	9	29 x 10 <sup>6</sup>
	5	8	23 x 10 <sup>6</sup>

	7	7	$24 \times 10^5$
	10	6.5	$24 \times 10^5$
	14	7.5	$17 \times 10^5$
	20	8	$16 \times 10^5$
	40	7	$14 \times 10^5$
	60	5.5	$16 \times 10^5$
	$1 \times 10^2$	4	$20 \times 10^5$
	$2 \times 10^2$	3.5	$19 \times 10^5$
	$3 \times 10^2$	3.5	$16 \times 10^5$
	$4 \times 10^2$	3.5	$14 \times 10^5$

<sup>a</sup>Value of quality factor (Q) at the point at which the dose equivalent is maximum in a thirty (30)-cm diameter cylinder tissue-equivalent phantom.

<sup>b</sup>Monoenergetic neutrons incident normally on a thirty (30)-cm diameter cylinder tissue-equivalent phantom.

(179) "Quarter" means a period of time equal to one-fourth (0.25) of the year observed by the licensee (approximately thirteen (13) consecutive weeks), providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(180) "Rad" means the special unit of absorbed dose. One (1) rad equals an absorbed dose of 0.01 joule per kilogram (0.01 gray) or 100 ergs per gram.

(181) "Radiation" means ionizing radiation which includes the following: gamma rays, x-rays, alpha particles, beta particles, high speed electrons, neutrons, high-speed protons, and other atomic particles capable of producing ions. This definition shall not include non-ionizing radiations, such as sound, microwaves, radiowaves, or visible, infrared, or ultraviolet light.

(a) "Leakage radiation" means radiation coming from within the tube or source housing except the useful beam.

(b) "Scattered radiation" means radiation that, during passage through matter, has been deviated in direction. It may also have been modified by a decrease in energy.

(c) "Useful radiation" means radiation which passes through the window, aperture, cone, or other beam limiting device of the tube or source housing. Sometimes called "primary beam."

(d) "Stray radiation" means the sum of leakage and scattered radiation.

(182) "Radiation area" means an area, accessible to individuals, in which there exists radiation at levels that an individual may receive in excess of five (5) millirems (0.05 mSv) in one (1) hour at thirty (30) centimeters from the radiation source or from a surface that the radiation penetrates.

(183) "Radiation machine" means a device capable of producing radiation except devices which produce radiation only from radioactive material.

(184) "Radiation safety officer" means one who has the knowledge and responsibility to apply appropriate radiation protection administrative regulations.

(185) "Radiation therapy simulation system" means a fluoroscopic or radiographic x-ray system intended for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

(186) "Radioactive marker" means radioactive material placed subsurface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation.

(187) "Radioactive material" means a solid, liquid, or gas, which emits radiation spontaneously.

(188) "Radioactivity" means the disintegration of unstable atomic nuclei by the emission of radiation.

(189) "Radiograph" means an image receptor on which the image is created directly or indirectly by an x-ray pattern and results in a permanent record.

(190) "Radiographer" means an individual who performs or who, in attendance at the site where sources of radiation are being used, personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of these administrative regulations and license conditions.

(191) "Radiographer's assistant" means an individual who, under the personal supervision of a radiographer, uses sources of radiation,

related handling tools, or survey instruments in industrial radiography.

(192) "Radiographer instructor" means a radiographer who has been authorized by the cabinet to provide on-the-job training to radiographer trainees under 902 KAR 100:100, Section 11(1).

(193) "Radiographer trainee" means an individual who, under the personal supervision of a radiographer instructor, uses sources of radiation, related handling tools, or radiation survey instruments during the course of instruction.

(194) "Radiographic exposure device" means an instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved, or otherwise changed, from a shielded to unshielded position for purposes of making a radiographic exposure.

(195) "Radiographic imaging system" means a system whereby a permanent or semipermanent image is recorded on an image receptor by the action of ionizing radiation.

(196) "Radiographic personnel" means a radiographer, radiographer instructor, or radiographer trainee.

(197) "Rating" means the operating limits as specified by the component manufacturer.

(198) "Recordable event" means the administration of:

(a) A radiopharmaceutical or radiation without a written directive if a written directive is required;

(b) A radiopharmaceutical or radiation if a written directive is required without daily recording of each administered radiopharmaceutical dosage or radiation dose in the appropriate record;

(c) A radiopharmaceutical dosage greater than thirty (30) microcuries of sodium iodide I-125 or I-131 if:

1. The administered dosage differs from the prescribed dosage by more than ten (10) percent of the prescribed dosage, and

2. The difference between the administered dosage and prescribed dosage exceeds fifteen (15) microcuries;

(d) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131, if the administered dosage differs from the prescribed dosage by more than ten (10) percent of the prescribed dosage;

(e) A teletherapy radiation dose if the calculated weekly administered dose is fifteen (15) percent greater than the weekly prescribed dose; or

(f) A brachytherapy radiation dose if the calculated administered dose differs from the prescribed dose by more than ten (10) percent of the prescribed dose.

(199) "Recording" means producing a permanent form of an image resulting from x-ray photons.

(200) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics arrived at by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base.

(201) "Registrant" means a person who is registered with the cabinet and is legally obligated to register with the cabinet under 902 KAR 100:110.

(202) "Registration" means registration with the cabinet under 902 KAR 100:110.

(203) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189.

(204) "Rem" means a special unit of quantities expressed as dose equivalent. The dose equivalent in rems is equal to the absorbed dose in rads multiplied by the quality factor (one (1) rem = 0.01 sievert).

(205) "Research and development" means:

(a) Theoretical analysis, exploration, or experimentation; or

(b) The extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(206) "Residential location" means an area where structures in which people lodge or live are located, and the grounds on which structures are located, such as houses, apartments, condominiums, and garages.

(207) "Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactiv-

ity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive material remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with the provisions of 902 KAR 100:019.

(208) "Respiratory protective device" means an apparatus used to reduce the individual's intake of airborne radioactive materials, such as a respirator.

(209) "Restricted area" means an area access to which is limited by the licensee or registrant for purposes of protection of individuals against undue risks from exposure to radiation and radioactive materials. A restricted area shall not include areas used as residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

(210) "Roentgen" means the special unit of exposure. One (1) roentgen (R) equals  $2.58 \times 10^{-4}$  coulombs per kilogram of air (see "Exposure").

(211) "Sanitary sewerage" means a system of public sewers for carrying off waste, water, and refuse, but excludes sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

(212) "Sealed source" means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent leakage or escape of the radioactive material.

(213) "Secondary dose monitoring system" means a system which terminates irradiation upon failure of the primary system.

(214) "Secretary" means the Secretary of the Cabinet for Human Resources.

(215) "Shallow-dose equivalent (H<sub>s</sub>)", means the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (seven (7) mg/cm<sup>2</sup>) averaged over an area of one (1) square centimeter.

(216) "Shielded position" means the location within the radiographic exposure device or storage container which, by manufacturer's design, is the proper location for storage of the sealed source.

(217) "Shielded-room radiography" means industrial radiography conducted in a room shielded so that radiation levels at every location on the exterior meet the limitations specified in 902 KAR 100:019, Section 10.

(218) "Shutter" means a device attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

(219) "Sievert" means:

(a) The International System (SI) unit of quantities expressed as dose equivalent. The dose equivalent in sieverts is equal to the absorbed dose in grays multiplied by the quality factor (1 Sv=100 rems).

(b) As used in this administrative regulation, the quality factors for converting absorbed dose to dose equivalent are shown in the table listed in subsection 164 of this section.

(220) "Site area emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by off-site response organizations to protect persons off site.

(221) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.

(222) "Source" means the focal spot of the x-ray tube.

(223) "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those source changers also used for transporting and storage of sealed sources.

(224) "Source holder" means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source.

(225) "Source image receptor distance (SID)" means the distance from the source to the center of the input surface of the image receptor.

(226) "Source material" means:

(a) Uranium or thorium, or a combination thereof, in a physical or chemical form; or

(b) Ores which contain by weight one-twentieth (1/20) of one (1) percent (0.05 percent) or more of:

1. Uranium;
2. Thorium; or

3. Combination thereof.

(c) Source material does not include special nuclear material.

(227) "Source of radiation" means a radioactive material or device or equipment emitting or capable of producing radiation.

(228) "Special form" means radioactive material which satisfies the following conditions:

(a) It is a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one (1) dimension not less than five (5) millimeters (0.197 inch); and

(c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission (NRC). A special form encapsulation designed under the NRC requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed or constructed after June 30, 1985 shall meet requirements of this definition applicable if it is designed or constructed.

(229) "Special nuclear material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope U-233 or in the isotope U-235, and other material which the Governor declares by order to be special nuclear material after the United States Nuclear Regulatory Commission, or successor thereto, has determined the material to be special nuclear material, but does not include source material; or

(b) Material artificially enriched by one (1) of the foregoing, but does not include source material.

(230) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; U-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or a combination of them as specified by the following formula: for each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of these ratios for the different kinds of special nuclear material in combination shall not exceed one (1). For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{175 \text{ (grams contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} = 1$$

(231) "Special purpose x-ray system" means a radiographic x-ray system which, by design, is limited to radiographic examination of a specific anatomical region.

(232) "Specific activity" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(233) "Spot check" means a procedure which is performed to assure that a previous calibration continues to be valid.

(234) "Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

(235) "Spot-film device" means a device intended to transport or position a radiographic image receptor between the x-ray source and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

(236) "SSD" means the distance between the source and the skin of the patient.

(237) "Stochastic effects" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose with threshold, such as hereditary effects and cancer incidence.

(238) "Storage" (waste storage) means the holding of waste for treatment or disposal for a period of twenty-four (24) hours or more.

(239) "Storage area" means a location, facility, or vehicle which is used to store, transport, or secure a radiographic exposure device, a storage container, or a sealed source if it is not in use and which is locked or has a physical barrier to prevent accidental exposure, tampering with, or unauthorized removal of the device, container, or source.

(240) "Storage container" means a device in which sealed sources are transported or stored.

(241) "Stray radiation" means the sum of leakage and scattered radiation.

(242) "Subsurface tracer study" means the release of a substance tagged with radioactive material for the purpose of tracing the movement or position of the tagged substance in the well-bore or adjacent formation.

(243) "Surface contaminated object (SCO)" means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCO must be in one (1) of two (2) groups with surface activity not exceeding the following limits:

(a) SCO-I: A solid object on which:

1. The nonfixed contamination on the accessible surface averaged over  $300\text{ cm}^2$  (or the area of the surface if less than  $300\text{ cm}^2$ ) does not exceed  $10^{-4}$  microcurie/ $\text{cm}^2$  ( $4\text{ Bq/cm}^2$ ) for beta and gamma and low toxicity alpha emitters, or  $10^{-5}$  microcurie/ $\text{cm}^2$  ( $0.4\text{ Bq/cm}^2$ ) for all other alpha emitters;

2. The fixed contamination on the accessible surface averaged over  $300\text{ cm}^2$  (or the area of the surface if less than  $300\text{ cm}^2$ ) does not exceed  $1.0$  microcurie/ $\text{cm}^2$  ( $4 \times 10^4\text{ Bq/cm}^2$ ) for beta and gamma and low toxicity alpha emitters, or  $0.1$  microcurie/ $\text{cm}^2$  ( $4 \times 10^3\text{ Bq/cm}^2$ ) for all other alpha emitters; and

3. The nonfixed contamination plus the fixed contamination on the inaccessible surface averaged over  $300\text{ cm}^2$  (or the area of the surface if less than  $300\text{ cm}^2$ ) does not exceed  $1$  microcurie/ $\text{cm}^2$  ( $4 \times 10^4\text{ Bq/cm}^2$ ) for beta and gamma and low toxicity alpha emitters, for  $0.1$  microcurie/ $\text{cm}^2$  ( $4 \times 10^3\text{ Bq/cm}^2$ ) for all other alpha emitters.

(b) SCO-II: A solid object on which the limits for SCO-I are exceeded and on which:

1. The nonfixed contamination on the accessible surface averaged over  $300\text{ cm}^2$  (or the area of the surface if less than  $300\text{ cm}^2$ ) does not exceed  $10^{-2}$  microcurie/ $\text{cm}^2$  ( $400\text{ Bq/cm}^2$ ) for beta and gamma and low toxicity alpha emitters or  $10^{-3}$  microcurie/ $\text{cm}^2$  ( $40\text{ Bq/cm}^2$ ) for all other alpha emitters;

2. The fixed contamination on the accessible surface averaged over  $300\text{ cm}^2$  (or the area of the surface if less than  $300\text{ cm}^2$ ) does not exceed  $20$  microcuries/ $\text{cm}^2$  ( $8 \times 10^5\text{ Bq/cm}^2$ ) for beta and gamma and low toxicity alpha emitters, or  $2$  microcuries/ $\text{cm}^2$  ( $8 \times 10^4\text{ Bq/cm}^2$ ) for all other alpha emitters; and

3. The nonfixed contamination plus the fixed contamination on the inaccessible surface averaged over  $300\text{ cm}^2$  (or the area of the surface if less than  $300\text{ cm}^2$ ) does not exceed  $20$  microcuries/ $\text{cm}^2$  ( $8 \times 10^5\text{ Bq/cm}^2$ ) for beta and gamma and low toxicity alpha emitters, or  $2$  microcuries/ $\text{cm}^2$  ( $8 \times 10^4\text{ Bq/cm}^2$ ) for all other alpha emitters.

(244) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. If appropriate, the evaluation shall include a minimum of a physical survey of the location of sources of radiation and measurements or calculations of levels of radiation or concentrations or quantities of radioactive material present.

(245) "Technique factors" means the conditions of operation. They are specified as follows:

(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs.

(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses.

(c) For CT x-ray systems designed for pulsed operation, peak tube potential in kV, scan time in seconds, and either tube current in mA, x-ray pulse width in seconds, and the number of x-ray pulses per scan, or the product of tube current, x-ray pulse width, and the number of x-ray pulses in mAs;

(d) For CT x-ray systems not designed for pulsed operation, peak tube potential in kV, and either tube current in mA and scan time in seconds, or the product of tube current and exposure time in mAs and the scan time if the scan time and exposure time are equivalent; and

(e) For other equipment, peak tube potential in kV and tube current in mA and exposure time in seconds or the product of tube current and exposure time in mAs.

(246) "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

(247) "Teletherapy physicist" means the individual identified as the

teletherapy physicist on a cabinet license.

(248) "Temporary job site" means a location to which radioactive material has been dispatched to perform a job, operation, or study other than the location listed in a specific license or certificate of registration.

(249) "Termination of irradiation" means the stopping of irradiation in a fashion which does not permit continuance of irradiation without the resetting of operating conditions at the control panel.

(250) "Tests" means the process of verifying compliance with an applicable regulation.

(251) "Therapeutic-type protective tube housing" means:

(a) For x-ray therapy equipment not capable of operating at 500 kVp or above, the following definition applies: an x-ray tube housing so constructed that the leakage radiation at a distance of one (1) meter from the target does not exceed one (1) roentgen in one (1) hour if the tube is operated at its maximum rated tube potential;

(b) For x-ray therapy equipment capable of operating at 500 kVp or above, the following definition applies: an x-ray tube housing so constructed that the leakage radiation at a distance of one (1) meter from the target does not exceed one-tenth (0.1) percent of the useful beam exposure rate at one (1) meter from the target, for its operating conditions;

(c) Small areas of reduced protection are acceptable providing the average reading over a 100 square centimeter area at one (1) meter distance from the target does not exceed the values given above.

(252) "Tomogram" means the depiction of the x-ray attenuation properties of a section through the body.

(253) "Total effective dose equivalent (TEDE)" means the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

(254) "Traceable to a national standard" means that a quantity or a measurement has been compared to a national standard directly or indirectly through one (1) or more intermediate steps and that comparisons have been documented.

(255) "Transport container" means a package that is designed to provide radiation safety and security if sealed sources are transported and which meets the requirements of the 49 CFR 173, Subpart I.

(256) "Transport index" means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is determined as follows:

(a) For nonfissile material packages, the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at one (1) meter (3.3 feet) from the external surface by 100 (equivalent to the maximum radiation level in millirem per hour at one (1) meter (3.3 feet)); or

(b) For fissile material packages, the number determined by multiplying the maximum radiation level in millisievert per hour at one (1) meter (3.3 feet) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one (1) meter (3.3 feet), or, for criticality control purposes, the number obtained as described in 10 CFR Part 71.59, whichever is larger. [the number expressing the maximum radiation level in millirem per hour at one (1) meter from the external surface of the package.]

(257) "Treatment" (waste treatment) means a method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics or composition of a waste in order to render the waste for transport, storage or disposal, amendable to recovery, convertible to another usable material, or reduced in volume.

(258) "Tube" means an x-ray tube, unless otherwise specified.

(259) "Tube housing assembly" means the tube housing with tube installed. It includes high-voltage or filament transformers and other appropriate elements if they are contained within the tube housing.

(260) "Tube rating chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

(261) "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed  $A_1$  for special form radioactive material or  $A_2$  for normal form radioactive material, where  $A_1$  and  $A_2$  are given in 902 KAR 100:070, Section 21, or may be determined by procedures described in 902 KAR 100:070, Section 20.

(262) "Type B package" means a Type B packaging together with its radioactive contents. On approval a Type B package design is



designated by NRC as B(U) unless the package has a maximum normal operating pressure of more than 700 kPa (100 lb/in<sup>2</sup>) gauge or a pressure relief device that would allow the release of radioactive material to the environment under the tests specified in 10 CFR Part 71.73 (hypothetical accident conditions), in which case it will receive a designation B(M) [as B(U) or B(M)]. B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to U.S. Department of Transportation regulations in 49 CFR Part 173. A Type B package approved prior to September 6, 1983, was designated only as Type B. Limitations on its use are specified in 902 KAR 100:070, Section 6 [7].

(263) "Type B packaging" means a packaging designed to retain the integrity of containment and shielding required by U.S. Nuclear Regulatory Commission regulations if subjected to the normal conditions of transport and hypothetical accident test conditions set forth in 10 CFR Part 71.

(264) "Type B quantity" means a quantity of radioactive material greater than a Type A quantity.

(265) "U.S. Department of Energy" means the Department of Energy established by 42 USC 7101 et seq., to the extent that the department exercises functions formerly vested in the U.S. Atomic Energy Commission, its chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof and retransferred to the Secretary of Energy in 42 USC 7151, effective October 1, 1977.

(266) "Unrefined and unprocessed ore" means ore in its natural form prior to processing, such as grinding, roasting, beneficiating, or refining.

(267) "Unrestricted area" means an area access to which is not controlled or limited by the licensee or registrant for purposes of protection of individuals from exposure to radiation and radioactive material.

(268) "Uranium - natural, depleted, enriched" means:

(a) "Natural uranium" means uranium with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238);

(b) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes;

(c) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

(269) "Uranium fuel cycle" means the operations of milling of uranium ore, chemical conversion of uranium, isotopic enrichment of uranium, fabrication of uranium fuel, generation of electricity by a light-water-cooled nuclear power plant using uranium fuel, and reprocessing of spent uranium fuel to the extent that these activities directly support the production of electrical power for public use. Uranium fuel cycle shall not include mining operations, operations at waste disposal sites, transportation of radioactive material in support of these operations, and the reuse of recovered nonuranium special nuclear and byproduct materials from the cycle.

(270) "Useful beam" means the radiation which passes through the tube housing port and the aperture of the beam limiting device if the exposure switch or timer is activated.

(271) "User" means an individual who personally utilizes or manipulates a source of radiation.

(272) "Variable-aperture beam limiting device" means a beam limiting device which has capacity for stepless adjustment of the x-ray field size at a given SID.

(273) "Vendor" means for the purposes of 902 KAR 100:110 a person who sells for profit radiation producing machines or accelerators registrable with the cabinet as specified by 902 KAR 100:110.

(274) "Vendor registrant" means a vendor who is registered with the cabinet.

(275) "Vendor registration" means registration of a vendor with the cabinet described by 902 KAR 100:110.

(276) "Very high radiation area" means an area, accessible to individuals, in which radiation levels may result in an individual receiving an absorbed dose in excess of 500 rads (five (5) grays) in one (1) hour at one (1) meter from a radiation source or from a surface that

the radiation penetrates. At very high doses received at high dose rates, units of absorbed dose (such as rads and grays) are appropriate, rather than units of dose equivalent (such as rems and sieverts).

(277) "Visible area" means that portion of the input surface of the image receptor over which incident x-ray photons are producing a visible image.

(278) "Visiting authorized nuclear pharmacist" means a nuclear pharmacist who is not identified on the license of the licensee being visited.

(279) "Visiting authorized user" means an authorized user who is not identified on the license of the licensee being visited.

(280) "Waste" (see "low-level radioactive waste").

(281) "Wedge filter" means an added filter effecting continuous progressive attenuation on the useful beam or a part thereof.

(282) "Week" means seven (7) consecutive days starting on Sunday.

(283) "Weighting factor ( $W_T$ )", for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects if the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of ( $W_T$ ) are:

Organ Dose Weighting Factors	
Organ or tissue	$W_T$
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	<sup>1</sup> 0.30
Whole Body	<sup>2</sup> 1.00

<sup>1</sup>0.30 results from 0.06 for each of five (5) "remainder" organs (excluding the skin and the lens of the eye) that receive the highest doses.

<sup>2</sup>For the purpose of weighting the external whole body dose (for adding it to the internal dose), a single weighting factor,  $W_T=1.0$ , has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until a time as specific guidance is issued.

(284) "Well-bore" means a drilled hole in which wire line service operations and subsurface tracer studies are performed.

(285) "Well-logging" means the lowering and raising of measuring devices or tools which may contain sources of radiation in well-bores or cavities for the purpose of obtaining information about the well or adjacent formations.

(286) "Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.

(287) "Wire line" means a cable containing one (1) or more electrical conductors which is used to lower and raise logging tools in the well-bore.

(288) "Wire line service operation" means an evaluation or mechanical service which is performed in the well-bore using devices on a wire line.

(289) "Worker" means an individual engaged in activities licensed or registered by the cabinet and controlled by a licensee or registrant, but does not include the licensee or registrant.

(290) "Working level (WL)" means a combination of short-lived radon daughters (for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212) in one (1) liter of air that results in the ultimate emission of  $1.3 \times 10^5$  MeV of potential alpha particle energy.

(291) "Working level month (WLM)" means an exposure to one (1) working level for 170 hours (2,000 working hours per year/twelve (12) months per year = approximately 170 hours per month).

(292) "Written directive" means an order in writing for a specific patient or human research subject, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in paragraph (f) of this subsection, and containing the following information:

(a) For an administration of quantities greater than thirty (30) microcuries of sodium iodide I-125 or I-131: the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: the radiopharmaceutical, dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern, and total dose;

(d) For teletherapy: the total dose, dose per fraction, treatment site, and overall treatment period;

(e) For high-dose-rate remote afterloading brachytherapy: the radioisotope, treatment site, and total dose; or

(f) For all other brachytherapy:

1. Prior to implementation: the radioisotope, number of sources, and source strengths; and

2. After implantation, but prior to completion of the procedure: the radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).

(293) "X-ray control" means a device which controls input power to the x-ray high-voltage generator or the x-ray tube. It includes timers, phototimers, automatic brightness stabilizers, and similar devices which control the technique factors of an x-ray exposure.

(294) "X-ray equipment" means an x-ray system, subsystem, or component thereof. X-ray equipment may be used as:

(a) "Mobile" means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

(b) "Portable" means x-ray equipment designed to be hand-carried.

(c) "Stationary" means x-ray equipment which is installed in a fixed location.

(d) "Transportable" means x-ray equipment installed in a vehicle or trailer.

(295) "X-ray field" means that area of the intersection of the useful beam and one (1) of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth (1/4) of the maximum in the intersection.

(296) "X-ray high-voltage generator" means a device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube, high-voltage switches, electrical protective devices, and other appropriate elements.

(297) "X-ray subsystem" means a combination of two (2) or more components of an x-ray system.

(298) "X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

(299) "X-ray tube" means an electron tube which is designed to be used primarily for the production of x-rays.

(300) "Year" means the period of time beginning in January used to determine compliance with the provisions of 902 KAR Chapter 100. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

## REGULATORY IMPACT ANALYSIS

Agency Contact person: John A. Volpe

(1) Type and number of entities affected: 400 radioactive material licensees will be impacted by the amendment of definitions.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing cost (note any effects upon competition) for the: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(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: Fees from the licensing of radioactive material users.

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

(a) Geographical area in which administrative regulation will be implemented: No comments were received.

(b) Kentucky: No comments were received.

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The benefit is a radioactive material licensee shall be informed of definitions, which are utilized by the cabinet to ensure the proper use of radioactive material within the Commonwealth.

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

(c) If detrimental effect would result, explain detrimental effect: Without an understanding of the terminology the cabinet uses in enforcement of its radioactive administrative regulations, industry may be unable to meet its compliance requirements.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: No conflict with statutes or administrative regulations.

(a) Necessity of 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: Not applicable

(11) TIERING: Is tiering applied? No: Tiering was not applied to the definitions because this administrative regulation applies to all holders of radioactive material licenses.

## FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Atomic Energy Act of 1954, as amended, and 10 CFR 20, 10 CFR 30, 10 CFR 40, and 10 CFR 71 as promulgated by the U.S. Nuclear Regulatory Commission.

2. State compliance standards. Administrative regulation provides radioactive material license definitions, which are essential to their use of radioactive materials.

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3. Minimum or uniform standards contained in the federal mandate. This amendment will bring about compatibility with U.S. Nuclear Regulatory Commission's requirements.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Administrative regulation provides equivalent definitions to those of the U.S. Nuclear Regulatory Commission.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Not applicable.

3. State the aspect or service of local government to which this administrative regulation relates. Not applicable.

4. How does this administrative regulation affect the local government or any service it provides. Not applicable.

### CABINET FOR HEALTH SERVICES Department for Public Health Division of Public Health Protection and Safety (Amendment)

#### 902 KAR 100:040. General provisions for specific licenses.

RELATES TO: KRS 13B.170, 211.842 to 211.852, 211.990(4), 10 CFR 30.31, 30.32, 30.33, 30.34, 30.36, 30.37, 30.38, 30.39, 30.41, 30.50, 30.51, 30.61

STATUTORY AUTHORITY: KRS Chapter 13B, 13B.170, 194A.050, 211.090, 211.844, 10 CFR 30.31, 30.32, 30.33, 30.34, 30.36, 30.37, 30.38, 30.39, 30.41, 30.50, 30.51, 30.61 [EO-96-862]

NECESSITY, FUNCTION, AND CONFORMITY: [~~Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.~~] KRS 211.844 authorizes the Cabinet for Health Services to promulgate administrative regulations for regulating and licensing the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation provides general provisions for the issuance of radioactive material licenses to possess, use, and transfer radioactive material within Kentucky.

Section 1. License Requirement. Except for persons exempted by 902 KAR 100:015 and 902 KAR 100:045, a person shall not manufacture, produce, receive, possess, use, transfer, own, or acquire radioactive material except as authorized in a specific or general license issued in accordance with 902 KAR Chapter 100. Authority to transfer possession or control by the manufacturer, processor, or producer of equipment, devices or commodity, or other products containing radioactive material whose subsequent possession, use, transfer and disposal by other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555.

Section 2. Types of Licenses. (1) Licenses for radioactive material shall be of two (2) types:

- (a) General; and
- (b) Specific.

(2) Except as specified in 902 KAR 100:050, general licenses shall be:

- (a) Effective without the filing of an application with the cabinet or the issuance of licensing documents to the licensee; and
- (b) Subject to other applicable requirements of 902 KAR Chapter 100 and limitations of 902 KAR 100:050.

(3) Specific licenses shall require:

- (a) The submission of an application to the cabinet; and

(b) The issuance of a licensing document by the cabinet.

(4) The license shall be subject to applicable requirements of 902 KAR Chapter 100 and to limitations specified in the licensing document.

Section 3. Filing of Application for a Specific License. (1) An application for "specific license" shall be filed with the Cabinet for Health Services on "Form RPS-7". The form may be obtained from the cabinet at 275 East Main Street, Frankfort, Kentucky 40621, between 8 a.m. and 4:30 p.m., Monday through Friday.

(2)(a) The cabinet may at a time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the cabinet to determine whether:

1. The application shall be granted or denied; or
2. A license shall be modified or revoked.

(b) Prelicensing visits may be made to the applicant's facility for the purpose of obtaining information in addition to that furnished in the original application.

(c) If the applicant or licensee fails to respond to a request in writing forwarded by certified mail for additional information within thirty (30) days of the date of the receipt of the request, or within another specified time if health and safety are threatened, the cabinet may suspend, modify or revoke the license in accordance with 902 KAR 100:170 or deny the application.

(3) The application shall be signed by the applicant or licensee or a person duly authorized to act for and on his behalf.

(4) An application for a license may include a request for a license authorizing one (1) or more activities if the application specifies the additional activities and complies with the provisions of 902 KAR Chapter 100 relating to specific licenses.

(5)(a) The applicant may incorporate in the application, by reference, information contained in previous applications, statements, or reports filed with the cabinet, if references are clear and specific.

(b) Information provided to the cabinet by an applicant for a license or by a licensee or information required to be maintained by statute or by 902 KAR Chapter 100, cabinet orders, or license conditions shall be complete and accurate in all aspects.

(6) An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source shall:

(a) Identify the source or device by manufacture and model number as registered with the cabinet, U.S. Nuclear Regulatory Commission, or an Agreement State; or

(b) Contain the information identified in 902 KAR 100:058, Section 1.

(7) Applications for specific licenses filed pursuant to this administrative regulation shall contain, if required:

(a) A proposed decommissioning funding plan or a certification of financial assurance for decommissioning in accordance with 902 KAR 100:042; and

(b) An emergency plan for responding to a release in accordance with 902 KAR 100:041.

Section 4. General Requirements for the Issuance of a Specific License. (1) A license application shall be approved if the cabinet determines:

(a) The applicant is qualified by reason of training and experience to use the radioactive material in question for the purpose requested in accordance with 902 KAR Chapter 100 and in a manner as to minimize danger to public health and safety or property;

(b) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;

(c) The issuance of the license will not be adverse to the health and safety of the public; and

(d) The applicant satisfies applicable special requirements in 902 KAR Chapter 100.

(2) For an application for a license to receive and possess radioactive material which the cabinet determines will significantly affect the quality of the environment, the following shall apply:

(a) The secretary of the cabinet or his designee shall, before commencement of construction of the plant or facility in which the activity is to be conducted, weigh the environmental, economic, technical, and other benefits against environmental costs and consider

available alternatives;

(b) A license application may be approved if the cabinet determines after consideration of the factors described in paragraph (a) of this subsection, that the action called for is the issuance of the proposed license, with appropriate conditions to protect environmental values;

(c) Commencement of construction prior to the determination shall be grounds for denial of a license to receive and possess radioactive material in the plant or facility.

1. As used in this subsection, the term "commencement of construction" means clearing of land, excavation, or other substantial action that would adversely affect the environment of a site.

2. The term shall not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

(3)(a) The licensee shall notify the cabinet in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under a chapter of Title 11 (bankruptcy) of the United States Code by or against:

1. The licensee;

2. An entity (as that term is defined in 11 USC 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

3. An affiliate (as that term is defined in 11 USC 101(2)) of the licensee.

(b) This notification shall indicate:

1. The bankruptcy court in which the petition for bankruptcy was filed; and

2. The date of the filing of the petition.

~~[(4) Information provided to the cabinet by an applicant for a license or by a licensee or information required by 902 KAR Chapter 100, orders or license conditions to be maintained by the applicant or licensee shall be complete and accurate in all material aspects;]~~

Section 5. Issuance of Specific Licenses. (1) Upon a determination that an application meets the requirements of KRS 211.842 to 211.852 and 902 KAR Chapter 100, the cabinet may issue a specific license authorizing the proposed activity in a form containing conditions and limitations as it deems appropriate or necessary.

(2) The cabinet may incorporate in a license when issued, or thereafter by appropriate rule, 902 KAR Chapter 100, or order, or as [otherwise] specified in Section 13 of this administrative regulation, additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material subject to 902 KAR Chapter 100 as it deems appropriate or necessary in order to:

(a) Minimize danger to public health and safety or property;

(b) Require reports and the keeping of records, and provide for inspections of activities under the license as may be appropriate or necessary; and

(c) Prevent loss or theft of licensed material.

Section 6. Specific Terms and Conditions of Licenses. (1) A license issued pursuant to this administrative regulation shall be subject to the provisions of KRS 211.842 to 211.852, 902 KAR Chapter 100, and orders of the cabinet.

(2) Neither the license nor a right under the license shall be assigned or otherwise transferred in violation of the provisions of KRS 211.842 to 211.852.

(3) A person licensed by the cabinet under 902 KAR Chapter 100 shall confine his use and possession of the radioactive material(s) licensed to the locations and purposes authorized in the license.

Section 7. Expiration and Termination of Licenses. (1) Except as specified in subsection (4) of this section and in Section 8(2) of this administrative regulation, a specific license shall expire at midnight on the day, in the month and year stated in the license. [Except as specified in subsection (9) of this section and in Section 8(2) of this administrative regulation, a specific license shall expire at midnight on the day, in the month and year stated in the license;]

(2) A licensee shall notify the cabinet promptly, in writing, and request termination of the license if the licensee decides to terminate

activities involving materials authorized under the license. This notification and request for termination of the license shall include:

(a) The reports and information specified in subsection (3)(d) and (e) of this section; and

(b) A plan for completion of decommissioning, if required, by 902 KAR 100:042 [subsection (4) of this section] or by license condition.

(3) If a licensee does not submit an application for license renewal under Section 8(2) of this administrative regulation, the licensee, on or before the expiration date specified in the license, shall:

(a) Terminate use of radioactive material;

(b) Remove radioactive contamination to the extent practicable except for those procedures covered by subsection (4) of this section;

(c) Properly dispose of radioactive material;

(d) File the "Disposition of Radioactive Material", "Form RPS-10", with the Cabinet for Health Services[-The form may be obtained from the cabinet at 275 East Main Street, Frankfort, Kentucky 40621, between 8 a.m. and 4:30 p.m., Monday through Friday]; and

(e) Prior to license termination, a licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, shall forward the following records to the cabinet:

1. Records of disposal of radioactive material made pursuant to 902 KAR 100:021, Sections 3-6, including burials authorized before January 28, 1981; and

2. Records required by 902 KAR 100:019, Section 31(2)(d).

(f) If licensed activities are transferred or assigned in accordance with 902 KAR 100:040, Section 6, a licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee. The new licensee will be responsible for maintaining these records until the license is terminated:

1. Records of disposal of licensed material made pursuant to 902 KAR 100:021, Sections 3 through 6 of this administrative regulation, including burials authorized before January 28, 1981; and

2. Records required by 902 KAR 100:019, Section 31(2)(d).

(g) Prior to license termination, a licensee shall forward the records required by 902 KAR 100:042, Section 15(7), to the cabinet. [Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the result of this survey; unless the licensee demonstrates that the premises are suitable for release for unrestricted use in some other manner. The licensee shall, as appropriate:

1. Report levels of radiation in units of microrads per hour of beta and gamma radiation at one (1) centimeter and gamma radiation at one (1) meter from surfaces, and report levels of radioactivity, including alpha, in units of disintegrations per minute (or microcuries) per 100 square centimeters removable and fixed for surfaces, microcuries per milliliter for water, and picocuries per gram for solids such as soils or concrete; and

2. Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested;

(4) In addition to the information required under paragraphs (d) and (e) of this subsection, the licensee shall submit a plan for completion of decommissioning if the procedures necessary to carry out decommissioning have not been previously approved by the cabinet and may increase potential health and safety impacts to workers or to the public as in the following cases:

(a) Procedures would involve techniques not applied routinely during cleanup or maintenance operations; or

(b) Workers may be entering areas not normally occupied in which surface contamination and radiation levels are significantly higher than routinely encountered during operation; or

(c) Procedures would result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(d) Procedures would result in significantly greater releases of radioactive material to the environment than those associated with operation;

(5) Procedures with potential health and safety impacts shall not be carried out prior to approval of the decommissioning plan;

(6) The proposed decommissioning plan, if required by subsection (4) of this section or by license condition, shall include:

(a) Description of planned decommissioning activities;

(b) Description of methods used to assure protection of workers and the environment against radiation hazards during decommission-

ing;

(c) A description of the planned final radiation survey; and  
(d) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning; and

(e) A plan for assuring the availability of adequate funds for completion of decommissioning.

(7) The proposed decommissioning plan may be approved by the cabinet if the information in the plan demonstrates that the decommissioning shall be completed as soon as is reasonable and the health and safety of workers and the public shall be adequately protected.

(8) Upon approval of the decommissioning plan by the cabinet, the licensee shall complete decommissioning in accordance with the approved plan. As a final step in decommissioning, the licensee shall again submit the information required in subsection (3)(e) of this section and shall certify the disposition of accumulated wastes from decommissioning.

(9) If the information submitted under subsection (3)(e) or (8) of this section does not adequately demonstrate that the premises are suitable for release for unrestricted use, the cabinet shall inform the licensee of appropriate further actions required for termination of license.]

(4) [(10)] A specific license continues in effect, beyond the expiration date if necessary, with respect to possession of [residual] radioactive material [present as contamination] until the cabinet notifies the licensee in writing that the license shall be terminated. During this time, the licensee shall:

(a) Limit actions involving radioactive material to those related to decommissioning; and

(b) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the cabinet notifies the licensee in writing that the license shall be terminated.

[(11)] A licensee shall provide notification to the cabinet in writing within sixty (60) days of the occurrence of events in paragraph (b) of this subsection:

(a) If a condition of paragraph (b) of this subsection is met, a licensee shall:

1. Begin decommissioning its site, or any separate building, or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with cabinet requirements; or

2. Submit within twelve (12) months of notification, as required in this section, a decommissioning plan, if required by subsection (4) of this section.

(b) A licensee shall begin decommission upon approval of the plan required in subsection (4) of this section if:

1. The license has expired pursuant to this section of this administrative regulation; or

2. The licensee has decided to permanently cease licensed activities, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with cabinet requirements; or

3. Licensed activities under the license have not been conducted for a period of twenty-four (24) months; or

4. Licensed activities have not been conducted for a period of twenty-four (24) months in any separate building or outdoor area that contains residual radioactivity that prohibits the release in accordance with cabinet requirements.

(12) Specific licenses shall be terminated by written notice to the licensee when the cabinet determines that:

(a) Radioactive material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c) A radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use; or

(d) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release for unrestricted use.]

Section 8. Renewal of License. (1) An application for renewal of specific licenses shall be filed in accordance with 902 KAR Chapter 100.

(2) If a licensee, not less than thirty (30) days prior to expiration of his existing license, has filed an application in proper form for renewal

or for a new license authorizing the same activities, the existing license shall not expire until the application has been finally determined by the cabinet.

Section 9. Amendment of Licenses. (1) Applications for amendment of a license at the request of the licensee shall be filed in accordance with 902 KAR Chapter 100 and shall specify the respects in which the licensee desires his license to be amended and the grounds for the amendment.

(2) Every five (5) years or at the request of the cabinet, the licensee shall be required to amend the license in its entirety by submitting a complete application.

Section 10. Cabinet Action on Applications to Renew or Amend. In considering an application by a licensee to renew or amend his license, the cabinet shall apply the requirements of 902 KAR Chapter 100.

Section 11. Inalienability of Licenses. A license issued or granted under 902 KAR Chapter 100 or right to possess or utilize radioactive material granted by a license issued under 902 KAR Chapter 100 shall not be transferred, assigned, or otherwise disposed of, through transfer of control of a license to a person unless the cabinet, after securing full information, finds that the transfer is in accordance with the requirements of 902 KAR Chapter 100 and gives its consent in writing.

Section 12. Transfer of Material. (1) A licensee shall not transfer radioactive material except as authorized by this administrative regulation.

(2) Except as stated in the license and subject to the provisions of subsections (3) and (4) of this section, a licensee may transfer radioactive material subject to the acceptance of the transferee to a person:

(a) Exempt from the requirements for a license as specified in this administrative regulation to the extent permitted under the exemption;

(b) Authorized to receive radioactive material under terms of a general license as specified in 902 KAR 100:050, or its equivalent, or a specific license or equivalent licensing document, issued by the cabinet, the U.S. Nuclear Regulatory Commission, or an Agreement State;

(c) Otherwise authorized to receive radioactive material by the federal government or an agency thereof, the cabinet, or an Agreement State; or

(d) As otherwise authorized by the cabinet in writing.

(3) Before transferring radioactive material to a specific licensee of the cabinet, U.S. Nuclear Regulatory Commission, or an Agreement State or to a general licensee who is required to register with the cabinet, U.S. Nuclear Regulatory Commission, or an Agreement State prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.

(4) The following methods for the verification required by this administrative regulation are acceptable:

(a) The transferor may have in his possession, and read, a current copy of the transferee's specific license or registration certificate;

(b) The transferor may have in his possession a written certificate by the transferee that he is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;

(c) For emergency shipments, the transferor may accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date; if the oral certification is confirmed in writing within ten (10) days;

(d) The transferor may obtain other sources of information compiled by a reporting service from official records of the cabinet, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State as to the identity of licensees and the scope and expiration dates of licenses and registration; or

(e) If [When] none of the methods of verification described in paragraphs (a) through (d) of this subsection are readily available or if [when] a transferor desires to verify that information received by one (1) of the [such] methods is correct or up-to-date, the transferor may

obtain and record confirmation from the cabinet, U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State that the transferee is licensed to receive the radioactive material.

(5) Shipment and transport of radioactive material shall meet the requirements of 902 KAR Chapter 100.

Section 13. Modification, Revocation, and Suspension of Licenses. (1) The terms and conditions of a license shall be subject to amendment, revision, or modification or the license may be suspended or revoked by reason of amendments to or violation of KRS 211.842 to 211.852, 902 KAR Chapter 100, or orders issued by the cabinet.

(2) A license may be revoked, suspended, or modified, in whole or in part, for:

(a) A material false statement in the application or in a statement of fact required under provisions of KRS 211.842 to 211.852;

(b) Conditions revealed by application or statement of fact;

(c) A report, record, or inspection, or other means which would warrant the cabinet to refuse to grant a license on an original application; or

(d) A violation of, or failure to observe the terms and conditions of KRS 211.842 to 211.852, or of the license, or of rules, 902 KAR Chapter 100, or orders of the cabinet.

(3) Except in cases of willful violation or those in which the public health, interest, or safety requires otherwise, a license shall not be modified, suspended, or revoked unless, prior to the institution of proceedings:

(a) Facts or conduct which may warrant this action shall have been called to the attention of the licensee in writing; and

(b) The licensee shall have been accorded an opportunity to demonstrate or achieve compliance with lawful requirements.

(4) A licensee whose license is suspended or revoked, shall have a right to a hearing in a manner established [set forth] in 902 KAR 1:400.

Section 14. Retention of Records. (1) A person who receives radioactive material in accordance with a license issued under 902 KAR Chapter 100 shall keep records showing the receipt, transfer, and disposal of radioactive material.

(2)(a) Records of receipt of radioactive material which are required by subsection (1) of this section shall be maintained as long as the licensee retains possession of the radioactive material and for two (2) years following transfer or disposal of the radioactive material.

(b) Records of transfer of radioactive material shall be maintained by the licensee who transferred the material for five (5) years after the transfer.

(c) Records of disposal of radioactive material shall be maintained in accordance with 902 KAR 100:021.

(3) Other records required by 902 KAR Chapter 100 or by a license condition shall be maintained for the period specified in 902 KAR Chapter 100. If the retention period is not specified by 902 KAR Chapter 100 or license condition, the records shall be permanently maintained unless the cabinet authorizes their disposition upon proper application for their destruction.

(4) Records required to be maintained by 902 KAR Chapter 100 may be:

(a) The original, a reproduced copy or a microform if duly authenticated by authorized personnel and capable of producing a clear and legible copy after storage for the period specified by 902 KAR Chapter 100; or

(b) In electronic media with the capability for producing legible, accurate, and complete records during the required retention period.

(5) Records, such as letters, drawings, and specifications shall include pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Section 15. [Financial Assurance and Recordkeeping for Decommissioning. (1)(a) An applicant for a specific license authorizing the possession and use of unsealed radioactive material, except source material, with a half-life greater than 120 days and in quantities exceeding 10E5 times the applicable quantities set forth in 902 KAR 100:030, Section 1 shall submit a decommissioning funding plan as described in subsection (5) of this section. The decommissioning

funding plan shall also be submitted if a combination of isotopes is involved if  $R$  divided by 10E5 is greater than one (1) (i.e., unity rule); where  $R$  is defined as the sum of the ratios of the quantity of each isotope to the applicable value in 902 KAR 100:030, Section 1:

(b) An applicant for a specific license authorizing the possession and use of more than 100 millicuries of source material in a readily dispersible form shall submit a decommissioning funding plan as described in subsection (5) of this section:

(c) An applicant for a specific license authorizing possession and use of quantities of source material greater than ten (10) millicuries but less than or equal to 100 millicuries in a readily dispersible form shall either:

1. Submit a decommissioning funding plan as described in subsection (5) of this section; or

2. Submit a certification that financial assurance for decommissioning has been provided in the amount of \$150,000 using one (1) of the methods described in subsection (6) of this section. For an applicant, this certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued but prior to the receipt of radioactive material. As part of the certification, a copy of the financial instrument obtained to satisfy the requirements of subsection (6) of this section shall be submitted to the cabinet.

(2) An applicant for a specific license authorizing possession and use of radioactive material, except source material and sealed special nuclear material sources, with a half-life greater than 120 days and in quantities specified in subsection (4) of this section shall either:

(a) Submit a decommissioning funding plan as described in subsection (5) of this section; or

(b) Submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by subsection (4) of this section using one (1) of the methods described in subsection (6) of this section. For an applicant, this certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued but prior to the receipt of radioactive material. As part of the certification, a copy of the financial instrument obtained to satisfy the requirements of subsection (6) of this section shall be submitted to the cabinet.

(3)(a) A holder of a specific license issued on or after January 1, 1995, which is of a type described in subsection (1) or (2) of this section, shall provide financial assurance for decommissioning in accordance with the criteria set forth in this section:

(b) A holder of a specific license issued before January 1, 1995, and of a type described in subsection (1)(a) or (b) of this section shall submit, on or before January 1, 1995, a decommissioning funding plan or a certification of financial assurance for decommissioning in an amount at least equal to \$750,000 in accordance with the criteria set forth in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan at this time, the licensee shall include a decommissioning funding plan in an application for amending the license in its entirety:

(c) A holder of a specific license issued before January 1, 1995, and of a type described in subsection (1)(c) or (2) of this section shall submit, on or before January 1, 1995, a certification of financial assurance for decommissioning or a decommissioning funding plan in accordance with the criteria set forth in this section:

(4) Table of required amounts of financial assurance for decommissioning by quantity of material:

(a) Greater than 10E4 but less than or equal to 10E5 times the applicable quantities of 902 KAR 100:030, Section 1, in unsealed form. For a combination of isotopes, if  $R$ , as defined in subsection (1) of this section divided by 10E4 is greater than one (1) but  $R$  divided by 10E5 is less than or equal to one (1) – \$750,000:

(b) Greater than 10E3 but less than or equal to 10E4 times the applicable quantities of 902 KAR 100:030, Section 1, in unsealed form. For a combination of isotopes, if  $R$ , as defined in subsection (1) of this section, divided by 10E3 is greater than one (1) but  $R$  divided by 10E4 is less than or equal to one (1) – \$150,000:

(c) Greater than 10E10 times the applicable quantities of 902 KAR 100:030, Section 1, in sealed sources or plated foils other than sealed special nuclear material sources. For a combination of isotopes, if  $R$ , as defined in subsection (1) of this section, divided by 10E10 is greater than one (1) – \$75,000:

(5) A decommissioning funding plan shall contain a cost estimate



for decommissioning and a description of the method of assuring funds for decommissioning from subsection (6) of this section, including means of adjusting cost estimates and associated funding levels periodically over the life of the facility.

(6) Financial assurance for decommissioning shall be provided by:

(a) A prepayment deposited prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets so that the amount of funds would be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(b) A surety method, insurance, or other guarantee method.

1. If the licensee defaults, these methods guarantee that decommissioning costs shall be paid.

2. A surety method may be in the form of a surety bond, letter of credit, or line of credit.

3. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Section 16 of this administrative regulation.

4. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section.

5. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are conducted pursuant to Section 17 of this administrative regulation.

6. A guarantee by the applicant or licensee shall not be used in combination with other financial methods to satisfy the requirement of this section, or in a situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company.

7. Surety method or insurance used to provide financial assurance for decommissioning shall contain the following conditions:

a. The surety method or insurance shall be open-ended or, if written for a specified term, such as five (5) years, shall be renewed automatically unless ninety (90) days or more prior to the renewal date, the issuer notifies the cabinet, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance shall also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the cabinet within thirty (30) days after receipt of notification of cancellation.

b. The surety method or insurance shall be payable to a trust established for decommissioning costs. The trustee and trust shall be acceptable to the cabinet. An acceptable trustee includes an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

c. The surety method or insurance shall remain in effect until the cabinet has terminated the license.

(c) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund.

1. An external sinking fund shall be a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds shall be sufficient to pay decommissioning costs at the time termination of operation is expected.

2. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

3. The surety or insurance provisions shall be as stated in paragraph (b) of this subsection.

(d) In the case of a state, or local government licensee, a statement of intent containing a cost estimate for decommissioning or an amount based on the table in subsection (4) of this section, and indicating that funds for decommissioning shall be obtained when necessary.

(7) A person licensed under this administrative regulation shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the cabinet. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information the cabinet considers important to decommissioning consists of:

(a) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after cleanup procedures or if there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials like concrete. These records shall include known information on identification of involved nuclides, quantities, forms and concentrations.

(b) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, relevant documents need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(c) A list of the following, contained in a single document and updated every two (2) years, except for areas containing only sealed sources, provided the sources have not leaked or no contamination remains after a leak, or radioactive materials having half-lives of less than sixty-five (65) days:

1. Areas designated and formerly designated restricted areas as defined in 902 KAR 100:010, Section 1(196). For requirements prior to January 26, 1994, see 902 KAR 100:010, Section 1(110) contained in the 1990 edition of 902 KAR Chapter 100 of the Kentucky Administrative Regulations, June 27, 1990;

2. Areas outside of restricted areas that require documentation pursuant to paragraph (a) of this subsection;

3. Areas outside of restricted areas where current and previous wastes have been buried as documented under 902 KAR 100:021, Section 11;

4. Areas outside of restricted areas which contain radioactive material so that, if the license expired, the licensee shall be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 902 KAR 100:021, Section 2.

(d) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

Section 16. Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning. An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds shall be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This section establishes criteria for passing the financial test and for obtaining the parent company guarantee.

(1) Financial test. To pass the financial test, the parent company shall meet the criteria of either paragraph (a) or (b) of this subsection:

(a) The parent company shall have:

1. Two (2) of the following three (3) ratios: A ratio of total liabilities to net worth less than two (2.0); a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than one-tenth (0.1); and a ratio of current assets to current liabilities greater than one and one-half (1.5); and

2. Net working capital and tangible net worth at least six (6) times the current decommissioning cost estimates (or prescribed amount if a certification is used); and

3. Tangible net worth of at least \$10 million; and

4. Assets located in the United States amounting to at least ninety (90) percent of total assets or at least six (6) times the current decommissioning cost estimates (or prescribed amount if certification is used).

(b) The parent company shall have:

1. A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

2. Tangible net worth at least six (6) times the current decommissioning cost estimate (or prescribed amount if a certification is used); and

3. Tangible net worth of at least \$10 million; and

4. Assets located in the United States amounting to at least ninety (90) percent of total assets or at least six (6) times the current decommissioning cost estimates (or prescribed amount if certification is used);

(c) The parent company's independent certified public accountant shall have compared the data used by the parent company in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in the financial statement. In connection with that procedure the licensee shall inform the cabinet within ninety (90) days of matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(d) 1. After the initial financial test, the parent company shall repeat the passage of the test within ninety (90) days after the close of each succeeding fiscal year.

2. If the parent company no longer meets the requirements of paragraphs (a) and (b) of this subsection, the licensee shall send notice to the cabinet of intent to establish alternate financial assurance as specified in this administrative regulation. The notice shall be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the parent company no longer meets the financial test requirements. The licensee shall provide alternate financial assurance within 120 days after the end of that fiscal year.

(2) Parent company guarantee. The terms of a parent company guarantee which an applicant or licensee obtains shall provide that:

(a) The parent company guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the cabinet. Cancellation shall not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both licensee and the cabinet as evidenced by the return receipts.

(b) If the licensee fails to provide alternate financial assurance as specified in this administrative regulation within ninety (90) days after receipt by the licensee and the cabinet of a notice of cancellation of the parent company guarantee from the guarantor, the guarantor shall provide alternative financial assurance in the name of the licensee.

(c) The parent company guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license.

(d) If a trust is established for decommissioning costs, the trustee and trust shall be acceptable to the cabinet. An acceptable trustee includes an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

Section 17. Criteria Relating to Use of Financial Test and Self-guarantees for Providing Reasonable Assurance of Funds for Decommissioning. (1) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of subsection (4) of this section.

(2) The terms of self-guarantee are in subsection (7) of this section.

(3) This section establishes criteria for passing the financial test for the self-guarantee and establishes the terms for self-guarantee.

(4) To pass the financial test, a company shall meet the following criteria:

(a) Tangible net worth at least ten (10) times the total current decommissioning cost estimate, or the current amount required if certification is used, for decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent guarantor;

(b) Assets located in the United States amounting to at least ninety (90) percent of total assets or at least ten (10) times the total current decommissioning cost estimate, or the current amount required if certification is used, for decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent guarantor; and

(c) A current rating for its most recent bond issuance of AAA, AA or A as issued by the Standard and Poors, or Aaa, Aa, or A as issued by Moodys.

(5) To pass the financial test, a company shall meet the following additional criteria:

(a) The company has at least one (1) class of equity securities registered under the Securities Exchange Act of 1934;

(b) The company's independent certified public accountant has compared the data used by the company in the financial test which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in the financial statement;

(c) In connection with the procedure in subsection (5)(b) of this section, the licensee provides the cabinet within ninety (90) days of matters coming to the attention of the auditor that cause the auditor to believe:

1. The data specified in the financial test needs to be adjusted; and

2. The company no longer passes the test; and

(d) After the initial financial test, the company repeats passage of the test within ninety (90) days after the close of each succeeding fiscal year.

(6) If the licensee no longer meets the requirements of subsection (4) of this section, the licensee shall provide immediate notice to the cabinet of its intent to establish alternate financial assurance as specified in this administrative regulation within 120 days of the notice.

(7) The terms of self-guarantee which an applicant or licensee furnishes shall provide that:

(a) The guarantee remains in effect unless the licensee provides notices of cancellation by certified mail to the Manager, Radiation Control Branch, 275 East Main Street, Frankfort, Kentucky 40621. Cancellation shall not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by the cabinet, as evidenced by the return receipt;

(b) Alternative financial assurance as specified in this administrative regulation shall be provided within ninety (90) days following receipt by the cabinet of notice of cancellation of the guarantee;

(c) The guarantee and financial test provisions remain in effect until the cabinet has terminated the license or until another financial assurance method acceptable to the cabinet has been put in effect by the licensee.

(d) The licensee promptly forwards to the cabinet and the licensee's independent auditor reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission pursuant to the requirements of Section 13 of the Security and Exchange Act of 1934;

(e) If the licensee's most recent bond issuance ceases to be rated in a category of "A" or above by either Standard and Poors or Moodys, the licensee shall provide notice in writing of the fact to the cabinet within twenty (20) days after publication of the change by the rating service. If the licensee's most recent bond issuance ceases to be rated in a category of "A" or above by both Standard and Poors and Moodys, the licensee no longer meets the requirements of subsection (4) of this section; and

(f) The applicant or licensee shall provide to the cabinet a written guarantee, a written commitment by a corporate officer, which states the licensee shall fund and carry out the required decommissioning activities or, upon issuance of an order by the cabinet, the licensee shall set up and fund a trust in the amount of the current cost estimates for decommissioning.

Section 18; Reporting Requirements. (1) Immediate report. A licensee shall directly notify the Cabinet for Health Services, Radiation Health and Toxic Agents [Control] Branch as soon as possible but not later than four (4) hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposure to radiation or radioactive materials or releases of radioactive materials that may [could] exceed regulatory limits. These events may include fires, explosions, and toxic gas release.

(2) Twenty-four (24) hour report. A licensee shall notify the Cabinet for Health Services, Radiation Control Branch within twenty-four (24) hours after the discovery of the following events involving radioactive material:

(a) An unplanned contamination event that:

1. Requires access to the contaminated area, by workers or the public, to be restricted for more than twenty-four (24) hours by imposing additional radiological controls or by prohibiting entry into the area;

2. Involves a quantity of material greater than five (5) times the lowest annual limit on intake specified in 902 KAR 100:019, Section 44 for the material; and

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3. Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than twenty-four (24) hours to decay prior to decontamination.

(b) An event in which equipment is disabled or fails to function as designed if:

1. The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive material exceeding regulatory limits, or to mitigate the consequences of an accident;

2. The equipment is required to be available and operable if [when] it is disabled or fails to function; and

3. Redundant equipment is not available and operable to perform the required safety function.

(c) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.

(d) An unplanned fire or explosion damaging radioactive material or a device, container, or equipment containing radioactive material if:

1. The quantity of material involved is greater than five (5) times the lowest annual limit on intake specified in 902 KAR 100:019, Section 44 for the radioactive material; and

2. The damage affects the integrity of the radioactive material or its container.

(3) Reports by licensees in response to the requirements of this section shall be made as follows:

(a) Licensees shall be required to make reports by subsections (1) and (2) of this section by telephone to the Cabinet for Health Services, Radiation Health and Toxic Agents [Control] Branch at (502) 564-3700 from 8 a.m.-4:30 p.m. Monday through Friday and at (502) 564-7815 [8745] at other hours. To the extent that the information is available at the time of notification, the information provided in these reports shall include:

1. The caller's name and call back telephone number;

2. A description of the event, including date and time;

3. The exact location of the event;

4. The isotopes, quantities, and chemical and physical form of the radioactive material involved; and

5. Available personnel radiation exposure data.

(b) A licensee who makes a report required by subsections (1) and (2) of the section shall submit a written follow-up report within thirty (30) days of the initial report. Written reports prepared pursuant to 902 KAR Chapter 100 may be submitted to fulfill this requirement if the reports contain the necessary information and the appropriate distribution is made. These written reports shall be sent to the Manager, Radiation Health and Toxic Agents [Control] Branch, 275 East Main Street, Mail Stop HS 2E-D, Frankfort, Kentucky, 40621. The report shall include the following:

1. A description of the event, including the probable cause and the manufacturer and model number, if applicable, of equipment that failed or malfunctioned;

2. The exact location of the event;

3. The isotopes, quantities, and chemical and physical form of the radioactive material involved;

4. Date and time of the event;

5. Corrective actions taken or planned and results of evaluations or assessments; and

6. The extent of exposures of individuals to radiation or to radioactive materials without identification of individuals by name.

Section 16. Material Incorporated by Reference. (1) The following forms are incorporated by reference:

(a) Cabinet for Health Services Form RPS-7 "Application for Radioactive Material License".

(b) Cabinet for Health Services Form RPS-10 "Disposition of Radioactive Material".

(2) The forms in subsection (1) of this section may be viewed or copied at the Office of the Commissioner of Public Health, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday.

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

### REGULATORY IMPACT ANALYSIS

Agency Contact person: John A. Volpe

(1) Type and number of entities affected: 400 radioactive material licensees will be impacted by the amendment for license application and the expiration and termination of radioactive material licenses. Approximately 25 of the 400 radioactive material licensees will be impacted by the decontamination and decommissioning modification, which is being moved to a new administrative regulation to comply with KRS 13A.221(1).

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

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

1. First year following implementation: If a licensee ceases operation at any time during the first year after promulgation, they will be impacted by the amendment. Applicants will be required to submit information necessary for issuance of a license.

2. Second and subsequent years: If a licensee ceases operation at any time after the first year, they will be impacted by the amendment. Applicants will be required to submit information necessary for issuance of a license.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Amendment will allow the cabinet to better evaluate certain license applications and ensure that license expiration and termination does not have a fiscal impact (license cannot walk away from a contaminated facility) on the cabinet.

2. Continuing costs or savings: Same as 1.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No change in fees at this time; therefore, there will not be an impact on state revenues to support the radiation program.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees from the licensing of radioactive material users.

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

(a) Geographical Area in which administrative regulation will be implemented: No comments were received.

(b) Kentucky: No comments were received.

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of

the geographical area in which implemented and on Kentucky: The benefit is an applicant for a radioactive material license knows what is required by the cabinet in order to be issued a license for use of radioactive material. Expiration and termination of license requirements are delineated for all licensees, which prevents the cabinet from assuming liabilities of licensees.

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

(c) If detrimental effect would result, explain detrimental effect: Without enforcement, facilities could remain contaminated with radioactive material and thus impact public health and safety. Without a procedure to issue radioactive material licenses to person, industry, medicine, and research would be negatively impacted.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: No conflict with statutes or administrative regulations.

(a) Necessity of 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: Not applicable.

TIERING: Is tiering applied? No: Tiering was not applied to the application and termination of radioactive material because this administrative regulation applies to all license applicants and holders of radioactive material licenses.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Atomic Energy Act of 1954, as amended, and 10 CFR 30, 40, and 70 as promulgated by the U.S. Nuclear Regulatory Commission.

2. State compliance standards. Administrative regulation provides applicants requirements for licensing of radioactive material and the administrative regulation also provides requirements for termination of licenses for radioactive material.

3. Minimum or uniform standards contained in the federal mandate. This amendment will bring about compatibility with U.S. Nuclear Regulatory Commission's requirements for licensing of radioactive material.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Administrative regulation provides requirements equivalent to U.S. Nuclear Regulatory Commission's regulatory requirements for issuance of radioactive material licensees.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Not applicable.

3. State the aspect or service of local government to which this administrative regulation relates. Not applicable.

4. How does this administrative regulation affect the local government or any service it provides. Not applicable.

#### CABINET FOR HEALTH SERVICES Department for Public Health Division of Public Health Protection and Safety (Amendment)

**902 KAR 100:041. Quantities of radioactive materials requiring consideration of the need for an emergency plan.**

RELATES TO: KRS 13B.170, 211.842 to 211.852, 211.990(4), 10 CFR 30.32, 30.72, 42 USC 11001  
STATUTORY AUTHORITY: KRS 13B.170, 194A.050, 211.090, 211.844, 10 CFR 30.32, 30.72, 42 USC 11001  
NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.844

authorizes the Cabinet for Health Services [Human Resources] to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation, and the handling and disposal of radioactive waste. This administrative regulation provides requirements for emergency plans for responding to a release of radioactive material or waste, and shall apply to a person, applicant, or licensee required to submit an emergency plan.

Section 1. General Requirements. A license application to possess or a license authorizing the possession of radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Section 4(1) of this administrative regulation shall contain:

(1) An evaluation showing the maximum dose to a person off site due to a release of radioactive materials shall not exceed one (1) rem effective dose equivalent or five (5) rems to the thyroid; or

(2) An emergency plan for responding to a release of radioactive material.

Section 2. Factors Supporting an Evaluation. One (1) or more of the following factors may be used to support an evaluation submitted pursuant to Section 1(1) of this administrative regulation:

(1) The radioactive material is physically separated that only a portion may be involved in an accident.

(2) The radioactive material, or part of the radioactive material, shall not be subject to release during an accident because of storage or packaging.

(3) The release fraction in the respirable size range may be lower than the release fraction shown in Section 4(1) of this administrative regulation due to the chemical or physical form of the material.

(4) The solubility of the radioactive material may reduce the dose received.

(5) Facility design or engineered safety features in the facility may cause the release fraction to be lower than the limits in Section 4(1) of this administrative regulation.

(6) Operating restrictions or procedures may prevent a release fraction as large as that shown in Section 4(1) of this administrative regulation.

(7) Other factors appropriate for the specific facility as determined by the cabinet.

Section 3. Emergency Plan Information. (1) An emergency plan for responding to a release of radioactive material submitted pursuant to Section 1(2) of this administrative regulation shall include:

(a) Facility description. A brief description of the licensee's facility and area near the site.

(b) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

(c) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(d) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(e) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers on site, and the program for maintaining the equipment.

(f) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(g) Responsibilities. A brief description of the responsibilities of licensee personnel if an accident occurs, including identification of personnel responsible for promptly notifying off site response organizations and the Radiation Health and Toxic Agents [Control] Branch, and responsibilities for developing, maintaining, and updating the plan.

(h) Notification and coordination. A brief description of the means to promptly notify off site response organizations and request off site assistance, including medical assistance for the treatment of contaminated injured on site workers, if appropriate.

1. A control point shall be established.

2. Unavailability of personnel, parts of a facility, and equipment shall not exempt the licensee from notification and coordination requirements.

3. The licensee shall notify the appropriate off site response organizations immediately after the licensee declares an emergency and

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the Radiation Health and Toxic Agents [Control] Branch within one (1) hour.

(i) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off site response organizations and the Radiation Health and Toxic Agents [Control] Branch.

(j) Training. A brief description of the frequency, performance objectives, and licensee's plan for training workers to respond to an emergency, including special instructions and orientation tours offered by licensee to fire, police, medical, and other emergency personnel. Training shall:

1. Familiarize personnel with site-specific emergency procedures; and

2. Thoroughly prepare site personnel for responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for the scenarios.

(k) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(l) Exercises.

1. Provisions for conducting quarterly communication checks with off site response organizations, and biennial on site exercises to test response to simulated emergencies.

a. Quarterly communication checks with off site response organizations shall include the check and update of necessary telephone numbers.

b. The licensee shall invite off site response organizations to participate in the biennial exercises. Participation of off site response organizations in biennial exercises, although recommended, is not required.

2. Exercises shall use accident scenarios postulated as most probable for the specific site, and the scenarios shall not be known to most exercise participants.

3. The licensee shall critique each exercise using individuals without direct implementation responsibility for the plan. Critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response.

4. Deficiencies found by the critiques shall be corrected.

(m) Hazardous chemicals. A certification stating the applicant has met responsibilities pursuant to 42 USC 11001, Emergency Planning and Community Right-to-Know Act of 1986, if applicable to the applicant's activities at the proposed place of use of the radioactive material.

(2) The licensee shall allow off site response organizations expected to respond if an accident occurs sixty (60) days to comment on the licensee's emergency plan before submitting the plan to Radiation Health and Toxic Agents [Control] Branch. The licensee shall provide comments received within the sixty (60) days to the Radiation Health and Toxic Agents [Control] Branch with the emergency plan.

Section 4. Quantities of Radioactive Materials. (1) The following table provides the quantities of radioactive materials requiring consideration of the need of an emergency plan for responding to a release:

Radioactive Material	Release fraction	Quantity (curies)
Actinium-228	0.001	4,000
Americium-241	.001	2
Americium-242	.001	2
Americium-243	.001	2
Antimony-124	.01	4,000
Antimony-126	.01	6,000
Barium-133	.01	10,000
Barium-140	.01	30,000
Bismuth-207	.01	5,000
Bismuth-210	.01	600
Cadmium-109	.01	1,000
Cadmium-113	.01	80
Calcium-45	.01	20,000
Californium-252	.001	9(20 mg)
Carbon-14 Non CO	.01	50,000
Cerium-141	.01	10,000
Cerium-144	.01	300

Cesium-134	.01	2,000
Cesium-137	.01	3,000
Chlorine-36	.5	100
Chromium-51	.01	300,000
Cobalt-60	.001	5,000
Copper-64	.01	200,000 [20,000]
Curium-242	.001	60
Curium-243	.001	3
Curium-244	.001	4
Curium-245	.001	2
Europium-152	.01	500
Europium-154	.01	400
Europium-155	.01	3,000
Germanium-68	.01	2,000
Gadolinium-153	.01	5,000
Gold-198	.01	30,000
Hafnium-172	.01	400
Hafnium-181	.01	7,000
Holmium-166m	.01	100 [7,000]
Hydrogen-3	.5	20,000 [100]
Iodine-125	.5	10 [20,000]
Iodine-131	.5	10
Indium-114m	.01	1,000
Iridium-192	.001	40,000
Iron-55	.01	40,000
Iron-59	.01	7,000
Krypton-85	1.0	6,000,000
Lead-210	.01	8
Manganese-56	.01	60,000
Mercury-203	.01	10,000
Molybdenum-99	.01	30,000
Neptunium-237	.001	2
Nickel-63	.01	20,000
Niobium-94	.01	300
Phosphorus-32	.5	100
Phosphorus-33	.5	1,000
Polonium-32	.01	10
Potassium-42	.01	9,000
Promethium-145	.01	4,000
Promethium-147	.01	4,000
Ruthenium-106	.01	200
Samarium-151	.01	4,000
Scandium-46	.01	3,000
Selenium-75	.01	10,000
Silver-110m	.01	1,000
Sodium-22	.01	9,000
Sodium-24	.01	10,000
Strontium-89	.01	3,000
Strontium-90	.01	90
Sulfur-35	.5	900
Technetium-99	.01	10,000
Technetium-99m	.01	400,000
Tellurium-127m	.01	5,000
Tellurium-129m	.01	5,000
Terbium-160	.01	4,000
Thulium-170	.01	4,000
Tin-113	.01	10,000
Tin-123	.01	3,000
Tin-126	.01	1,000
Titanium-44	.01	100
Vanadium-48	.01	7,000
Xenon-133	1.0	900,000
Yttrium-91	.01	2,000
Zinc-65	.01	5,000
Zirconium-93	.01	400
Zirconium-95	.01	5,000

Other beta-gamma emitter	.01	10,000
Mixed corrosion products	.01	10,000
Mixed fission products	.01	1,000
Contaminated equipment beta gamma	.001	10,000
Irradiated material, forms other than solid noncombustible	.01	1,000
Irradiated material, solid non-combustible	.001	10,000
Mixed radioactive waste, beta-gamma	.01	1,000
Packaged mixed waste, beta-gamma	.001	10,000
Other alpha emitter	.001	2
Contaminated equipment, alpha	.0001	20
Packaged waste, alpha	.0001	20

(2) For combinations of radioactive materials, consideration of the need for an emergency plan shall be required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in subsection (1) of this section exceeds one (1).

(3) Waste packaged in Type B containers shall not require an emergency plan.

RICE C. LEACH, Commissioner  
JOHN WALKER, Attorney  
JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

**PUBLIC HEARING:** A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

#### REGULATORY IMPACT ANALYSIS

Agency Contact person: John A. Volpe

(1) Type and number of entities affected: Approximately 10 out of 400 radioactive material licensees will be impacted by the amendment, which modifies the quantity of certain radioactive material requiring emergency plans for responding to releases of radioactive material or waste.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

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

1. First year following implementation: The administrative regulation will require licensees or applicants who utilize quantities of radioactive material exceeding those listed in the administrative regulation to address potential release of radioactive material or waste.

2. Second and subsequent years: Minimal impact since plans are required for issuance of a license; however, if a license utilizes

different radionuclides above the quantities listed in the administrative regulation a modification of the plan would be required.

(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 change in fees at this time; therefore, there will not be an impact on state revenues to support the radiation program.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees from the licensing of radioactive material users.

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

(a) Geographical Area in which administrative regulation will be implemented: No comments were received.

(b) Kentucky: No comments were received.

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The benefit is a person, licensee, or applicant for a radioactive material license knows what quantities will necessitate the requirements for an emergency plan to address the release of radioactive material and waste.

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

(c) If detrimental effect would result, explain detrimental effect: Without enforcement, licensees may not be prepared to address the release of radioactive material and waste, which could have an adverse impact on public health.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: No conflict with statutes or administrative regulations.

(a) Necessity of 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: Not applicable.

**TIERING:** Is tiering applied? Yes: Tiering was applied because not all radioactive material licensees will be required to prepare an emergency response plan addressing the release of radioactive material and waste.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Atomic Energy Act of 1954, as amended, and 10 CFR 30.32 and 30.72 as promulgated by the U.S. Nuclear Regulatory Commission.

2. State compliance standards. Administrative regulation provides applicants and licensees requirements for developing an emergency plan to address the release of radioactive material and waste.

3. Minimum or uniform standards contained in the federal mandate. This amendment will bring about compatibility with U.S. Nuclear Regulatory Commission's requirements for developing an emergency plan to address the release of radioactive material and waste.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Administrative regulation provides requirements equivalent to U.S. Nuclear Regulatory Commission's regulatory requirements for development of emergency response plans.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a



local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Not applicable.

3. State the aspect or service of local government to which this administrative regulation relates. Not applicable.

4. How does this administrative regulation affect the local government or any service it provides. Not applicable.

**CABINET FOR HEALTH SERVICES**  
**Department for Public Health**  
**Division of Public Health Protection and Safety**  
**(Amendment)**

**902 KAR 100:045. Exemptions.**

RELATES TO: KRS 13B.170, 211.842 to 211.852, 211.990(4), 10 CFR 30.15, 30.16, 30.19, 30.20, 30.21, 40.11, 40.13

STATUTORY AUTHORITY: KRS 13B.170, 194A.050, 211.090, 211.844, 10 CFR 30.15, 30.16, 30.19, 30.20, 30.21, 40.11, 40.13

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services is mandated ~~[Human Resources is authorized]~~ by KRS 211.844 to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation provides exemptions ~~from the requirements of 902 KAR Chapter 100~~ for certain uses of radioactive material and specific devices containing radioactive material.

Section 1. ~~[Applicability. This administrative regulation exempts certain uses of radioactive material and devices containing radioactive material from the requirements of these administrative regulations:~~

Section 2. ~~[Exemption of Source Material. (1) A person is exempt from the requirements established in 902 KAR Chapter 100 if [these administrative regulations to the extent that] the person receives, possesses, uses, or transfers source material in a chemical mixture, compound, solution, or alloy in which the source material is by weight less than one-twentieth of one (1) percent (0.05 percent) of the mixture, compound, solution, or alloy.~~

~~(2) A person is exempt from the requirements established in 902 KAR Chapter 100 if [these administrative regulations to the extent that] the person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material; except that, as authorized in a specific license, the person shall not refine or possess the ore.~~

~~(3) A person is exempt from the requirements established in 902 KAR Chapter 100 if [these administrative regulations to the extent that] the person receives, possesses, uses, or transfers:~~

~~(a) Any quantities of thorium contained in:~~

~~1. Incandescent gas mantles;~~

~~2. Vacuum tubes;~~

~~3. Welding rods;~~

~~4. Electric lamps for illuminating purposes except that each lamp does not contain more than fifty (50) milligrams of thorium;~~

~~5. Germicidal lamps, sun lamps, and lamps for outdoor or industrial lighting except that each lamp shall not contain more than two (2) grams of thorium;~~

~~6. Rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these; or~~

~~7. Personal neutron dosimeters, except that each dosimeter shall not contain more than fifty (50) milligrams of thorium.~~

~~(b) Source material contained in the following products:~~

~~1. Glazed ceramic tableware, except that the glaze contains not more than twenty (20) percent by weight source material;~~

~~2. Glassware containing not more than ten (10) percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass, glass enamel, or ceramic used in construction;~~

~~3. Glass enamel or glass enamel frit containing not more than ten (10) percent by weight source material imported or ordered for impor-~~

~~tation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983;~~

~~4. Piezoelectric ceramic containing not more than two (2) percent by weight source material.~~

~~(c) Photographic film, negatives, and prints containing uranium or thorium.~~

~~(d) A finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, except that the thorium content of the alloy shall not exceed four (4) percent by weight and that the exemption contained in this paragraph shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of the product or part.~~

~~(e) Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of the counterweights; provided that:~~

~~1. The counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission authorizing distribution by the licensee as authorized by 10 CFR Part 40;~~

~~2. Each counterweight has been impressed with following legend clearly legible through any plating or other covering: "DEPLETED URANIUM;"~~

~~3. Each counterweight is durably and legibly labeled or marked with identification of the manufacturer, and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED;" and~~

~~4. The exemption contained in this subsection shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of the counterweights other than repair or restoration of a plating or other covering.~~

~~(f) Natural or depleted uranium metal used as shielding constituting part of a shipping container; provided that:~~

~~1. The shipping container is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM"; and~~

~~2. The uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of one-eighth inch (3.2mm).~~

~~(g) Thorium contained in finished optical lenses, except that each lens shall not contain more than thirty (30) percent by weight of thorium. The exemption contained in this subsection shall not be deemed to authorize either:~~

~~1. The shaping, grinding, or polishing of lens or manufacturing processes other than the assembly of lens into optical systems and devices without any alteration of the lens; or~~

~~2. The receipt, possession, use, or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.~~

~~(h) Uranium contained in detector heads for use in fire detection units, if each detector head contains not more than 0.005 microcurie of uranium.~~

~~(i) Thorium contained in a finished aircraft engine part containing nickel-thoria alloy, if:~~

~~1. The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and~~

~~2. The thorium content in the nickel-thoria alloy does not exceed four (4) percent by weight.~~

~~(4) The exemptions in this section of this administrative regulation do not authorize the manufacture of the products described herein.~~

Section 2. ~~[3.] Exemption of Radioactive Material Other than Source Material. (1) Exempt concentrations. [(a) Except as provided in paragraph (b) of this subsection,] A person is exempt from the requirements established in 902 KAR Chapter 100 if [these administrative regulations to the extent that] the person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in exempt concentrations not in excess of the amounts established [those listed] in 902 KAR 100:085 except:~~

~~(a) This exemption shall not apply to the transfer of radioactive material contained in a food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to a human being; and~~

~~(b) A [No] person may not introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under [paragraph (a) of] this subsection or equivalent regulations of the U.S. Nuclear Regulatory Commission~~

or an agreement state, except in accordance with a license issued as authorized by 902 KAR Chapter 100 [these administrative regulations].

(2) Certain items containing radioactive material. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, a person is exempt from the requirements established in 902 KAR Chapter 100 if [these administrative regulations to the extent that] he receives, possesses, uses, transfers, owns, or acquires the following products:

(a) Timepieces or hand or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

1. Twenty-five (25) millicuries of tritium per timepiece;
2. Five (5) millicuries of tritium per hand; [or]
3. Fifteen (15) millicuries of tritium per dial (bezels if used shall be considered as part of the dial);
4. 100 microcuries of promethium-147 per watch or 200 microcuries of promethium-147 per other timepiece;
5. Twenty (20) microcuries of promethium-147 per watch hand or forty (40) microcuries of promethium-147 per other timepiece hand; or
6. Sixty (60) microcuries of promethium-147 per watch dial or 120 microcuries of promethium-147 per other timepiece dial (bezels if used shall be considered as part of the dial);

7. The radiation dose rate from hands and dials containing promethium-147 shall not exceed, when measured through fifty (50) milligrams per square centimeter of absorber:

- a. For wrist watches, one-tenth (0.1) millirad per hour at ten (10) centimeters from a surface;
- b. For pocket watches, one-tenth (0.1) millirad per hour at one (1) centimeter from a surface;
- c. For other timepiece, two-tenths (0.2) millirad per hour at ten (10) centimeters from a surface.

8. One (1) microcurie of radium-226 per timepiece in timepieces acquired prior to January 3, 1986.

(b) Lock illuminators containing not more than fifteen (15) millicuries of tritium or not more than two (2) millicuries of promethium-147 installed in automobile locks. The radiation dose rate from each lock illuminator containing promethium-147 shall not exceed one (1) millirad per hour at one (1) centimeter from a surface when measured through fifty (50) milligrams per square centimeter of absorber.

(c) Precision balances containing not more than one (1) millicurie of tritium per balance or not more than five-tenths (0.5) millicurie of tritium per balance part.

(d) Automobile shift quadrants containing not more than twenty-five (25) millicuries of tritium.

(e) Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas.

(f) Thermostat dials and pointers containing not more than twenty-five (25) millicuries of tritium per thermostat.

(g) Electron tubes, if each tube does not contain more than one (1) of the following specified quantities of radioactive material:

1. 150 millicuries of tritium per microwave receiver protector tube or ten (10) millicuries of tritium per other electron tube;
2. One (1) microcurie of cobalt-60;
3. Five (5) microcuries of nickel-63;
4. Thirty (30) microcuries of krypton-85;
5. Five (5) microcuries of cesium-137;
6. Thirty (30) microcuries of promethium-147; and, that the radiation dose rate due to radioactive material contained in each electron tube does not exceed one (1) millirad per hour at one (1) centimeter from a surface when measured through seven (7) milligrams per square centimeter of absorber. For purposes of this subparagraph, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pickup tubes, radiation detection tubes, and other completely sealed tubes that are designed to conduct or control electrical currents.

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one (1) or more sources of radioactive material provided [not exceeding the applicable quantity set forth in these administrative regulations except] that:

1. Each source contains no more than one (1) exempt quantity established [set forth] in 902 KAR 100:080;
2. Each instrument contains no more than ten (10) exempt quantities.

For purposes of this requirement, an instrument's source(s) may contain either one (1) or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one (1) or more of the exempt quantities in 902 KAR 100:080, except that the sum of the fractions shall not exceed unity; and

3. For purposes of this paragraph, 0.05 microcuries of americium-241 is considered an exempt quantity under 902 KAR 100:080.

(i) Spark cap irradiators containing not more than one (1) microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three (3) gallons per hour.

Section 3. [(9)] Resins Containing Scandium-46 and Designed for Sand Consolidation in Oil Wells. (1) A person is exempt from the requirements established in 902 KAR Chapter 100 if [these administrative regulations to the extent that] the person receives, possesses, uses, transfers, owns, or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells.

(2) The resins shall have been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or shall have been manufactured in accordance with the specifications contained in a specific license issued by the cabinet or an agreement state to the manufacturer of the resins as authorized by the licensing requirements equivalent to those in Section 32.16 and 32.17 of 10 CFR Part 32 of the regulations of the U.S. Nuclear Regulatory Commission.

(3) The [This] exemption established in subsection (1) of this section does not authorize the manufacture of resins containing scandium-46.

Section 4. [(4)] Gas and Aerosol Detectors Containing Radioactive Material. (1) [Except for persons who manufacture, process, or produce gas and aerosol detectors containing radioactive material;] A person is exempt from the requirements established in 902 KAR Chapter 100 if [these administrative regulations to the extent that] the person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards provided:

(a) Detectors containing by-product material shall have been manufactured, imported, or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission as authorized by Section 32.26 of 10 CFR, Part 32, authorizing [which license authorizes] the transfer of the detectors to persons who are exempt from regulatory requirements; or

(b) Detectors containing other than by-product, source, or special nuclear material shall have been manufactured or transferred in accordance with a specific license issued by the cabinet or an agreement state under [authorized by licensing] requirements equivalent to those established [set forth] in 902 KAR 100:058, authorizing [which license authorizes] the transfer of the detectors to persons who are exempt from regulatory requirements.

(2) The exemption established in subsection (1) of this section does not apply to persons who manufacture, process, or produce gas and aerosol detectors containing radioactive material.

Section 5. [(5)] Self-luminous Products Containing [Radioactive Material. (a)] Tritium, Krypton-85, or Promethium-147. (1) Except for persons who manufacture, process, or produce self-luminous products containing tritium, krypton-85, or promethium-147, a person is exempt from the requirements established in 902 KAR Chapter 100 if [these administrative regulations to the extent that] the person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, imported, or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission as authorized by Section 32.22 of 10 CFR, Part 32, authorizing [which license authorizes] the transfer of the product to persons who are exempt from regulatory requirements. The exemption in this subsection does not apply to tritium, krypton-85, or promethium-147, used in products for frivolous purposes or in toys or adornments.

(2) [(b)] Radium-226. A person is exempt from the requirements established in 902 KAR Chapter 100 if [these administrative regulations to the extent that] the person receives, possesses, uses, transfers, or owns articles containing less than one-tenth (0.1) microcurie of

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radium-226 which were acquired prior to January 3, 1986.

Section 6. [(6)] Exempt Quantities. (1) [(a)] Except as provided in subsections (3) and (4) of this section [paragraphs (c) and (d) of this subsection], a person is exempt from the requirements established in 902 KAR Chapter 100 if [these administrative regulations to the extent that] the person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity established [set forth] in 902 KAR 100:080.

(2) [(b)] A person who possesses radioactive material received or acquired under the general license formerly provided in RH-8, Section 3(a)(2) of the Kentucky State Board of Health "RH" Regulations, effective October, 1968, is exempt from the requirements for a license established [set forth] in 902 KAR Chapter 100 if [these administrative regulations to the extent that] the person possesses, uses, transfers or owns the radioactive material. The exemption does not apply for radium-226.

(3) Subsections (1) and (2) of this section [(c) Paragraphs (a) and (b) of this subsection] do not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

(4) A [(d) No] person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities established [set forth] in 902 KAR 100:080 knowing or having reason to believe that the quantities of radioactive material will be transferred to persons exempt under this subsection or equivalent regulations of the U.S. Nuclear Regulatory Commission or an agreement state, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission as authorized by Section 32.18 of 10 CFR, Part 32, or by the cabinet, which [license] states that the radioactive material may be transferred by the licensee to persons exempt under this paragraph or the equivalent regulations of the U.S. Nuclear Regulatory Commission or an agreement state.

Section 7. Radioactive Drug: Capsules Containing Carbon-14 Urea for "in vivo" Diagnostic Use for Humans. (1) Except as provided in subsection (2) of this section, a person shall be exempt from the requirements for a license established in 902 KAR 100:040 and 902 KAR 100:073 if that person receives, possesses, uses, transfers, owns, or acquires capsules containing one (1) microcurie (37 kBq) carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for "in vivo" diagnostic use for humans.

(2) A person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license in accordance to 902 KAR 100:040.

(3) A person who desires to manufacture, prepare, process, produce, package, repackaging, or transfer for commercial distribution such capsules shall apply for and receive a specific license issued by the U.S. Nuclear Regulatory Commission in accordance to 10 CFR Part 32, Section 32.21.

(4) Nothing in this section relieves persons from complying with applicable FDA, other federal, and state requirements governing receipt, administration, and use of drugs.

RICE C. LEACH, Commissioner  
JOHN WALKER, Attorney  
JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

### REGULATORY IMPACT ANALYSIS

Agency Contact person: John A. Volpe

(1) Type and number of entities affected: This administrative regulation allows the use by a person of certain types and quantities of radioactive material without regulatory control and without obtaining a license. Since this administrative regulation provides an exemption from licensing, it would be difficult to determine the number of persons possessing materials exempted by the administrative regulation.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues:

None

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees from the licensing of radioactive material users.

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

(a) Geographical Area in which administrative regulation will be implemented: No comments were received.

(b) Kentucky: No comments were received.

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The amended administrative regulation provides a mechanism for industry and consumers to obtain certain exempt quantities and types of radioactive material that do not impact public health.

(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: Exempt material would require unnecessary regulatory control, which would be a detriment to certain businesses and consumers.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: No conflict with statutes or administrative regulations.

(a) Necessity of 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: Not applicable.

(11) TIERING: Is tiering applied? No. This administrative regulation provides equal requirements for a person who may wish to utilize exempt types or quantities of radioactive material that do not pose a threat to public health.

## FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Atomic Energy Act of 1954, as amended, and 10 CFR 30.15, 30.16, 30.19, 30.20, 30.21, 40.11 and 40.13 as promulgated by the U.S. Nuclear Regulatory Commission.

2. State compliance standards. Administrative regulation provides exemptions for certain uses of radioactive material and specific devices from the requirements of 902 KAR Chapter 100.

3. Minimum or uniform standards contained in the federal mandate. This amendment will bring about compatibility with U.S. Nuclear Regulatory Commission's requirements for exemptions for certain uses of radioactive material and specific devices.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Administrative regulation provides requirements equivalent to U.S. Nuclear Regulatory Commission's regulatory requirements for exemptions for certain uses of radioactive material and specific devices.

## FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Not applicable.

3. State the aspect or service of local government to which this administrative regulation relates. Not applicable.

4. How does this administrative regulation affect the local government or any service it provides. Not applicable.

**CABINET FOR HEALTH SERVICES**  
**Department for Public Health**  
**Division of Public Health Protection and Safety**  
**(Amendment)**

**902 KAR 100:058. Specific licenses to manufacture, assemble, repair, or distribute products.**

RELATES TO: KRS 13B.170, 211.842 to 211.852, 211.990(4), 10 CFR 32.11, 32.51 to 32.74, 32.101 to 32.103, 32.110, 40.34, 40.35

STATUTORY AUTHORITY: KRS 13B.170, 194A.050, 211.090, 211.844, 10 CFR 32.11, 32.51 to 32.74, 32.101 to 32.103, 32.110, 40.34, 40.35

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services is mandated [Human Resources is authorized] by KRS 211.844 to regulate the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation prescribes requirements for the issuance of specific licenses to persons who manufacture, assemble, repair, or distribute commodities, products, or devices, which contain radioactive material.

Section 1. Registration of Product Information. (1) A manufacturer or initial distributor of a sealed source or device containing a sealed source whose product is intended for use under a specific license shall submit a request to the cabinet for evaluation of radiation safety information about its product and for its registration.

(2) The request for review of a sealed source or a device shall include sufficient information to provide reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property.

(3) The request shall include information on the:

- (a) Design;
- (b) Manufacture;
- (c) Prototype testing;
- (d) Quality control program;
- (e) Labeling;

(f) Proposed uses; and

(g) Leak testing; and

(4) For a device, the request shall also include sufficient information about:

(a) Installation;

(b) Service and maintenance;

(c) Operating and safety instructions; and

(d) Its potential hazards.

(5) The cabinet shall evaluate a sealed source or device using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the cabinet shall formulate reasonable standards and criteria with the help of the manufacturer or distributor. The cabinet shall use criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property.

(6) After completion of the evaluation, the cabinet shall issue a certificate of registration to the person making the request. The certificate of registration shall acknowledge the availability of the submitted information for inclusion in an application for a specific license proposing use of the product.

(7) A person submitting the request for evaluation and registration of safety information about the product shall manufacture and distribute the product in accordance with:

(a) The statements and representations, including quality control program contained in the request; and

(b) The provisions of the registration certificate. [Applicability: The requirements in this administrative regulation shall apply to licensees who manufacture, assemble, repair, or distribute commodities, products, or devices.]

Section 2. Licensing the Introduction of Radioactive Material into Products in Exempt Concentrations. (1) In addition to the requirements established [set forth] in 902 KAR 100:040, Section 4 [5], a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another to be transferred to persons exempt under 902 KAR 100:045, Section 2 [3](1)(a) may [shall] be issued if:

(a) [(1)] The applicant submits a description of the:

1. Product or material into which the radioactive material will be introduced;

2. Intended use of the radioactive material and [;] the product into which it is introduced;

3. Method of introduction;

4. Initial concentration of the radioactive material in the product or material;

5. Control methods to assure that no more than the specified concentration is introduced into the product or material;

6. Estimated time interval between introduction and transfer of the product or material; and

7. Estimated concentrations of the radioactive material in the product or material at the time of transfer [when transferred; and

(b) [(2)] The applicant provides reasonable assurance that the:

1. Concentrations of the radioactive material at the time of transfer shall [when transferred will] not exceed the concentrations in 902 KAR 100:085;

2. [; relating to concentrations of certain radionuclides, that] Reconcentration of the radioactive material in concentrations exceeding those in 902 KAR 100:085 is not likely;

3. [; that] Use of lower concentrations is not feasible; and

4. [; and that the] Product or material is not likely to be incorporated in a food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being. [and]

(2) A [(3)-Each] person licensed pursuant to [under] this administrative regulation shall:

(a) Maintain records of transfer of radioactive material; and

(b) File an annual report with the cabinet which shall include the:

1. [identify the] Type and quantity of a [each] product or material into which radioactive material has been introduced during the reporting period;

2. Name and address of the person who owned or possessed the product or material, into which radioactive material has been introduced, at the time of introduction;

3. [the] Type and quantity of radionuclide introduced into a [each such] product or material; and

4. [the] Initial concentrations of the radionuclide in the product or material at the time of transfer of [when] the radioactive material [is transferred] by the licensee.

(c) Indicate in the report if no transfers of radioactive material have been made as authorized by this administrative regulation during the reporting period.

(d) Submit a [the report shall so indicate. The] report to [shall] cover the year ending June 30, and [shall] be filed within thirty (30) days thereafter.

(e) Maintain the record of a transfer for a period of one (1) year after the event is included in a report to the cabinet.

Section 3. Resins Containing Scandium-46 and Designed for Sand-Consolidation in Oil Wells: Requirements for License to Manufacture, or Initially Transfer for Sale or Distribution. An application for a specific license to manufacture, or initially transfer for sale or distribution, synthetic plastic resins containing scandium-46 for use as indicated in 902 KAR 100:045, Section 3(3), may be approved if:

(1) The applicant satisfies the requirements specified in 902 KAR 100:040, Section 4;

(2) The product is designed to be used only for sand-consolidation in oil wells;

(3) The applicant submits the following information:

(a) The general description of the product to be manufactured or initially transferred; and

(b) A description of control procedures to be used to assure that the concentration of scandium-46 in the final product at the time of distribution shall not exceed  $1.4 \times 10^{-3}$  micro-curie/milliliter; and

(4) A container of such product bears a durable, legible label approved by the cabinet, which contains the following information:

(a) The product name;

(b) A statement that the product contains radioactive scandium and is designed and manufactured only for sand-consolidation in oil wells;

(c) Instructions necessary for proper use; and

(d) The manufacturer's name.

Section 4. Licensing the Manufacture and Distribution of a Device to a Person [Devices to Persons] Generally Licensed under 902 KAR 100:050. (1) In addition to the requirements established in 902 KAR 100:040, Section 4, an application for a specific license to distribute certain devices containing radioactive material, excluding special nuclear material, to a person [persons] generally licensed may [shall] be issued only if:

(1) the applicant submits sufficient information relating to the;

(a) Design;

(b) Manufacture;

(c) Prototype testing;

(d) Quality control;

(e) Labels;

(f) Proposed uses;

(g) Installation;

(h) Servicing;

(i) Leak testing;

(j) Operating and safety instructions; and

(k) Potential hazards of the device to provide reasonable assurance that:

1. [(a)] Under accident conditions, such as fire and explosion associated with handling, storage, and use of the device, it is unlikely that a person would receive an external radiation dose or dose commitment in excess of the following organ doses:

a. [1:] Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye - 15 rems (150 mSv);

b. [2:] Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one (1) square centimeter - 200 rems (2 Sv); or

c. [3:] Other organs - 50 rems (500 mSv);

2. [(b)] Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device shall not be released or inadvertently removed from the device, and it is unlikely that a person will receive in a period of one (1) calendar

year [quarter] a dose in excess of ten (10) percent of the limits specified in 902 KAR 100:019, Section 3; and [100:020, Section 2;]

3. [(c)] The device can be safely operated by individuals not having training in radiological protection.

(2) A [Each] device identified in subsection (1) of this section shall bear [bears] a durable, legible, clearly visible label or labels approved by the cabinet, which contain in a clearly identified and separate statement:

(a) Instructions and precautions necessary to assure safe installation, operation, and servicing of the device ( [ ] documents such as operating and service manuals, may be identified in the label and used to provide this information);

(b) The requirement, or lack of requirement, for leak testing, or for testing an "on-off" mechanism and indicator, including the maximum time interval for the testing, and the identification of radioactive material by:

1. Isotope;

2. Quantity of radioactivity; and

3. Date of determination of the quantity; and

(c) The information called for in the following statement, in the same or substantially similar form:

"The receipt, possession, use, and transfer of this device, Model \_\_\_\_\_, Serial No. \_\_\_\_\_, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

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Name of manufacturer or distributor"

The model, serial number, and name of the manufacturer or distributor may be omitted from this label if [provided] the information is elsewhere specified in labeling affixed to the device.

(3)(a) If [in the event] the applicant desires that the device identified in subsection (1) of this section be required to be tested for proper operation of the "on-off" mechanism and indicator, if any, or for leakage of radioactive material, subsequent to the initial tests required by this [these] administrative regulation [regulations] at intervals longer than six (6) months but not exceeding three (3) years, the applicant shall include in the application sufficient information to demonstrate that the longer interval is justified by:

1. Performance characteristics of the device or similar devices; and

2. [by] Design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the "on-off" mechanism and indicator.

(b) In determining the acceptable interval for the test for leakage of radioactive material, the cabinet may consider information [on particulars] which shall include:

1. [includes, but is not limited to:

(a) Primary containment or source capsule;

2. [(b)] Protection of primary containment;

3. [(c)] Method of sealing containment;

4. [(d)] Containment construction materials;

5. [(e)] Form of contained radioactive material;

6. [(f)] Maximum temperature withstood during prototype tests;

7. [(g)] Maximum pressure withstood during prototype tests;

8. [(h)] Maximum quantity of contained radioactive material;

9. [(i)] Radiotoxicity of contained radioactive material; and

10. [(j)] Operating experience with identical devices or similarly designed and constructed devices.

(4)(a) If [in the event] the applicant desires that the general licensee established in [under] 902 KAR 100:050, Section 3, or pursuant to [under] equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the "on-off" mechanism and indicator, or remove the device from installation, the applicant shall include in the application:

1. Written instructions to be followed by the general licensee;

2. Estimated calendar quarter doses associated with the activity or activities; and

3. Bases for these [such] estimates.

(b) The submitted information shall demonstrate that performance of the activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a [calendar quarter] dose in excess of ten (10) percent of the annual limits specified in 902 KAR 100:019, Section 3 [400:020; Section 2].

(5) A [Each] person licensed pursuant to [under] this administrative regulation to distribute devices to generally licensed persons shall:

(a) Furnish a copy of the general license identified [contained] in 902 KAR 100:050, Section 3, to a [each] person the licensee, directly or through an intermediate person, transfers radioactive material in a device for use as authorized by a general license;

(b) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to 902 KAR 100:050, Section 3, or alternatively, furnish a copy of the general license to a [each] person the licensee directly or through an intermediate person transfers radioactive material in a device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or the Agreement State. If a copy of the general license identified in 902 KAR 100:050, Section 3, is furnished to the person, it shall be accompanied by a note explaining that the use of the device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in 902 KAR 100:050, Section 3;

(c) Report to the cabinet [all] transfers of the devices to persons for use under the general license.

1. The report shall identify a [each] general licensee by name and address, an individual by name or position who may constitute a point of contact between the cabinet and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device.

2. If one (1) or more intermediate persons shall [will] temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of an [each] intermediate person by name, address, contact, and relationship to the intended user.

3. If no transfers have been made to persons generally licensed during the reporting period, the report shall so indicate.

4. The report shall cover a [each] calendar quarter and be filed within thirty (30) days thereafter;

(d) Furnish reports to other agencies as follows:

1. Report to the U.S. Nuclear Regulatory Commission [all] transfers of such devices to persons for use under the U.S. Nuclear Regulatory Commission general license in Section 31.5 of 10 CFR Part 31; or

2. Report to the responsible state agency [all] transfers of devices manufactured and distributed for use under a general license in that state's regulations equivalent to 902 KAR 100:050, Section 3; and

3. The reports shall identify a [each] general licensee by name and address, an individual by name or position who may constitute a point of contact between the agency and the general licensee, the type and model of the device transferred, and the quantity and type of radioactive material contained in the device;

4. If one (1) or more intermediate persons shall [will] temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of the [each] intermediate person by name, address, contact, and relationship to the intended user;

5. The report shall be submitted within thirty (30) days after the end of a [each] calendar quarter in which the device is transferred to the generally licensed person;

6. [4.] If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission; and

7. [5.] If no transfers have been made to general licensees within a particular state during the reporting period, this information shall be reported to the responsible state agency upon request of that agency; and

(e) Keep records showing the name, address, and the point of

contact for a [each] general licensee to which the licensee directly or through an intermediate person transfers radioactive material in devices for use as authorized by a general license or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records shall show:

1. The date of a [each] transfer;

2. The radionuclide and the quantity of radioactivity in a [each] device transferred;

3. The identity of the intermediate person; and

4. Compliance with the report requirements.

(f) Shall maintain the records required by paragraphs (c) and (d) of this subsection for a period of five (5) years from the date of the recorded transfer.

Section 5. [4.] Special Requirements for the Manufacture, Assembly, or Repair of Luminous Safety Devices for use in Aircraft. An application for a specific license to manufacture, assemble, or repair luminous safety devices containing tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed pursuant to [under] 902 KAR 100:050 may be approved if:

(1) The applicant satisfies the [general] requirements specified in 902 KAR 100:040, Section 4; and

(2) The applicant satisfies the requirements of U.S. Nuclear Regulatory Commission 10 CFR Part 32, Sections 32.2(b), 32.53, 32.54, 32.55, 32.56, [and] 32.101, and 32.110 or their equivalent.

Section 6. [5.] Special Requirements for License to Manufacture and Distribute Calibration Sources Containing Americium-241, Plutonium or Radium-226 for Distribution to Persons Generally Licensed pursuant to [under] 902 KAR 100:050. An application for a specific license to manufacture or distribute calibration and reference sources containing americium-241, plutonium or radium-226 to persons generally licensed pursuant to [under] 902 KAR 100:050 may be approved if:

(1) The applicant satisfies the [general] requirements established in [of] 902 KAR 100:040, Section 4; and

(2) The applicant satisfies the requirements of U.S. Nuclear Regulatory Commission 10 CFR Part 32, Sections 32.57, 32.58, 32.59, and 32.102 and 10 CFR Part 70, Section 70.39 [70:29], or their equivalent.

Section 7. Licensing the Manufacture and Distribution of Ice Detection Devices Containing Strontium-90. An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed may be approved if:

(1) The applicant satisfies the requirements established in 902 KAR 100:040, Section 4; and

(2) The criteria of U.S. Nuclear Regulatory Commission 10 CFR Part 32, Sections 32.2(b), 32.61, 32.62, 32.103, and 32.110 are met. [6.] Manufacture and Distribution of Radioactive Material for Medical use under a General License. An application for a specific license to distribute radioactive material for use by physicians under the general license of these administrative regulations shall be approved if:

(1) The applicant satisfies the general requirements specified in 902 KAR 100:040;

(2) The applicant submits evidence that the radioactive material is to be manufactured, labeled and packaged in accordance with a new drug application which the Commissioner of Food and Drug Administration has approved, or in accordance with a license for a biologic product issued by the Secretary, U.S. Department of Health and Human Services; and

(3) The following statement, or a substantially similar statement, appears on the label affixed to the container or appears in the leaflet or brochure which accompanies the package:

"This radioactive drug may be received, possessed and used only by physicians licensed to dispense drugs in the practice of medicine. Its receipt, possession, use and transfer are subject to the administrative regulations and a general license or the equivalent of the United States Nuclear Regulatory Commission or of an Agreement State.

(Name of Manufacturer)"

Section 8. [7.] Manufacture and Distribution of Radioactive Ma-



terial for Certain In Vitro Clinical or Laboratory Testing under a General License. An application for a specific license to manufacture or distribute radioactive material for use pursuant to [under] the general license established in 902 KAR 100:050, Section 4 [of these administrative regulations] may be approved if:

(1) The applicant satisfies the general requirements specified in 902 KAR 100:040, Section 4;

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Iodine-125 in units not exceeding ten (10) microcuries (370 kBq) each;

(b) Iodine-131 in units not exceeding ten (10) microcuries (370 kBq) each;

(c) Carbon-14 in units not exceeding ten (10) microcuries (370 kBq) each;

(d) Hydrogen-3 (tritium) in units not exceeding fifty (50) microcuries (1.85 MBq) each;

(e) Iron-59 in units not exceeding twenty (20) microcuries (704 kBq) each;

(f) Selenium-75 in units not exceeding ten (10) microcuries (370 kBq) each;

(g) Mock iodine-125 in units not exceeding 0.05 microcurie (1.85 MBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each; or

(h) Cobalt-57 in units not exceeding fifty (50) microcuries (370 kBq) each;

(3) A [Each] prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed:

1. Ten (10) microcuries (370 kBq) of iodine-131, iodine-125, selenium-75, cobalt-57, or carbon-14;

2. Fifty (50) microcuries (1.85 MBq) of hydrogen-3 (tritium);

3. Twenty (20) microcuries (740 kBq) of iron-59; or

4. Mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each; and

(b) Displaying the radiation caution symbol described in 902 KAR 100:019, Section 23, and the words, "Caution, Radioactive Material", and "Not for Internal or External Use in Humans or Animals";

(4) The following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to a [each] prepackaged unit or appears in a leaflet or brochure which accompanies the package:

"This radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the administrative regulations and a general license or the equivalent of the United States Nuclear Commission or of an Agreement State.

(Name of Manufacturer)"; and

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing the radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source shall also contain directions to the licensee regarding the waste disposal requirements established in 902 KAR 100:021, Section 1 [set out in these administrative regulations].

[Section 8. Licensing the Manufacture and Distribution of Ice Detection Devices. An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed may be approved if:

(1) The applicant satisfies the general requirements of 902 KAR 100:040; and

(2) The criteria of U.S. Nuclear Regulatory Commission 10 CFR Part 32, Sections 32.61, 32.62, and 32.103 are met.]

## Section 9. Manufacture and Distribution of Radiopharmaceuti-

cals Containing Radioactive Material for Medical Use Under Specific Licenses. (1) An application for a specific license to manufacture, prepare or transfer for commercial distribution [and distribute] radiopharmaceuticals containing radioactive material for use by persons licensed pursuant to [for the uses listed in] 902 KAR 100:073, [Sections 29, 31 and 35] may be approved if the applicant:

(a) [(1) The applicant] Satisfies the [general] requirements specified in 902 KAR 100:040, Section 4;

(b) [(2) The applicant] Submits evidence that the applicant is at least one (1) of the following:

1. Registered or licensed with the U.S. Food and Drug Administration (FDA) as a drug manufacturer;

2. Registered or licensed with a state agency as a drug manufacturer; or

3. Licensed as a pharmacy by the State Board of Pharmacy. [:

(a) The radiopharmaceutical containing radioactive material will be manufactured, labeled, and packaged in accordance with the Federal Food, Drug and Cosmetic Act or the Public Health Service Act, such as a new drug application (NDA) approved by the Food and Drug Administration (FDA), or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the FDA; or

(b) The manufacture and distribution of the radiopharmaceutical containing radioactive material is not subject to the Federal Food, Drug and Cosmetic Act and the Public Health Service Act;]

(c) [(3) The applicant] submits information on:

1. The radionuclide;

2. Chemical and physical form;

3. Maximum activity per vial, syringe, generator, or other container of the radioactive drug; and

4. [packaging including maximum activity per package, and] Shielding provided by the packaging of the radioactive material to show it [which] is appropriate for safe handling and storage of radiopharmaceuticals by medical use [group] licensees; and

(d) Satisfies the following labeling requirements:

1. [(4)(a)] The label shall be affixed to the transport radiation shield, if it is constructed of lead, glass, plastic or other material, of a radioactive drug to be transferred for commercial distribution. The label shall include:

a. The radiation symbol;

b. The words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL";

c. The name of the radioactive drug or its abbreviation; and

d. The quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted.

2. A label shall be affixed to a syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label shall include:

a. The radiation symbol;

b. The words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL" and

c. An identifier that ensures the syringe, vial or other container can be correlated with the information on the transport radiation shield label. [each package of the radiopharmaceutical contains information on the radionuclide, quantity, and date of assay and the label affixed to each package, or the leaflet or brochure which accompanies each package, contains a statement that the radiopharmaceutical is licensed by the cabinet for distribution to persons licensed under the requirements of 902 KAR 100:073 for uses listed in 902 KAR 100:073, Sections 29, 31 and 35, or under equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State.

(b) The labels, leaflets, or brochures required by this subsection are in addition to the labeling required by the Food and Drug Administration (FDA) and they may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.]

(2) A licensee described by subsection (1)(b)3 of this section may:

(a) Prepare radioactive drugs for medical use, as defined in 902 KAR 100:010 if the radioactive drug is prepared by either an authorized nuclear pharmacist, as specified in paragraphs (b) and (c) of this subsection, or an individual under the supervision of an authorized nuclear pharmacist as specified in 902 KAR 100:073,

Section 8.

(b) Allow a pharmacist to work as an authorized nuclear pharmacist if this individual:

1. Qualifies as an authorized nuclear pharmacist as defined in 902 KAR 100:010;

2. Meets the requirements specified in 902 KAR 100:073, Sections 58 and 59, and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

3. Is designated as an authorized nuclear pharmacist in accordance with paragraph (c) of this subsection.

(c) Designate a pharmacist as an authorized nuclear pharmacist if the individual is identified as an authorized user on a nuclear pharmacy license issued by the cabinet.

(3) The actions authorized in subsections (2)(a) and (b) of this section are permitted in spite of more restrictive language in license conditions.

(4) A licensee shall provide to the cabinet a copy of an individual's certification by the Board of Pharmaceutical Specialties, the cabinet, the U.S. Nuclear Regulatory Commission, or an agreement state license, and a copy of the state pharmacy licensure or registration, no later than thirty (30) days after the date that the licensee allows, pursuant to subsection (2)(b) 1 and 3 of this section, the individual to work as an authorized nuclear pharmacist.

(5) A licensee shall:

(a) Possess and use instrumentation to measure the radioactivity of radioactive drugs;

(b) Have procedures for use of the instrumentation;

(c) Measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta- or photon-emitting radioactive drugs prior to transfer for commercial distribution;

(d) Perform tests before initial use, periodically, and following repair, on an instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument; and make adjustments when necessary; and

(e) Check an instrument for constancy and proper operation at the beginning of each day of use.

(6) Nothing in this section relieves a licensee from complying with applicable FDA, other federal, and state requirements governing radioactive drugs.

Section 10. [Manufacture and Distribution of Generators or Reagent Kits for Preparation of Radiopharmaceuticals Containing Radioactive Material. An application for a specific license to manufacture and distribute generators or reagent kits containing radioactive material for preparation of radiopharmaceuticals by persons licensed as authorized by 902 KAR 100:073 for the uses listed in 902 KAR 100:073, Section 31 may be approved if:

(1) The applicant satisfies the general requirements specified in 902 KAR 100:040;

(2) The applicant submits evidence that:

(a) The generator or reagent kit is to be manufactured, labeled and packaged in accordance with the Federal Food, Drug and Cosmetic Act or the Public Health Service Act, such as a new drug application (NDA) approved by the Food and Drug Administration (FDA), or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the FDA; or

(b) The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug and Cosmetic Act and the Public Health Service Act;

(3) The applicant submits information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;

(4) The label affixed to the generator or reagent kit contains information on the radionuclide, quantity, and date of assay; and

(5) The label affixed to the generator or reagent kit, or the leaflet or brochure which accompanies the generator or reagent kit, contains:

(a) Adequate information, from a radiation safety standpoint, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and

(b) A statement that this generator or reagent kit, as appropriate, is approved for use by persons licensed by the cabinet as authorized by 902 KAR 100:073 for uses listed in 902 KAR 100:073, Section 31 or under equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State. The labels, leaflets, or brochures required by this section are in addition to the labeling required by the Food and Drug Administration (FDA) and they may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

Section 11. Manufacture and Distribution of Sources or Devices Containing Radioactive Material for Medical Use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed as authorized by 902 KAR 100:073 for use as a calibration or reference source or for medical uses may be approved if:

(1) The applicant satisfies the [general] requirements established in 902 KAR 100:040, Section 4;

(2) The applicant submits sufficient information regarding a [each] type of source or device pertinent to an evaluation of its radiation safety, including:

(a) The radioactive material contained, its chemical and physical form, and amount;

(b) Details of design and construction of the source or device;

(c) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(d) For devices containing radioactive material, the radiation profile of a prototype device;

(e) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(f) Procedures and standards for calibrating sources and devices;

(g) Legend and methods for labeling sources and devices as to their radioactive content; and

(h) Instructions for handling and storing the source or device from the radiation safety standpoint. These instructions shall [are to] be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device; except that, instructions which are too lengthy for the label may be summarized on the label and printed in detail on a brochure which is referenced on the label;

(3) The label affixed to the source or device, or to the permanent storage container for the source or device, contains:

(a) Information on the radionuclide;

(b) Quantity; and

(c) Date of assay; and

(d) A statement that the name of source or device is licensed by the cabinet for distribution to persons licensed as authorized by 902 KAR 100:073 or under equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State [except that, the labeling for sources which do not require long term storage may be on a leaflet or brochure which accompanies the source];

(4) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six (6) months, he shall include in the application sufficient information to demonstrate that the longer interval is justified by:

(a) Performance characteristics of the source or device or similar sources or devices; and

(b) [by] Design features that have a significant bearing on the probability or consequence of leakage of radioactive material from the source; and

(5) In determining the acceptable interval for tests of leakage of radioactive material, the cabinet may consider information that includes [but is not limited to]:

(a) Primary containment or source capsule;

(b) Protection of primary containment;

(c) Method of sealing containment;

(d) Containment construction materials;

(e) Form of contained radioactive material;

(f) Maximum temperature withstood during prototype tests;

(g) Maximum pressure withstood during prototype tests;

- (h) Maximum quantity of contained radioactive material;
- (i) Radiotoxicity of contained radioactive material; and
- (j) Operating experience with identical sources or devices or similarly designed and constructed sources or devices.

Section 11. [42:] Requirements for License to Manufacture and Distribute Industrial Products Containing Depleted Uranium for Mass-volume Applications. (1) An application for a specific license to manufacture or distribute industrial products and devices containing depleted uranium for use authorized by 902 KAR 100:050, Section 2, or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State may be approved if:

(a) The applicant satisfies the general requirements specified in 902 KAR 100:040, Section 4;

(b) The applicant submits sufficient information relating to the:

1. Design;
2. Manufacture;
3. Prototype testing;
4. Quality control procedures;
5. Labeling or marking;
6. Proposed uses; and
7. Potential hazards of the industrial product or device;

(c) The applicant provides [to provide] reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause an individual to receive in a period of one (1) year [calendar quarter] a radiation dose in excess of ten (10) percent of the limits specified in 902 KAR 100:019, Section 3 [400:020]; and

(d) [(e)] The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the cabinet may approve an application for a specific license pursuant to [under] this section only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The cabinet may deny an application for a specific license pursuant to [under] this section if the end use [use(s)] of the industrial product or device cannot be reasonably foreseen.

(4) A [Each] person licensed as authorized by this section shall:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device and in the installation of the depleted uranium into the product or device;

(b) Label or mark a [each] unit to identify:

1. [Identify] The manufacturer of the product or device;
2. [and] The number of the license under which the product or device was manufactured or distributed;
3. The fact that the product or device contains depleted uranium;
4. [and] The quantity of depleted uranium in a [each] product or device; and

5. [2-State] That the receipt, possession, use, and transfer of the product or device are subject to a general license, or the equivalent, and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State;

(c) Assure that the depleted uranium before being installed in a [each] product or device has been impressed with the following legend clearly legible through plating or other covering: "Depleted Uranium;"

(d) Furnish A copy of the general license contained in [the following]:

1. [A copy of the general license contained in] 902 KAR 100:050 to a [each] person to whom depleted uranium is transferred in a product or device for use authorized by the general license contained in 902 KAR 100:050; or

2. [A copy of the general license contained in] The U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to 902 KAR 100:050 and a copy of an applicable U.S. Nuclear Regulatory Commission's or Agreement State's certificate, to a [each] person to whom depleted uranium is transferred in a product or device for use as authorized by the general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a note

explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or an Agreement State under requirements substantially the same as those in 902 KAR 100:050;

(e) Furnish the following to either the cabinet, U.S. Nuclear Regulatory Commission, or agreement state:

1. A report of [to the cabinet all] transfers of industrial products or devices to persons for use pursuant to [under] the general license in 902 KAR 100:050. The report shall identify:

- a. A [each] general licensee by name and address;
- b. An individual by name or position who may constitute a point of contact between the cabinet and the general licensee;
- c. The type and model number of device transferred; and
- d. The quantity of depleted uranium contained in the product or device.

2. The report identified in subparagraph 1 of this paragraph shall be submitted within thirty (30) days after the end of a [each] calendar quarter in which the product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed pursuant to [under] 902 KAR 100:050 during the reporting period, the report shall so indicate; and

(f) Furnish the following:

1. A report to the U.S. Nuclear Regulatory Commission of all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in 10 CFR Part 40.25;

2. A report to the responsible Agreement State agency all transfers of devices manufactured and distributed as authorized by this section for use under a general license in that state's regulations equivalent to 902 KAR 100:050;

3. Reports identifying each general licensee by name and address, an individual by name or position who may constitute a point of contact between the agency and the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. Reports shall be submitted within thirty (30) days after the end of each calendar quarter in which the product or device is transferred to the generally licensed person.

4. A report, upon the request of the responsible agency, that no transfers have been made to a general licensee of that agency; and

(g) Keep records showing the name, address, and point of contact for a [each] general licensee to whom he transfers depleted uranium in industrial products or devices for use authorized by the general license provided in 902 KAR 100:050 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records shall be maintained for a period of three (3) [two (2)] years from the date of transfer and shall show the date of a [each] transfer, the quantity of depleted uranium in a [each] product or device transferred, and compliance with the report requirements of this section.

Section 12. [43:] Licensing the Distribution of Naturally Occurring and Accelerator Produced Radioactive Material (NARM) in Exempt Quantities. (1) An application for a specific license to distribute NARM to persons exempted from these regulations authorized by 902 KAR 100:045 may be approved if:

(a) The radioactive material is not contained in a food, beverage, cosmetic, drug, or other commodity designed for ingestion or inhalation by, or application to, a human being;

(b) The radioactive material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources, or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into a manufactured or assembled commodity, product, or device intended for commercial distribution; and

(c) The applicant submits copies of prototype labels and brochures and the cabinet approves the labels and brochures.

(2) The license issued pursuant to [under] this section is subject to the following conditions:

(a) No more than ten (10) exempt quantities shall be sold or transferred in a single transaction. However, an exempt quantity may be composed of fractional parts of one (1) or more of the exempt quantity provided the sum of the fractions shall not exceed unity.

(b) An [Each] exempt quantity shall be separately and individually packaged. No more than ten (10) packaged exempt quantities shall be contained in an outer package for transfer to persons exempt as authorized by 902 KAR 100:045. The dose rate at the external surface of the outer package shall not exceed five-tenths (0.5) millirem per hour.

(c) The immediate container of a [each] quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label which:

1. Identifies the radionuclide and the quantity of radioactivity; and

2. Bears the words "Radioactive Material."

(d) In addition to the labeling information required by this subsection, the label affixed to the immediate container, or an accompanying brochure, shall:

1. State that the contents are exempt from licensing agency requirements;

2. Bear the words "Radioactive Material - Not for Human Use - Introduction into Foods, Beverages, Cosmetics, Drugs, or Medicinals, or into Products Manufactured for Commercial Distribution is Prohibited - Exempt Quantities Should Not Be Combined"; and

3. Establish [Set forth] appropriate additional radiation safety precautions and instructions relating to the handling, use, storage, and disposal of the radioactive material.

(3) A [Each] person licensed pursuant to [under] this section shall maintain records identifying, by name and address, a [each] person to whom radioactive material is transferred for use in accordance with [under] 902 KAR 100:045 or the equivalent regulations of a licensing agency, and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of a [each] radionuclide transferred under the specific license shall be filed with the cabinet. A [Each] report shall cover the year ending June 30, and shall be filed within thirty (30) days thereafter. If no transfers of radioactive material have been made as authorized by this section during the reporting period, the report shall so indicate.

Section 13. [4:] Licensing the Incorporation of Naturally Occurring and Accelerator Produced Radioactive Material (NARM) into Gas and Aerosol Detectors. An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt pursuant to [under] 902 KAR 100:045 may be approved if the application satisfies requirements equivalent to those contained in U.S. Nuclear Regulatory Commission 10 CFR Part 32.26. The maximum quantity of radium-226 in a [each] device shall not exceed one-tenth (0.1) microcurie (3.7 kBq).

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

#### REGULATORY IMPACT ANALYSIS

Agency Contact person: John A. Volpe

(1) Type and number of entities affected: 30 of 400 specific licensees will be impacted by the amendment of this administrative regulation which is necessary to address specific licenses for a person who manufacture, assemble, repair, or distribute commodities, products, or devices, which contain radioactive material.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No change in fees at this time; therefore, there will not be a impact on state revenues to support the radiation program.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees from the licensing of radioactive material users.

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

(a) Geographical Area in which administrative regulation will be implemented: No comments were received.

(b) Kentucky: No comments were received.

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The amended administrative regulation sets out specific requirement for a person manufacturing products.

(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: Persons could use radioactive material in products without concern for public health.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: No conflict with statutes or administrative regulations.

(a) Necessity of 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: Not applicable.

(11) TIERING: Is tiering applied? Yes, only licenses involved in the manufacture, assembly, repair, or distribution of commodities, products, devices, which contain radioactive material will be effected by these regulatory requirements.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Atomic Energy Act of 1954, as amended, and 10 CFR 32.11, 32.51, to 32.74, 32.101 to 32.103, 32.110, 40.34 and 40.35 as promulgated by the U.S. Nuclear Regulatory Commission.

2. State compliance standards. Administrative regulation provides requirements for the issuance of specific licenses to persons who manufacture, assemble, repair, or distribute commodities, products, or devices, which contain radioactive material.

3. Minimum or uniform standards contained in the federal mandate. These amendments maintain compatibility with the U.S. Nuclear Regulatory Commission's requirements.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation provides requirements equivalent to U.S. Nuclear Regulatory Commission's regulatory requirements for issuance of radioactive material licenses to persons who manufacture, assemble, repair, or distribute commodities, products, or devices, which contain radioactive material.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Not applicable.

3. State the aspect or service of local government to which this administrative regulation relates. Not applicable.

4. How does this administrative regulation affect the local government or any service it provides. Not applicable.

#### CABINET FOR HEALTH SERVICES Department for Public Health Division of Public Health Protection and Safety (Amendment)

#### 902 KAR 100:070. Transportation of radioactive material.

RELATES TO: KRS 13B.170, 211.842 to 211.852, 211.990(4), 10 CFR 71

STATUTORY AUTHORITY: KRS 13B.170, 194A.050, 211.090, 211.844, 10 CFR 71

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services ~~[Human Resources is authorized by KRS 211.844]~~ to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation provides requirements for the transportation of radioactive material.

~~Section 1. Requirement for a License. [Applicability. The provisions of this administrative regulation shall apply to persons who transport or deliver radioactive material in Kentucky.]~~

~~Section 2. Transportation of Radioactive Material.]~~ No person shall deliver radioactive material to a carrier for transport or transport radioactive material except as authorized in a general or specific license issued by the cabinet or as exempted in Section 2 [3] of this administrative regulation.

Section 2. [3.] Exemptions. (1) Common and contract carriers, freight forwarders, and warehousemen who are subject to the requirements of the U.S. Department of Transportation in 49 CFR 170 through 189 or the U.S. Postal Service in the [Postal Service Manual (Domestic Mail Manual)], Section C023.9.0 [124.3 incorporated by reference], 39 CFR 111.1 [111.11(1974)], are exempt from these administrative regulations to the extent that they transport or store radioactive material in the regular course of their carriage for another or storage incident to the transportation and storage of radioactive material. Common and contract carriers who are not subject to the requirements of the U.S. Department of Transportation or U.S. Postal Service are subject to Section 1 [2] of this administrative regulation and other applicable sections of these administrative regulations.

(2) A licensee shall be [is] exempt from requirements established in Section 1 [Section 2] of this administrative regulation with respect to shipment or carriage of [to the extent that he delivers to a carrier for transport] a package containing radioactive material having a specific activity not greater than 0.002 microcurie per gram (70 Bq/g).

(3) A licensee shall be [is] exempt from all requirements of this administrative regulation, other than Sections 3 and 9 [4 and 13] of

this administrative regulation, with respect to shipment or carriage of the following, if the packages contain no fissile material, or the fissile material exemption standards of 10 CFR 71.53 are satisfied:

(a) Packages containing no more than Type A quantities of radioactive material ~~[if the package contains no fissile material]; or]~~

(b) Packages transported between locations within the United States which contain only americium or plutonium in special form with an aggregate radioactivity not to exceed twenty (20) curies; or

(c) A package in which the only radioactive material is low specific activity (LSA) material or surface contaminated objects (SCO), if the external radiation level at three (3) meters from the unshielded material or objects does not exceed one (1) rem/hour (10 mS/hr).

(4) A licensee shall be exempt from all requirements of this administrative regulation, other than Sections 3 and 9 of this administrative regulation, with respect to shipment or carriage of low specific activity (LSA) material in group LSA-1, or surface contaminated objects (SCOs) in group SCO-1.

(5) A physician licensed by the Commonwealth to dispense drugs in the practice of medicine shall be exempt from Section 3 of this administrative regulation with respect to transport by the physician of radioactive material for use in the practice of medicine. However, a physician operating under this exemption shall be licensed pursuant to 902 KAR 100:073 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an agreement state.

Section 3. [4.] Transportation of Licensed Material. (1) A [Each] licensee who transports licensed material outside of the confines of his plant or other place of use as specified in the cabinet license, or where transport is on public highways, or who delivers licensed material to a carrier for transport shall:

(a) Comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the U.S. Department of Transportation in 49 CFR 170-189; and

(b) Assure that special instructions needed to safely open the package are sent to or have been made available to the consignee for the consignee's use in accordance with 902 KAR 100:019, Section 28(5).

(2) ~~If, for any reason,~~ the regulations of the U.S. Department of Transportation are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the Department of Transportation [those] regulations to the same extent as if the shipment was subject to the administrative regulations.

Section 4. [5.] General Licenses for Carriers. (1) A general license shall be [is hereby] issued to a common or contract carrier not exempt under Section 2 [3] of this administrative regulation to receive, possess, transport, and store radioactive material in the regular course of their carriage for another or storage incident to the transportation and storage, if [provided] the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation insofar as the requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

(2) A general license shall be [is hereby] issued to a private carrier to transport radioactive material, if [provided] the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation insofar as the requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

(3) The notification of incidents referred to in the [those] U.S. Department of Transportation requirements identified in subsection (1) of this section shall be filed with, or made to, the cabinet.

(4) Persons who transport radioactive material as authorized by the general licenses in this section are exempt from the requirements of 902 KAR 100:019 [100:020] and 902 KAR 100:165 ~~[of these administrative regulations]~~ to the extent that they transport radioactive material.

Section 5. [6.] General License: NRC Approved Packages. (1) A general license shall be [is hereby] issued to a licensee of the cabinet to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the U.S. Nuclear Regulatory Commission (NRC).



(2) This general license shall apply [applies] only to a licensee who:

(a) Has a copy of the [specific license] certificate of compliance, or other approval of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

(b) Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this administrative regulation, and 10 CFR 71.101 through 71.137;

(c) Prior to the licensee's first use of the package, has registered with the U.S. Nuclear Regulatory Commission; and

(d) Has a quality assurance program, as required by 10 CFR 71.103 through 71.137 [Section 19 of this administrative regulation], approved by the NRC; and

(e) Submits in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, before the licensee's first use of the package, the licensee's name and license number and the package identification number specified in the package approval, [cabinet:]

(3) The general license identified in subsection (1) of this section shall apply [applies] only if the package approval authorizes use of the package under this general license.

(4) For a [previously approved] Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, [packages which are not designated as either B(U) or B(M) in the NRC Certificate of Compliance:] this general license shall be [is] subject to additional restrictions of Section 6 [7] of this administrative regulation.

Section 6. [7:] Previously Approved Type B Packages. (1) A Type B package previously approved by the NRC, but not designated as B(U) or B(M) in the NRC Certificate of Compliance, may be used under the general license of Section 5 [6] of this administrative regulation with the following additional limitations:

(a) [(1)] Fabrication of the packaging was satisfactorily completed before August 31, 1986, as demonstrated by application of its model number in accordance with U.S. NRC Regulations; and

(b) [(2)] The package may not be used for a shipment to a location outside the United States after August 31, 1986, except under multilateral approval [special arrangement approved] by the U.S. Department of Transportation as defined in [accordance with] 49 CFR 173.403; and

(2) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each package.

(3) A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the NRC but without the designation "-85" in the identification number of the NRC Certificate of Compliance, may be used under the general license of Section 5 of this administrative regulation with the following additional conditions:

(a) Fabrication of the package shall have been satisfactorily completed by April 1, 1999 as demonstrated by application of its model number in accordance with U.S. Nuclear Regulatory Commission regulations;

(b) A package used for shipment to a location outside the United States shall be subject to multilateral approval by the U.S. Department of Transportation as defined in 49 CFR 173.403; and

(c) A serial number which uniquely identifies each packaging which conforms to the approved design shall be assigned to and legibly and durably marked on the outside of each packaging. [473.471]

Section 7. [8:] General License: DOT Specification Container. (1) A general license shall be [is] issued to a licensee of the cabinet to transport or to deliver to a carrier for transport licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in the regulations of the U.S. DOT in 49 CFR Parts 173 and 178.

(2) This general license shall apply [applies] only to a licensee who has a quality assurance program approved by the cabinet as satisfying the requirements of 10 CFR 71.103 through 71.136 [Section 19 of this administrative regulation].

(3) This general license shall apply [applies] only to a licensee

who:

(a) Has a copy of the specification; and

(b) Complies with the terms and conditions of the specification, and the applicable requirements of this administrative regulation and 10 CFR 71.101 through 71.137.

(4) The general license in subsection (1) of this section shall be [is] subject to the limitation that the specification container may not be used for a shipment to a location outside the United States [after August 31, 1986] except [under special arrangements approved] by multilateral approval, as defined in U.S. DOT regulations in [accordance with] 49 CFR 173.403 [473.472].

Section 8. [9:] General License: Use of Foreign Approved Package. (1)(a) A general license shall be [is] issued to a licensee of the cabinet to transport or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate which has been revalidated by the U.S. DOT as meeting the applicable requirements of 49 CFR 171.12.

(b) Except as provided in this section, the general license shall apply only to a licensee who has a quality assurance program approved by the NRC as satisfying the applicable provisions of 10 CFR 71.101 through 71.137.

(2) This general license shall apply [applies] only to shipments made to or from locations outside the United States.

(3) This general license shall apply [applies] to a licensee who:

(a) Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment; and

(b) Complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this administrative regulation and 10 CFR 71.101 through 71.137.

(4) With respect to the quality assurance provisions of 10 CFR 71 through 71.137, the licensee shall be exempt from design, construction, and fabrication considerations.

[Section 10. General License: Type A, Fissile Glass II Packages. (1) A general license is hereby issued to a licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Glass II package:

(2) This general license applies only if a package contains no more than a Type A quantity of radioactive material, including only one (1) of the following:

(a) Up to forty (40) grams of uranium-235; or

(b) Up to thirty (30) grams of uranium-233; or

(c) Up to twenty-five (25) grams of the fissile radionuclides of plutonium, except that for encapsulated plutonium-beryllium neutron sources in special form, an A<sub>1</sub> quantity of plutonium may be present; or

(d) A combination of fissile radionuclides in which the sum of the ratios of the amount of each radionuclide to the corresponding maximum amounts in this subsection does not exceed unity.

(3) This general license applies only if, except as specified below for encapsulated plutonium-beryllium sources, a package containing more than fifteen (15) grams of fissile radionuclides is labeled with a transport index not less than the number given by the following equation, where the package contains x grams of uranium-235, y grams of uranium-233, and z grams of the fissile radionuclides of plutonium:

$$\text{minimum transport index} = (0.4x + 0.67y + z) \left( \frac{15}{x + y + z} \right)$$

For a package in which the only fissile material is in the form of encapsulated plutonium-beryllium neutron sources in special form, the transport index based on criticality considerations may be taken as 0.026 times the number of grams of the fissile radionuclides of plutonium in excess of fifteen (15) grams. In all cases, the transport index must be rounded up to one (1) decimal place, and may not exceed ten (10):

Section 11. General License: Restricted, Fissile Glass II Package:

(1) A general license is hereby issued to a licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Glass II package:



(2) This general license applies only if:

(a) The package contains no more than a Type A quantity of radioactive material;

(b) Neither beryllium nor hydrogenous material enriched in deuterium is present;

(c) The total mass of graphite present does not exceed 150 times the total mass of uranium-235 plus plutonium;

(d) Substances having a higher hydrogen density than water, (e.g. certain hydrocarbon oils, are not present, except that polyethylene may be used for packing or wrapping);

(e) Uranium-233 is not present, and the amount of plutonium does not exceed one (1) percent of the amount of uranium-235; and

(f) The amount of uranium-235 is limited as follows:

1. If the fissile radionuclides are not uniformly distributed, the maximum amount of uranium-235 per package may not exceed the value given in the following table:

Uranium enrichment in weight percent of uranium-235 not exceeding	Permissible maximum grams of uranium-235 per package
24	40
20	42
15	45
11	48
10	51
9.5	52
9	54
8.5	55
8	57
7.5	59
7	60
6.5	62
6	65
5.5	68
5	72
4.5	76
4	80
3.5	88
3	100
2.5	120
2	164
1.5	272
1.35	320
1	680 <sup>a</sup>
0.92	1200 <sup>a</sup>

<sup>a</sup>Pursuant to its agreement with the U.S. Nuclear Regulatory Commission, the cabinet jurisdiction extends only to 350 grams of uranium-235.

2. If the fissile radionuclides are distributed uniformly (i.e., cannot form a lattice arrangement within the packaging) the maximum amount of uranium-235 per package may not exceed the value given in the following table:

Uranium enrichment in weight percent of Uranium-235 not exceeding	Permissible maximum grams of uranium-235 per package
4	84
3.5	92
3	112
2.5	148
2	240
1.5	569 <sup>a</sup>
1.35	800 <sup>a</sup>

<sup>a</sup>Pursuant to its agreement with the U.S. Nuclear Regulatory Commission, the cabinet jurisdiction extends only to 350 grams of uranium-235.

(g) The transport index of each package based on critically considerations is taken as ten (10) times the number of grams of uranium-235 in the package divided by the maximum allowable number of grams per package in accordance with Table I or II above as applica-

ble.

Section 12. Fissile Material: Assumptions as to Unknown Properties. If the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in a package is not known, the licensee shall package the fissile material as if the unknown properties have credible values that may cause the maximum nuclear reactivity.]

Section 9 [13:] Preliminary Determinations. Prior to the first use of a packaging for the shipment of radioactive material:

(1) The licensee shall ascertain that there are no defects which may significantly reduce the effectiveness of the packaging;

(2) If the maximum normal operating pressure will exceed thirty-five (35) [thirty-four and three-tenths (34.3)] kilopascal (five (5) lb/in<sup>2</sup>) [psf] gauge, the licensee shall test the containment system at an internal pressure at least fifty (50) percent higher than the maximum normal operating pressure to verify the capability of that system to maintain its structural integrity at that pressure.

(3) The licensee shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number assigned by the U.S. Nuclear Regulatory Commission. Prior to applying the model number, the licensee shall determine that the packaging has been fabricated in accordance with the design approved by the U.S. Nuclear Regulatory Commission.

Section 10, [14:] Routine Determinations. Prior to each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this administrative regulation and of the license. The licensee shall determine that:

(1) The package is proper for the contents to be shipped;

(2) The package is in unimpaired physical condition except for superficial defects, such as marks or dents;

(3) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

(4) A system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

(5) A pressure relief device is operable and set in accordance with written procedures;

(6) The package has been loaded and closed in accordance with written procedures;

(7) For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;

(8) A structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified by 10 CFR 71.45 [the U.S. Nuclear Regulatory Commission].

(9) [(b)(a)] The level of nonfixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable, and within the limits specified by the U.S. Department of Transportation in 49 CFR 173.443; [The level of nonfixed radioactive contamination may be determined by wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements shall be taken in the most appropriate locations to yield a representative assessment of the nonfixed contamination levels. Except as provided under paragraph (b) of this subsection, the amount of radioactivity measured on a single wiping material averaged over the surface wiped, shall not exceed the limits given in Table III of this subsection at any time during transport. Other methods of assessment of equal or greater efficiency may be used. If other methods are used, the detection efficiency of the method used shall be taken into account and in no case may the non-fixed contamination on the external surfaces of the package exceed ten (10) times the limits listed in Table III of this subsection.]

Contaminant	Maximum Permissible Limits	
	uCi/cm <sup>2</sup>	dpm/cm <sup>2</sup>

Beta-gamma-emitting radio-nuclides; all radionuclides with half-lives less than ten (10) days; natural uranium; natural thorium; uranium-235; uranium-238; thorium-228; thorium-230 and thorium-232 when contained in ores or physical concentrates	$10^{-5}$	22
All other alpha-emitting radionuclides	$10^{-6}$	2.2

(b) In the case of packages transported as exclusive use shipments by rail or highway only, the nonfixed radioactive contamination at any time during transport shall not exceed ten (10) times the levels prescribed in paragraph (a) of this subsection. The levels at the beginning of transport shall not exceed the levels prescribed in paragraph (a) of this subsection.]

(10) [(9)] External radiation levels around the package and around the vehicle, if applicable, shall not exceed the limits specified in 49 CFR 71.47 [200 millirem per hour at a point in the external surface of the package at any time] during transportation. [The transport index shall not exceed ten (10):

(10) For a package transported as exclusive use by rail, highway or water, radiation levels external to the package may exceed the limits specified in subsection (9) of this section but shall not exceed the following:

(a) 200 millirem/hour on the accessible external surface of the package unless the following conditions are met, in which case the limit is 1000 millirem per hour:

1. The shipment is made in a closed transport vehicle;
2. Provisions are made to secure the package so that its position within the vehicle remains fixed during transportation; and
3. There are no loading or unloading operations between the beginning and end of the transportation;

(b) 200 millirem/hour at a point on the outer surface of the vehicle, including the upper and lower surfaces, or in the case of an open vehicle, at a point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load, and on the lower external surface of the vehicle;

(c) Ten (10) millirem/hour at a point two (2) meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of an open vehicle, at a point two (2) meters from the vertical planes projected from the outer edges of the vehicle; and

(d) Two (2) millirem/hour in a normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers if persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with 902 KAR 100:165, Section 3.

(11) A package shall be prepared for transport so that in still air at 100 degrees Fahrenheit (thirty-eight (38) degrees Centigrade) and in the shade, no accessible surface of a package would have a temperature exceeding 122 degrees Fahrenheit (fifty (50) degrees Centigrade) in a nonexclusive use shipment or 180 degrees Fahrenheit (eighty-two (82) degrees Centigrade) in an exclusive use shipment.]

(11) Accessible package surface temperatures shall not exceed the [these] limits specified in 10 CFR 71.43(g) at any time during transportation.

Section 11. [15:] Air Transport of Plutonium. In addition to the requirements of a general license and exemptions stated in this administrative regulation or included by citation of U.S. Department of Transportation regulations, as may be applicable, the licensee shall assure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:

(1) The plutonium is contained in a medical device designed for individual human application;

(2) The plutonium is contained in a material in which the specific activity is not greater than 0.002 microcurie per gram (70 Bq/g) of material and in which the radioactivity is essentially uniformly distributed;

(3) The plutonium is shipped in a single package containing no more than an  $A_2$  quantity of plutonium in an isotope or form and is shipped in accordance with Section 3 [4] of this administrative regulation; [or]

(4) The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for

that package issued by the U.S. Nuclear Regulatory Commission; or

(5) For a shipment of plutonium by air which is subject to subsection (4) of this section, the licensee shall, through special arrangement with the carrier, require compliance with 49 CFR 175.704, applicable to the air transport of plutonium.

[Section 16. Records. (1) Each licensee shall maintain for a period of two (2) years after shipment a record of each shipment of licensed material not exempt under Section 3 of this administrative regulation, showing, if applicable:

- (a) Identification of the packaging by model number;
- (b) Verification that there are no significant defects in the packaging, as shipped;
- (c) Volume and identification of coolant;
- (d) Type and quantity of licensed material in each package, and the total quantity of each shipment;
- (e) Date of the shipment;
- (f) Name and address of the transferee;
- (g) Address to which the shipment was made; and
- (h) Results of the determinations required by Section 13 of this administrative regulation.

(2) The licensee shall make available to the cabinet for inspection, upon reasonable notice, all records required by this administrative regulation:

Section 17. Reports. The licensee shall report to the cabinet within thirty (30) days:

- (1) An instance in which there is significant reduction in the effectiveness of an authorized packaging during use; and
- (2) Details of defects with safety significance in the packaging after first use, with the means employed to repair the defects and prevent their recurrence.]

Section 12. [18:] Advance Notification of Transport of Irradiated Reactor Fuel and Nuclear Waste. (1)(a) Prior to the transport of nuclear waste outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of nuclear waste to a carrier for transport, a [each] licensee shall provide advance notification of the transport to the governor, or governor's designee, of each state through which the waste will be transported.

(b) Advance notification shall be required pursuant to this section for shipments of irradiated reactor fuel in quantities less than that subject to advance notification requirements in 10 CFR 73.37(f).

(2) Advance notification shall also be [is] required for licensed material, other than irradiated fuel, [only] if:

(a) The nuclear waste is required to be in Type B packaging for transportation;

(b) The nuclear waste is being transported to, through, or across state boundaries to a disposal site or to a collection point for transport to a disposal site; and

(c) The quantity of licensed material in a single package exceeds the least of the following:

1. 3,000 times the  $A_1$  value of the radionuclides as specified in Section 13 of this administrative regulation for special form radioactive material [5,000 curies of special form radionuclides];

2. 3,000 times the  $A_2$  value of the radionuclides as specified in Section 13 of this administrative regulation for normal form radioactive material; or [5,000 curies of uncompressed gases of argon-41, krypton-85m, krypton-87, xenon-131m, or xenon-135];

3. 27,000 curies (1000TBq) [50,000 curies of argon-37, or of uncompressed gases of krypton-85 or xenon-133, or of hydrogen-3 as a gas, as luminous paint, or absorbed on solid material;

4. Twenty (20) curies of other nonspecial form radionuclides for which  $A_2$  is less than or equal to four (4) curies; or

5. 200 curies of to the nonspecial form radionuclides for which  $A_2$  is greater than four (4) curies].

(3) Each advance notification shall be in writing and contain the following information:

(a) The name, address, and telephone number of the shipper, carrier, and receiver of the shipment;

(b) A description of the nuclear waste contained in the shipment as required by [the administrative regulations of the U.S. Department of Transportation;] 49 CFR 172.202 and 172.203(d);

(c) The point of origin of the shipment and the seven (7) day pe-

riod during which departure of the shipment is estimated to occur;

(d) The seven (7) day period during which arrival of the shipment at state boundaries is estimated to occur;

(e) The destination of the shipment, and the seven (7) day period during which arrival of the shipment is estimated to occur; and

(f) A point of contact with a telephone number for current shipment information.

(4) The notification shall be made in writing to the office of each appropriate governor or governor's designee and to the cabinet. A notification delivered by mail shall [must] be postmarked at least seven (7) days before the beginning of the seven (7) day period during which departure of the shipment is estimated to occur. A notification delivered by messenger shall [must] reach the office of the governor, or governor's designee, at least four (4) days before the beginning of the seven (7) day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for three (3) years [one (1) year].

(5) The licensee who finds that schedule information previously furnished will not be met, shall [notify each appropriate governor, or governor's designee, and the cabinet of changes to schedule information provided pursuant to subsection (1) of this section. The notification shall be by] telephone [to] a responsible individual in the office of the governor, or governor's designee and the cabinet and inform that individual of the extent of the delay beyond the schedule originally reported, [~~of the appropriate state or states.~~] The licensee shall maintain for three (3) years [one (1) year] a record of the name of the individual contacted.

(6) A [Each] licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the cabinet. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled. A copy of the notice shall be retained by the licensee for three (3) years [one (1) year].

[Section 19. Quality Assurance Requirements. (1) Each licensee shall establish, maintain, and execute a quality assurance program to verify, by procedures such as checking, auditing, and inspection, that deficiencies, deviations, and defective material and equipment relating to the shipment of packages containing radioactive materials, are promptly identified and corrected. Prior to the use of any package for the shipment of radioactive material, each licensee shall obtain cabinet approval of its quality assurance program.

(2) Each licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used. The licensee shall identify the material and components to be covered by the quality assurance program.

(3) The licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records pertaining to the use of a package for shipment of radioactive material shall be retained for a period of two (2) years after shipment.

Section 20. Determination of  $A_1$  and  $A_2$ . The following procedures are to be followed to make a determination of  $A_1$  and  $A_2$  values:

(1) Single radionuclides:

(a) For a single radionuclide of known identity, the values of  $A_1$  and  $A_2$  are taken from Section 21 of this administrative regulation if listed there. The values  $A_1$  and  $A_2$  in Section 21 of this administrative regulation are also applicable for radionuclides contained in (x;n) or (y;n) neutron sources:

(b) For a single radionuclide whose identity is known but which is not listed in Section 21 of this administrative regulation, the values of  $A_1$  and  $A_2$  are determined according to the following procedure:

1. If the radionuclide emits only one (1) type of radiation,  $A_1$  is determined according to the rules in subparagraphs of this paragraph. For radionuclides emitting different kinds of radiation,  $A_1$  is the most restrictive value of those determined for each kind of radiation. However, in both cases,  $A_1$  is restricted to a maximum of 1000 curies. If a parent nuclide decays into a shorter lived daughter with a half-life not greater than ten (10) days,  $A_1$  is calculated for both the parent and the daughter, and the more limiting of the two (2) values is assigned to the parent nuclide.

a. For gamma emitters,  $A_1$  is determined by the expression:

$$A_1 = \frac{9 \text{ curies}}{r}$$

where  $r$  is the gamma ray constant, corresponding to the dose in R/h at one (1) meter per curie; the number nine (9) results from the choice of one (1) rem/h at a distance of three (3) meters as the reference dose equivalent rate:

b. For x-ray emitters,  $A_1$  is determined by the atomic number of the nuclide:

for  $z$  less than or equal to 55  $A_1 = 1000 \text{ Ci}$

for  $z$  greater than 55  $A_1 = 200 \text{ Ci}$

where  $z$  is the atomic number of the nuclide:

c. For beta emitters,  $A_1$  is determined by the maximum beta energy ( $E_{\max}$ ) according to Section 22 of this administrative regulation;

d. For alpha emitters,  $A_1$  is determined by the expression:

$$A_1 = 1000 A_0$$

where  $A_0$  is the value listed in Section 23 of this administrative regulation:

2.  $A_2$  is the more restrictive of the following two (2) values:

a. The corresponding  $A_1$ ; and

b. The value  $A_0$  obtained from Section 23 of this administrative regulation:

(c) For a single radionuclide whose identity is unknown, the value of  $A_1$  is taken to be two (2) curies and the value of  $A_2$  is taken to be 0.002 curie. However, if the atomic number of the radionuclide is known to be less than 82, the value of  $A_1$  is taken to be ten (10) curies and the value of  $A_2$  is taken to be four-tenths (0.4) curie.

(2) Mixtures of radionuclides, including radioactive decay chains:

(a) For mixed fission products the following activity limits may be assumed if a detailed analysis of the mixture is not carried out:

$$A_1 = 10 \text{ Ci}$$

$$A_2 = 0.4 \text{ Ci}$$

(b) A single radioactive decay chain is considered to be a single radionuclide if the radionuclides are present in their naturally occurring proportions and no daughter nuclide has a half-life either longer than ten (10) days or longer than that of the parent nuclide. The activity to be taken into account and the  $A_1$  and  $A_2$  value from Table I to be supplied are those corresponding to the parent nuclide of that chain. When calculating  $A_1$  or  $A_2$  values, radiation emitted by daughters must be considered. However, in the case of radioactive decay chains in which any daughter nuclide has a half-life either longer than ten (10) days or greater than that of the parent nuclide, the parent and daughter nuclides are considered to be mixtures of different nuclides:

(c) In the case of a mixture of different radionuclides, where the identity and activity of each radionuclide are known, the permissible activity of each radionuclide  $R_1, R_2, \dots, R_n$  is such that  $F_1 + F_2 + \dots + F_n$  is greater than unity, where

$$F_1 = \frac{\text{Total activity of } R_1}{A_1(R_1)}$$

$$F_2 = \frac{\text{Total activity of } R_2}{A_1(R_2)}$$

$$F_n = \frac{\text{Total activity of } R_n}{A_1(R_n)}$$

$A_1(R_1, R_2, \dots, R_n)$  is the value of  $A_1$  or  $A_2$  as appropriate for the nuclide  $R_1, R_2, \dots, R_n$ :

(d) If the identity of each radionuclide is known but the individual activities of some of the radionuclides are not known, the formula given in paragraph (c) of this subsection is applied to establish the values of  $A_1$  or  $A_2$  as appropriate. All the radionuclides whose individual activities are not known (their total activity will, however, be known) are classed in a single group and the most restrictive value of  $A_1$  and  $A_2$  applicable to any one (1) is used as the value of  $A_1$  or  $A_2$  in the denominator of the fraction:

(e) If the identity of each radionuclide is known but the individual activity of none of the radionuclides is known, the most restrictive value of  $A_1$  or  $A_2$  applicable to any one (1) of the radionuclides present is adopted as the applicable value:

(f) If the identity of none of the nuclides is known, the value of  $A_1$  is taken to be two (2) curies and the value of  $A_2$  is taken to be 0.002 curie. However, if alpha emitters are known to be absent, the value of  $A_2$  is taken to be four-tenths (0.4) curie.]

Section 13. Determination of  $A_1$  and  $A_2$ . (1) Values of  $A_1$  and  $A_2$  for individual radionuclides, which are the bases for many activity limits elsewhere in these administrative regulations are established in Table A-1 of subsection (6) of this section. The curie (Ci) values specified shall be obtained by converting from the Terabecquerel (TBq) figure. The curie values shall be expressed to three (3) significant figures to assure that the difference in the TBq and Ci quantities is one-tenth (.1) of one (1) percent or less. Where values of  $A_1$  or  $A_2$  are unlimited, it shall be for radiation control purposes only. For nuclear criticality safety, some materials shall be subject to controls placed on fissile material.

(2) For individual radionuclides whose identities are known, but which are not listed in Table A-1 of subsection (6) of this section, the determination of the values of  $A_1$  and  $A_2$  shall require commission approval, except that the values of  $A_1$  and  $A_2$  in Table A - 2 may be used without obtaining cabinet approval.

(3) In the calculations of  $A_1$  and  $A_2$  for a radionuclide not in Table A-1 of subsection (6) of this section, a single radioactive decay chain, in which radionuclides are present in their naturally occurring proportions, and in which no daughter nuclide has a half-life either longer than ten (10) days, or longer than that of the parent nuclide, shall be considered as a single radionuclide, and the activity to be taken into account, and the  $A_1$  or  $A_2$  value to be applied shall be those corresponding to the parent nuclide of that chain. In the case of radioactive decay chains in which any daughter nuclide has a half-life either longer than ten (10) days, or greater than that of the parent nuclide, the parent and those daughter nuclides shall be considered as mixtures of different nuclides.

(4) For mixtures of radionuclides whose identities and respective activities are known, the following conditions shall apply:

(a) For special form radioactive material, the maximum quantity transported in a Type A package:

$$\sum_i \frac{B(i)}{A_1(i)} \text{ less than or equal to } 1$$

(b) For normal form radioactive material, the maximum quantity transported in a Type A package:

$$\sum_i \frac{B(i)}{A_2(i)} \text{ less than or equal to } 1$$

Where  $B(i)$  is the activity of radionuclide  $i$  and  $A_1(i)$  and  $A_2(i)$  are the  $A_1$  and  $A_2$  values for radionuclide  $i$ , respectively. Alternatively, an  $A_1$  value for mixtures of special form material may be determined as follows:

$$A_1 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_1(i)}}$$

Where  $f(i)$  is the of activity of nuclide  $i$  in the mixture and  $A_1(i)$  is the appropriate  $A_1$  value for nuclide  $i$ . An  $A_2$  value for mixtures of normal form material may be determined as follows:

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

Where  $f(i)$  is the fraction of activity of nuclide  $i$  in the mixture and  $A_2(i)$  is the appropriate  $A_2$  value for nuclide  $i$ .

(5) If the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest  $A_1$  or  $A_2$  value, as appropriate, for the radionuclides in each group may be used in applying the formulas in subsection 4. Groups may be based on the total

alpha activity and the total beta/gamma activity when these are known, using the lowest  $A_1$  or  $A_2$  values for the alpha emitters and beta/gamma.

(6) Table A-1: Values of  $A_1$ ,  $A_2$ , and specific activities of radionuclides.

Symbol of Radio-nuclide	Element and atomic number	Specific Activity		
		$A_1$ (Ci)	$A_2$ (Ci)	(Ci/g)
Ac-225	Actinium (89)	16.2	0.270	$5.8 \times 10^4$
Ac-227		1080	$5.41 \times 10^{-4}$	$7.2 \times 10^1$
Ac-228		16.2	10.8	$2.2 \times 10^6$
Ag-105	Silver (47)	54.1	54.1	$3.0 \times 10^4$
Ag-108m		16.2	16.2	$2.6 \times 10^1$
Ag-110m		10.8	10.8	$4.7 \times 10^3$
Ag-111		16.2	13.5	$1.6 \times 10^5$
Al-26	Aluminium (13)	10.8	10.8	$1.9 \times 10^2$
Am-241	Americium (95)	54.1	$5.41 \times 10^{-3}$	3.4
Am-242m		54.1	$5.41 \times 10^{-3}$	$1.0 \times 10^1$
Am-243		54.1	$5.41 \times 10^{-3}$	$2.0 \times 10^1$
Ar-37	Argon (18)	1080	1080	$9.9 \times 10^4$
Ar-39		54.1	54.1	$3.4 \times 10^1$
Ar-41		16.2	16.2	$4.2 \times 10^7$
Ar-42		5.41	5.41	$2.6 \times 10^2$
As-72	Arsenic (33)	5.41	5.41	$1.7 \times 10^6$
As-73		1080	1080	$2.2 \times 10^4$
As-74		27.0	13.5	$9.9 \times 10^4$
As-76		5.41	5.41	$1.6 \times 10^6$
As-77		54.1	13.5	$1.0 \times 10^6$
At-211	Astatine (85)	81.1	54.1	$2.1 \times 10^6$
Au-193	Gold (79)	162	162	$9.2 \times 10^5$
Au-194		27.0	27.0	$4.1 \times 10^5$
Au-195		270	270	$3.7 \times 10^3$
Au-196		54.1	54.1	$1.1 \times 10^5$
Au-198		81.1	13.5	$2.4 \times 10^5$
Au-199		270	24.3	$2.1 \times 10^5$
Ba-131	Barium (56)	54.1	54.1	$8.4 \times 10^4$
Ba-133m		270	24.3	$6.1 \times 10^5$
Ba-133		81.1	81.1	$2.6 \times 10^2$
Ba-140		10.8	10.8	$7.3 \times 10^4$
Be-7	Beryllium (4)	54.1	54.1	$3.5 \times 10^5$
Be-10		54.1	13.5	$2.2 \times 10^2$
Bi-205	Bismuth (83)	16.2	16.2	$4.2 \times 10^4$
Bi-206		8.11	8.11	$1.0 \times 10^5$
Bi-207		18.9	18.9	$5.2 \times 10^1$
Bi-210m		8.11	0.811	$5.7 \times 10^4$
Bi-210		16.2	13.5	$1.2 \times 10^5$
Bi-212		8.11	8.11	$1.5 \times 10^7$
Bk-247	Berkelium (97)	54.1	$5.41 \times 10^{-3}$	1.0
Bk-249		1080	2.16	$1.6 \times 10^3$
Br-76	Bromine (35)	8.11	8.11	$2.5 \times 10^6$
Br-77		81.1	81.1	$7.1 \times 10^5$
Br-82		10.8	10.8	$1.1 \times 10^5$
C-11	Carbon (6)	27	13.5	$8.4 \times 10^8$
C-14		1080	54.1	4.5
Ca-41	Calcium (20)	1080	1080	$8.5 \times 10^2$
Ca-45		1080	24.3	$1.8 \times 10^4$
Ca-47		24.3	13.5	$6.1 \times 10^5$
Cd-109	Cadmium (48)	1080	27.0	$2.6 \times 10^3$
Cd-113m		54.1	2.43	$2.2 \times 10^2$
Cd-115m		8.11	8.11	$2.5 \times 10^4$
Cd-115		108	13.5	$5.1 \times 10^5$
Ce-139	Cerium (58)	162	162	$6.8 \times 10^3$
Ce-141		270	13.5	$2.8 \times 10^4$
Ce-143		16.2	13.5	$6.6 \times 10^5$
Ce-144		5.41	5.41	$3.2 \times 10^3$
Cf-248	Californium (98)	81.1	$8.11 \times 10^{-2}$	$1.6 \times 10^3$
Cf-249		54.1	$5.41 \times 10^{-3}$	4.1

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Cf-250		135	$1.35 \times 10^{-2}$	$1.1 \times 10^2$
Cf-251		54.1	$5.41 \times 10^{-3}$	1.6
Cf-252		2.70	$2.70 \times 10^{-2}$	$5.4 \times 10^2$
Cf-253		1080	1.62	$2.9 \times 10^4$
Cf-254		$8.11 \times 10^{-2}$	$1.62 \times 10^{-2}$	$8.5 \times 10^3$
Cl-36	Chlorine (17)	541	13.5	$3.3 \times 10^{-2}$
Cl-38		5.41	5.41	$1.3 \times 10^8$
Cm-240	Curium (96)	1080	0.541	$2.0 \times 10^4$
Cm-241		54.1	24.3	$1.7 \times 10^4$
Cm-242		1080	0.270	$3.3 \times 10^3$
Cm-243		81.1	$8.11 \times 10^{-3}$	$5.2 \times 10^1$
Cm-244		108	$1.08 \times 10^{-2}$	$8.1 \times 10^1$
Cm-245		54.1	$5.41 \times 10^{-3}$	$1.7 \times 10^1$
Cm-246		54.1	$5.41 \times 10^{-3}$	$3.1 \times 10^1$
Cm-247		54.1	$5.41 \times 10^{-3}$	$9.3 \times 10^{-5}$
Cm-248		1.08	$1.35 \times 10^{-3}$	$4.2 \times 10^{-3}$
Co-55	Cobalt (27)	13.5	13.5	$3.1 \times 10^5$
Co-56		8.11	8.11	$3.0 \times 10^4$
Co-57		216	216	$8.4 \times 10^3$
Co-58m		1080	1080	$5.9 \times 10^6$
Co-58		27.0	27.0	$3.2 \times 10^4$
Co-60		10.8	10.8	$1.1 \times 10^3$
Cr-51	Chromium (24)	811	811	$9.2 \times 10^4$
Cs-129	Cesium (55)	108	108	$7.6 \times 10^5$
Cs-131		1080	1080	$1.0 \times 10^5$
Cs-132		27.0	27.0	$1.5 \times 10^5$
Cs-134m		1080	243	$8.0 \times 10^6$
Cs-134		16.2	13.5	$1.3 \times 10^3$
Cs-135		1080	24.3	$1.2 \times 10^{-3}$
Cs-136		13.5	13.5	$7.3 \times 10^4$
Cs-137		54.1	13.5	$8.7 \times 10^1$
Cu-64	Copper (29)	135	24.3	$3.9 \times 10^8$
Cu-67		243	24.3	$7.6 \times 10^5$
Dy-159	Dysprosium (66)	541	541	$5.7 \times 10^3$
Dy-165		16.2	13.5	$8.2 \times 10^6$
Dy-166		8.11	8.11	$2.3 \times 10^5$
Er-169	Erbium (68)	1080	24.3	$8.3 \times 10^4$
Er-171		16.2	13.5	$2.4 \times 10^6$
Es-253	Einsteinium (99)	5400	$5.41 \times 10^{-1}$	
Es-254		811	$8.11 \times 10^{-2}$	
Es-254m		16.2	10.8	
Es-255				
Eu-147	Europium (63)	54.1	54.1	$3.7 \times 10^4$
Eu-148		13.5	13.5	$1.6 \times 10^4$
Eu-149		541	541	$9.4 \times 10^3$
Eu-150		18.9	18.9	$1.6 \times 10^6$
Eu-152m		16.2	13.5	$2.2 \times 10^6$
Eu-152		24.3	24.3	$1.8 \times 10^2$
Eu-154		21.6	13.5	$2.6 \times 10^2$
Eu-155		541	54.1	$4.9 \times 10^2$
Eu-156		16.2	13.5	$5.5 \times 10^4$
F-18	Fluorine (9)	27.0	13.5	$9.5 \times 10^7$
Fe-52	Iron (26)	5.41	5.41	$7.3 \times 10^8$
Fe-55		1080	1080	$2.4 \times 10^3$
Fe-59		21.6	21.6	$5.0 \times 10^4$
Fe-60		1080	5.41	$2.0 \times 10^{-2}$
Fm-255	Fermium (100)	1080	21.6	
Fm-257		270	$2.16 \times 10^{-1}$	
Ga-67	Gallium (31)	162	162	$6.0 \times 10^5$
Ga-68		8.11	8.11	$4.1 \times 10^7$
Ga-72		10.8	10.8	$3.1 \times 10^8$
Gd-146	Gadolinium (64)	10.8	10.8	$1.9 \times 10^4$
Gd-148		81.1	$8.11 \times 10^{-3}$	$3.2 \times 10^1$
Gd-153		270	135	$3.5 \times 10^3$
Gd-159		108	13.5	$1.1 \times 10^6$
Ge-68	Germanium (32)	8.11	8.11	$7.1 \times 10^{-3}$

Ge-71		1080	1080	$1.6 \times 10^5$
Ge-77		8.11	8.11	$3.6 \times 10^8$
H-3	Hydrogen (1)			
Hf-172	Hafnium (72)	13.5	8.11	$1.1 \times 10^3$
Hf-175		81.1	81.1	$1.1 \times 10^4$
Hf-181		54.1	24.3	$1.7 \times 10^4$
Hf-182		108	0.811	$2.2 \times 10^4$
Hg-194	Mercury (80)	27.0	27.0	3.5
Hg-195m		135	135	$4.0 \times 10^5$
Hg-197m		270	24.3	$6.7 \times 10^5$
Hg-197		270	270	$2.5 \times 10^5$
Hg-203		108	24.3	$1.4 \times 10^4$
Ho-163	Holmium (67)	1080	1080	$7.6 \times 10^1$
Ho-166m		16.2	8.11	1.8
Ho-166		8.11	8.11	$7.0 \times 10^5$
I-123	Iodine (53)	162	162	$1.9 \times 10^6$
I-124		24.3	24.3	$2.5 \times 10^5$
I-125		541	54.1	$1.7 \times 10^4$
I-126		54.1	24.3	$8.0 \times 10^4$
I-129		Unlimited	Unlimited	$1.8 \times 10^{-4}$
I-131		81.1	13.5	$1.2 \times 10^5$
I-132		10.8	10.8	$1.0 \times 10^7$
I-133		16.2	13.5	$1.1 \times 10^6$
I-134		8.11	8.11	$2.7 \times 10^7$
I-135		16.2	13.5	$3.5 \times 10^5$
In-111	Indium (49)	54.1	54.1	$4.2 \times 10^5$
In-113m		108	108	$1.7 \times 10^7$
In-114m		8.11	8.11	$2.3 \times 10^4$
In-115m		162	24.3	$6.1 \times 10^6$
Ir-189	Iridium (77)	270	270	$5.2 \times 10^4$
Ir-190		18.9	18.9	$6.2 \times 10^4$
Ir-192		27.0	13.5	$9.2 \times 10^3$
Ir-193m		270	270	$6.4 \times 10^4$
Ir-194		5.41	5.41	$8.4 \times 10^5$
K-40	Potassium (19)	16.2	16.2	$6.4 \times 10^6$
K-42		5.41	5.41	$6.0 \times 10^5$
K-43		27.0	13.5	$3.3 \times 10^6$
Kr-81	Krypton (36)	1080	1080	$2.1 \times 10^2$
Kr-85m		162	162	$8.2 \times 10^6$
Kr-85		541	270	$3.9 \times 10^2$
Kr-87		5.41	5.41	$2.8 \times 10^7$
La-137	Lanthanum (57)	1080	54.1	$4.4 \times 10^2$
La-140		10.8	10.8	$5.6 \times 10^5$
Lu-172	Lutetium (71)	13.5	13.5	$1.1 \times 10^5$
Lu-173		216	216	$1.5 \times 10^3$
Lu-174m		541	216	$5.3 \times 10^3$
Lu-174		216	108	$6.2 \times 10^2$
Lu-177		81.1	24.3	$1.1 \times 10^5$
MFP	For mixed fission products, use formula for mixtures or Table A-2			
Mg-28	Magnesium (12)	5.41	5.41	$5.4 \times 10^6$
Mn-52	Manganese (25)		8.11	8.11
$4.4 \times 10^5$				
Mn-53			Unlimited	Unlimited
$1.8 \times 10^{-3}$				
Mn-54		27.0	27.0	$7.7 \times 10^3$
Mn-56		5.41	5.41	$2.2 \times 10^7$
Mo-93	Molybdenum (42)	1080	189	1.1
Mo-99		16.2	13.5	$4.8 \times 10^5$
N-13	Nitrogen (7)	16.2	13.5	$1.5 \times 10^9$
Na-22	Sodium (11)	13.5	13.5	$6.3 \times 10^3$
Na-24		5.41	5.41	$8.7 \times 10^6$
Nb-92m	Niobium (41)	18.9	18.9	$1.4 \times 10^5$
Nb-93m		1080	162	$2.4 \times 10^2$
Nb-94		16.2	16.2	$1.9 \times 10^{-1}$
Nb-95		27.0	27.0	$3.9 \times 10^4$
Nb-97		16.2	13.5	$2.7 \times 10^7$

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Nd-147	Neodymium (60)	108	13.5	$8.1 \times 10^4$
Nd-149		16.2	13.5	$1.2 \times 10^7$
Ni-59	Nickel (28)	1080	1080	$8.0 \times 10^{-2}$
Ni-63		1080	811	$5.7 \times 10^1$
Ni-65		8.11	8.11	$1.9 \times 10^7$
Np-235	Neptunium (93)	1080	1080	$1.4 \times 10^3$
Np-236		189	$2.70 \times 10^{-2}$	$1.3 \times 10^{-2}$
Np-237		54.1	$5.41 \times 10^{-3}$	$7.1 \times 10^{-4}$
Np-239		162	13.5	$2.3 \times 10^5$
Os-185	Osmium (76)	27.0	27.0	$7.5 \times 10^3$
Os-191m		1080	1080	$1.3 \times 10^6$
Os-191		270	24.3	$4.4 \times 10^4$
Os-193		16.2	13.5	$5.3 \times 10^5$
Os-194		5.41	5.41	$3.1 \times 10^2$
P-32	Phosphorus (15)	8.11	8.11	$2.9 \times 10^5$
P-33		1080	24.3	$1.6 \times 10^5$
Pa-230	Protactinium (91)	54.1	2.70	$3.3 \times 10^4$
Pa-231		16.2	$1.62 \times 10^{-3}$	$4.7 \times 10^{-2}$
Pa-233		135	24.3	$2.1 \times 10^4$
Pb-201	Lead (82)	27.0	27.0	$1.7 \times 10^6$
Pb-202		1080	54.1	$3.4 \times 10^{-3}$
Pb-203		81.1	81.1	$3.0 \times 10^5$
Pb-205		Unlimited	Unlimited	$1.2 \times 10^{-4}$
Pb-210		16.2	0.243	$7.6 \times 10^1$
Pb-212		8.11	8.11	$1.4 \times 10^6$
Pd-103	Palladium (46)	1080	1080	$7.5 \times 10^4$
Pd-107		Unlimited	Unlimited	$5.1 \times 10^{-4}$
Pd-109		16.2	13.5	$2.1 \times 10^6$
Pm-143	Promethium (61)	81.1	81.1	$3.4 \times 10^3$
Pm-144		16.2	16.2	$2.5 \times 10^3$
Pm-145		811	189	$1.4 \times 10^2$
Pm-147		1080	24.3	$9.3 \times 10^2$
Pm-148m		13.5	13.5	$2.1 \times 10^4$
Pm-149		16.2	13.5	$4.0 \times 10^5$
Pm-151		81.1	13.5	$7.3 \times 10^5$
Po-208	Polonium (84)	1080	0.541	$5.9 \times 10^2$
Po-209		1080	0.541	$1.7 \times 10^1$
Po-210		1080	0.541	$4.5 \times 10^3$
Pr-142	Praseodymium (59)	5.41	5.41	$1.2 \times 10^6$
Pr-143		108	13.5	$6.7 \times 10^4$
Pt-188	Platinum (78)	16.2	16.2	$6.8 \times 10^4$
Pt-191		81.1	81.1	$2.4 \times 10^5$
Pt-193m		1080	243	$1.6 \times 10^5$
Pt-193		1080	1080	$3.7 \times 10^1$
Pt-195m		270	54.1	$1.7 \times 10^5$
Pt-197m		270	24.3	$1.0 \times 10^7$
Pt-197		541	13.5	$8.7 \times 10^5$
Pu-236	Plutonium (94)	189	$1.89 \times 10^{-2}$	$5.3 \times 10^2$
Pu-237		541	541	$1.2 \times 10^4$
Pu-238		189	$5.41 \times 10^{-3}$	$1.7 \times 10^1$
Pu-239		541	$5.41 \times 10^{-3}$	$6.2 \times 10^{-2}$
Pu-240		54.1	$5.41 \times 10^{-3}$	$2.3 \times 10^{-1}$
Pu-241		54.1	0.270	$1.0 \times 10^2$
Pu-242		54.1	$5.41 \times 10^{-3}$	$3.9 \times 10^{-3}$
Pu-244		1080	$5.41 \times 10^{-3}$	$1.8 \times 10^{-5}$
Ra-223	Radium (88)	54.1	0.811	$5.1 \times 10^4$
Ra-224		8.11	1.62	$1.6 \times 10^5$
Ra-225		16.2	0.541	$3.9 \times 10^4$
Ra-226		8.11	0.541	1.0
Ra-228		16.2	1.08	$2.7 \times 10^2$
Rb-81	Rubidium (37)	54.1	24.3	$8.4 \times 10^6$
Rb-83		54.1	54.1	$1.8 \times 10^4$
Rb-84		27.0	24.3	$4.7 \times 10^4$
Rb-86		8.11	8.11	$8.1 \times 10^4$
Rb-87		Unlimited	Unlimited	$8.6 \times 10^{-8}$

Rb (natural)		Unlimited	Unlimited	$1.8 \times 10^8$
Re-183	Rhenium (75)	135	135	$1.0 \times 10^4$
Re-184m		81.1	81.1	$4.3 \times 10^3$
Re-184		27.0	27.0	$1.9 \times 10^4$
Re-186		108	13.5	$1.9 \times 10^5$
Re-187		Unlimited	Unlimited	$3.8 \times 10^8$
Re-188		5.41	5.41	$9.8 \times 10^5$
Re-189		108	13.5	$6.8 \times 10^5$
Re (natural)		Unlimited	Unlimited	$2.4 \times 10^8$
Rh-99	Rhodium (45)	54.1	54.1	$8.2 \times 10^4$
Rh-101		108	108	$1.1 \times 10^3$
Rh-102m		54.1	24.3	$6.2 \times 10^3$
Rh-102		13.5	13.5	$1.2 \times 10^3$
Rh-103m		1080	1080	$3.3 \times 10^7$
Rh-105		270	24.3	$8.4 \times 10^5$
Rn-222	Radon (86)	5.41	0.108	$1.5 \times 10^5$
Ru-97	Ruthenium (44)	108	108	$4.6 \times 10^6$
Ru-103		54.1	24.3	$3.2 \times 10^4$
Ru-105		16.2	13.5	$6.7 \times 10^6$
Ru-106		5.41	5.41	$3.3 \times 10^3$
S-35	Sulfur (16)	1080	54.1	$4.3 \times 10^4$
Sb-122	Antimony (51)	8.11	8.11	$4.0 \times 10^5$
Sb-124		16.2	13.5	$1.7 \times 10^4$
Sb-125		54.1	24.3	$1.0 \times 10^3$
Sb-126		10.8	10.8	$8.4 \times 10^4$
Sc-44	Scandium (21)	13.5	13.5	$1.8 \times 10^7$
Sc-46		13.5	13.5	$3.4 \times 10^4$
Sc-47		243	24.3	$8.3 \times 10^5$
Sc-48		8.11	8.11	$1.5 \times 10^8$
Se-75	Selenium (34)	81.1	81.1	$1.5 \times 10^4$
Se-79		1080	54.1	$7.0 \times 10^{-2}$
Si-31	Silicon (14)	16.2	13.5	$3.9 \times 10^7$
Si-32		1080	5.41	$1.1 \times 10^2$
Sm-145	Samarium (62)	541	541	$2.6 \times 10^3$
Sm-147		Unlimited	Unlimited	$2.3 \times 10^8$
Sm-151		1080	108	$2.6 \times 10^1$
Sm-153		108	13.5	$4.4 \times 10^5$
Sn-113	Tin (50)	108	108	$1.0 \times 10^4$
Sn-117m		162	54.1	$8.2 \times 10^4$
Sn-119m		1080	1080	$3.7 \times 10^3$
Sn-121m		1080	24.3	$5.4 \times 10^1$
Sn-123		16.2	13.5	$8.2 \times 10^3$
Sn-125		5.41	5.41	$1.1 \times 10^5$
Sn-126		8.11	8.11	$2.8 \times 10^{-2}$
Sr-82	Strontium (38)	5.41	5.41	$6.2 \times 10^4$
Sr-85m		135	135	$3.3 \times 10^7$
Sr-85		54.1	54.1	$2.4 \times 10^4$
Sr-87m		81.1	81.1	$1.3 \times 10^7$
Sr-89		16.2	13.5	$2.9 \times 10^4$
Sr-90		5.41	2.70	$1.4 \times 10^2$
Sr-91		8.11	8.11	$3.6 \times 10^6$
Sr-92		21.6	13.5	$1.3 \times 10^7$
T	Tritium (1)	1080	1080	$9.7 \times 10^3$
Ta-178	Tantalum (73)	27.0	27.0	$1.1 \times 10^8$
Ta-179		811	811	$1.1 \times 10^3$
Ta-182		21.6	13.5	$6.2 \times 10^3$
Tb-157	Terbium (65)	1080	270	$1.5 \times 10^1$
Tb-158		27.0	18.9	$1.5 \times 10^1$
Tb-160		24.3	13.5	$1.1 \times 10^4$
Tc-95m	Technetium (43)	54.1	54.1	$2.2 \times 10^4$
Tc-96m		10.8	10.8	$3.8 \times 10^7$
Tc-96		10.8	10.8	$3.2 \times 10^5$
Tc-97m		1080	1080	$1.5 \times 10^4$
Tc-97		Unlimited	Unlimited	$1.4 \times 10^{-3}$
Tc-98		18.9	18.9	$8.7 \times 10^4$
Tc-99m		216	216	$5.3 \times 10^6$
Tc-99		1080	24.3	$1.7 \times 10^{-2}$



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Te-118	Tellurium (52)	5.41	5.41	1.8x10 <sup>5</sup>
Te-121m		135	135	7.0x10 <sup>3</sup>
Te-121		5.41	5.41	6.4x10 <sup>4</sup>
Te-123m		189	189	8.9x10 <sup>3</sup>
Te-125m		811	243	1.8x10 <sup>4</sup>
Te-127m		541	13.5	9.4x10 <sup>3</sup>
Te-127		541	13.5	2.6x10 <sup>6</sup>
Te-129m		16.2	13.5	3.0x10 <sup>4</sup>
Te-129		16.2	13.5	2.1x10 <sup>7</sup>
Te-131m		18.9	13.5	8.0x10 <sup>5</sup>
Te-132		10.8	10.8	8.0x10 <sup>5</sup>
Th-227	Thorium (90)	243	0.270	3.1x10 <sup>4</sup>
Th-228		8.11	1.08x10 <sup>-2</sup>	8.2x10 <sup>2</sup>
Th-229		8.11	8.11x10 <sup>-4</sup>	2.1x10 <sup>-1</sup>
Th-230		54.1	5.41x10 <sup>-3</sup>	2.1x10 <sup>-2</sup>
Th-231		1080	24.3	5.3x10 <sup>5</sup>
Th-232		Unlimited	Unlimited	1.1x10 <sup>-7</sup>
Th-234		5.41	5.41	2.3x10 <sup>4</sup>
Th (natural)		Unlimited	Unlimited	2.2x10 <sup>-7</sup>
Ti-44	Titanium (22)	13.5	5.41	1.7x10 <sup>2</sup>
Tl-200	Thallium (81)	21.6	21.6	6.0x10 <sup>5</sup>
Tl-201		270	270	2.1x10 <sup>5</sup>
Tl-202		54.1	54.1	5.3x10 <sup>4</sup>
Tl-204		108	13.5	4.6x10 <sup>-2</sup>
Tm-167	Thalium (69)	189	189	8.5x10 <sup>4</sup>
Tm-168		21.6	21.6	8.5x10 <sup>3</sup>
Tm-170		108	13.5	6.0x10 <sup>3</sup>
Tm-171		1080	270	1.1x10 <sup>3</sup>
U-230	Uranium (92)	1080	0.270	2.7x10 <sup>4</sup>
U-232		81.1	8.11x10 <sup>-3</sup>	2.2x10 <sup>1</sup>
U-233		270	2.70x10 <sup>-2</sup>	9.7x10 <sup>-3</sup>
U-234		270	2.70x10 <sup>-2</sup>	6.2x10 <sup>-3</sup>
U-235		Unlimited	Unlimited	2.2x10 <sup>-6</sup>
U-236		270	2.70x10 <sup>-2</sup>	6.5x10 <sup>-5</sup>
U-238		Unlimited	Unlimited	3.4x10 <sup>-7</sup>
U (natural)		Unlimited	Unlimited	7.1x10 <sup>-7</sup>
U (enriched 5% or less)	Unlimited	Unlimited	(See Table A-3)	
U (enriched more than 5%)		270	2.70x10 <sup>-2</sup>	(See Table A-3)
U (depleted)		Unlimited	Unlimited	(See Table A-3)
V-48	Vanadium (23)	8.11	8.11	1.7x10 <sup>5</sup>
V-49		1080	1080	8.1x10 <sup>3</sup>
W-178	Tungsten (74)	27.0	27.0	3.4x10 <sup>4</sup>
W-181		811	811	6.0x10 <sup>3</sup>
W-185		1080	24.3	9.4x10 <sup>3</sup>
W-187		54.1	13.5	7.0x10 <sup>5</sup>
W-188		5.41	5.41	1.0x10 <sup>4</sup>

Xe-122	Xenon (54)	5.41	5.41	1.3x10 <sup>6</sup>
Xe-123		5.41	5.41	1.2x10 <sup>7</sup>
Xe-127		108	108	2.8x10 <sup>4</sup>
Xe-131m		1080	1080	8.4x10 <sup>4</sup>
Xe-133		541	541	1.9x10 <sup>5</sup>
Xe-135		108	108	2.6x10 <sup>6</sup>
Y-87	Yttrium (39)	54.1	54.1	4.5x10 <sup>5</sup>
Y-88		10.8	10.8	1.4x10 <sup>4</sup>
Y-90		5.41	5.41	5.4x10 <sup>5</sup>
Y-91m		54.1	54.1	4.2x10 <sup>7</sup>
Y-91		8.11	8.11	2.5x10 <sup>4</sup>
Y-92		5.41	5.41	9.6x10 <sup>6</sup>
Y-93		5.41	5.41	3.3x10 <sup>6</sup>
Yb-169	Ytterbium (70)	81.1	81.1	2.4x10 <sup>4</sup>
Yb-175		54.1	54.1	1.8x10 <sup>5</sup>
Zn-65	Zinc (30)	54.1	54.1	8.2x10 <sup>3</sup>
Zn-69m		54.1	13.5	3.3x10 <sup>6</sup>
Zn-69		108	13.5	4.9x10 <sup>7</sup>
Zr-88	Zirconium (40)	81.1	81.1	1.8x10 <sup>4</sup>
Zr-93		1080	5.41	2.5x10 <sup>-3</sup>
Zr-95		27.0	24.3	2.1x10 <sup>4</sup>
Zr-97		8.11	8.11	1.9x10 <sup>6</sup>

\*International shipments of Einsteinium require multilateral approval of A<sub>1</sub> and A<sub>2</sub> values.

<sup>b</sup>International shipments of Fermium require multilateral approval of A<sub>1</sub> and A<sub>2</sub> values.

<sup>c</sup>20 Ci for Mo99 for domestic use.

(7) Table A-2: General values for A<sub>1</sub> and A<sub>2</sub>

Contents	A <sub>1</sub> (Ci)	A <sub>2</sub> (Ci)
Only beta- or gamma-emitting nuclides are known to be present	5	0.5
Alpha-emitting nuclides are known to be present, or no relevant data are available	2.70	5.41x10 <sup>-4</sup>

(8) Table A-3: Activity-mass relationships for uranium.

Uranium Enrichment <sup>a</sup> wt % U-235 pres-ent	Specific Activity Ci/g
0.45	5.0x10 <sup>-7</sup>
0.72	7.1x10 <sup>-7</sup>
1.0	7.6x10 <sup>-7</sup>
1.5	1.0x10 <sup>-6</sup>
5.0	2.7x10 <sup>-6</sup>
10.0	4.8x10 <sup>-6</sup>
20.0	1.0x10 <sup>-5</sup>
35.0	2.0x10 <sup>-5</sup>
50.0	2.5x10 <sup>-5</sup>
90.0	5.8x10 <sup>-5</sup>
93.0	7.0x10 <sup>-5</sup>
95.0	9.1x10 <sup>-5</sup>

<sup>a</sup>The figures for uranium include representative values for the activity of the uranium-234 that is concentrated during the enrichment process.

[Section 21. Table. The A<sub>1</sub> and A<sub>2</sub> values for radionuclides are as follows (see footnotes at end of table):

Symbol of radionuclide	Element and atomic number	A <sub>1</sub> (Ci)	Activity	Specific (Ci/g)
<sup>227</sup> Ac	Actinium (89)	1000	0.003	7.2 x 10 <sup>1</sup>
<sup>228</sup> Ac		10	4	2.2 x 10 <sup>6</sup>
<sup>105</sup> Ag	Silver (47)	40	40	3.1 x 10 <sup>4</sup>
<sup>110m</sup> Ag		7	7	4.7 x 10 <sup>5</sup>
<sup>111</sup> Ag		100	20	1.6 x 10 <sup>5</sup>
<sup>241</sup> Am	Americium (95)	8	0.008	3.2
<sup>243</sup> Am		8	0.008	1.9 x 10 <sup>-1</sup>
<sup>37</sup> Ar (Compressed or uncompressed) <sup>a</sup>	Argon (18)	1000	1000	1.0 x 10 <sup>-5</sup>
<sup>41</sup> Ar (uncompressed) <sup>a</sup>		20	20	4.3 x 10 <sup>7</sup>
<sup>41</sup> Ar (compressed) <sup>a</sup>		1	1	4.3 x 10 <sup>7</sup>
<sup>73</sup> As	Arsenic (33)	1000	400	2.4 x 10 <sup>-1</sup>

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74 <sub>As</sub>		20	20	1.0 x 10 <sup>5</sup>
76 <sub>As</sub>		10	10	1.6 x 10 <sup>6</sup>
77 <sub>As</sub>		300	20	1.1 x 10 <sup>6</sup>
211 <sub>At</sub>	Astatine (85)	200	7	2.1 x 10 <sup>6</sup>
193 <sub>Au</sub>	Gold (79)	200	200	9.3 x 10 <sup>5</sup>
196 <sub>Au</sub>		30	30	1.2 x 10 <sup>5</sup>
198 <sub>Au</sub>		40	20	2.5 x 10 <sup>5</sup>
199 <sub>Au</sub>		200	25	2.1 x 10 <sup>5</sup>
131 <sub>Ba</sub>	Barium (56)	40	40	8.7 x 10 <sup>4</sup>
133 <sub>Ba</sub>		40	10	4.0 x 10 <sup>2</sup>
140 <sub>Ba</sub>		20	20	7.3 x 10 <sup>4</sup>
7 <sub>Be</sub>	Beryllium (4)	300	300	9.5 x 10 <sup>5</sup>
206 <sub>Bi</sub>	Bismuth (83)	5	5	9.9 x 10 <sup>4</sup>
207 <sub>Bi</sub>		10	10	2.2 x 10 <sup>2</sup>
210 <sub>Bi</sub> (RaE)		100	4	1.2 x 10 <sup>5</sup>
212 <sub>Bi</sub>		6	6	1.5 x 10 <sup>7</sup>
249 <sub>Bk</sub>	Berkelium (97)	1000	1	1.8 x 10 <sup>3</sup>
77 <sub>Br</sub>	Bromine (35)	70	25	7.1 x 10 <sup>5</sup>
82 <sub>Br</sub>		6	6	1.1 x 10 <sup>6</sup>
11 <sub>C</sub>	Carbon (6)	20	20	8.4 x 10 <sup>3</sup>
14 <sub>C</sub>		1000	60	4 x 6
45 <sub>Ca</sub>	Calcium (20)	1000	25	1.9 x 10 <sup>4</sup>
47 <sub>Ca</sub>		20	20	5.9 x 10 <sup>5</sup>
109 <sub>Cd</sub>	Cadmium (48)	1000	70	2.6 x 10 <sup>8</sup>
115m <sub>Cd</sub>		30	30	2.6 x 10 <sup>4</sup>
115 <sub>Cd</sub>		80	20	5.1 x 10 <sup>5</sup>
139 <sub>Ce</sub>	Cerium (58)	100	100	6.5 x 10 <sup>3</sup>
141 <sub>Ce</sub>		300	25	2.8 x 10 <sup>4</sup>
143 <sub>Ce</sub>		60	20	6.6 x 10 <sup>5</sup>
144 <sub>Ce</sub>		10	7	3.2 x 10 <sup>3</sup>
249 <sub>Cf</sub>	Californium (98)	2	0.002	3 x 1
250 <sub>Cf</sub>		7	0.007	1.3 x 10 <sup>2</sup>
252 <sub>Cf</sub>		2	0.009	6.5 x 10 <sup>2</sup>
36 <sub>Cl</sub>	Chlorine (17)	300	10	3.2 x 10 <sup>22</sup>
38 <sub>Cl</sub>		10	10	1.3 x 10 <sup>8</sup>
242 <sub>Cm</sub>	Curium (96)	200	0.2	3.3 x 10 <sup>3</sup>
243 <sub>Cm</sub>		9	0.009	4.2 x 10 <sup>1</sup>
244 <sub>Cm</sub>		10	0.01	8.2 x 10 <sup>1</sup>
245 <sub>Cm</sub>		6	0.006	1.0 x 10 <sup>1</sup>
246 <sub>Cm</sub>		6	0.006	3.6 x 10 <sup>-1</sup>
56 <sub>Co</sub>	Cobalt (27)	5	5	3.0 x 10 <sup>3</sup>
57 <sub>Co</sub>		90	90	8.5 x 10 <sup>3</sup>
58m <sub>Co</sub>		1000	1000	5.9 x 10 <sup>6</sup>
58 <sub>Co</sub>		20	20	3.1 x 10 <sup>3</sup>
60 <sub>Co</sub>		7	7	1.1 x 10 <sup>8</sup>
51 <sub>Cr</sub>	Chromium (24)	600	600	9.2 x 10 <sup>4</sup>
129 <sub>Cs</sub>	Cesium (55)	40	40	7.6 x 10 <sup>5</sup>
131 <sub>Cs</sub>		1000	1000	1.0 x 10 <sup>5</sup>
134m <sub>Cs</sub>		1000	10	7.4 x 10 <sup>5</sup>
134 <sub>Cs</sub>		10	10	1.2 x 10 <sup>3</sup>
135 <sub>Cs</sub>		1000	25	8.8 x 10 <sup>4</sup>
136 <sub>Cs</sub>		7	7	7.4 x 10 <sup>4</sup>
137 <sub>Cs</sub>		30	10	9.8 x 10 <sup>1</sup>
64 <sub>Cu</sub>	Copper (29)	80	25	3.8 x 10 <sup>5</sup>
67 <sub>Cu</sub>		200	25	7.9 x 10 <sup>5</sup>
165m <sub>Dy</sub>	Dysprosium (66)	100	20	8.2 x 10 <sup>6</sup>
166 <sub>Dy</sub>		1000	200	2.3 x 10 <sup>5</sup>
169 <sub>Er</sub>	Erbium (68)	1000	25	8.2 x 10 <sup>4</sup>
171 <sub>Er</sub>		50	20	2.4 x 10 <sup>5</sup>
152m <sub>Eu</sub>	Europium (63)	30	30	2.2 x 10 <sup>3</sup>
152 <sub>Eu</sub>		20	10	1.9 x 10 <sup>2</sup>
154 <sub>Eu</sub>		10	5	1.5 x 10 <sup>2</sup>
155 <sub>Eu</sub>		400	60	1.4 x 10 <sup>3</sup>
18 <sub>F</sub>	Fluorine (9)	20	20	9.3 x 10 <sup>7</sup>
52 <sub>Fe</sub>	Iron (26)	5	5	7.3 x 10 <sup>5</sup>
55 <sub>Fe</sub>		1000	1000	2.2 x 10 <sup>8</sup>
59 <sub>Fe</sub>		10	10	4.9 x 10 <sup>4</sup>
67 <sub>Ga</sub>	Gallium (31)	110	100	6.0 x 10 <sup>5</sup>
68 <sub>Ga</sub>		20	20	4.0 x 10 <sup>7</sup>
72 <sub>Ga</sub>		7	7	3.1 x 10 <sup>6</sup>

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153 <sub>Gd</sub>	Gadolinium (64)	200	100	$3.6 \times 10^8$
159 <sub>Gd</sub>		300	20	$1.1 \times 10^6$
68 <sub>Ge</sub>	Germanium (32)	20	10	$7.0 \times 10^8$
71 <sub>Ge</sub>		1000	1000	$1.6 \times 10^5$
3 <sub>H</sub>	Hydrogen (1) see T-Tritium			
181 <sub>Hf</sub>	Hafnium (72)	30	25	$1.6 \times 10^4$
197 <sub>m</sub> Hg	Mercury (80)	200	200	$6.6 \times 10^5$
197 <sub>Hg</sub>		200	200	$2.5 \times 10^5$
203 <sub>Hg</sub>		80	25	$1.4 \times 10^4$
166 <sub>Ho</sub>	Holmium (67)	30	30	$6.9 \times 10^5$
123 <sub>I</sub>	Iodine (53)	50	50	$1.9 \times 10^8$
125 <sub>I</sub>		1000	70	$1.7 \times 10^4$
126 <sub>I</sub>		40	10	$7.8 \times 10^4$
129 <sub>I</sub>		1000	2	$1.6 \times 10^{-1}$
131 <sub>I</sub>		40	10	$1.2 \times 10^5$
132 <sub>I</sub>		7	7	$1.1 \times 10^7$
133 <sub>I</sub>		30	10	$1.1 \times 10^6$
134 <sub>I</sub>		8	8	$2.7 \times 10^7$
135 <sub>I</sub>		10	10	$3.5 \times 10^6$
111 <sub>In</sub>	Indium (49)	30	25	$4.2 \times 10^5$
113 <sub>m</sub> In		60	60	$1.6 \times 10^7$
114 <sub>m</sub> In		30	20	$2.3 \times 10^4$
115 <sub>m</sub> In		100	20	$6.1 \times 10^6$
190 <sub>Ir</sub>	Iridium (77)	10	10	$6.2 \times 10^4$
192 <sub>Ir</sub>		20	10	$9.1 \times 10^9$
194 <sub>Ir</sub>		10	10	$8.5 \times 10^5$
42 <sub>K</sub>	Potassium (19)	10	10	$6.0 \times 10^6$
43 <sub>K</sub>		20	10	$3.3 \times 10^6$
85 <sub>m</sub> Kr (uncompressed)*	Krypton (36)	100	100	$8.4 \times 10^6$
85 <sub>m</sub> Kr (compressed)*		3	3	$8.4 \times 10^6$
85 <sub>Kr</sub> (uncompressed)*		1000	1000	$4.0 \times 10^2$
85 <sub>Kr</sub> (compressed)*		5	5	$4.0 \times 10^2$
87 <sub>Kr</sub> (uncompressed)*		20	20	$2.8 \times 10^7$
87 <sub>Kr</sub> (compressed)*		0.6	0.6	$2.8 \times 10^7$
140 <sub>La</sub>	Lanthanum (57)	30	30	$5.6 \times 10^5$
177 <sub>Lu</sub>	Lutetium (71)	300	25	$1.1 \times 10^5$
MFP	Mixed fission products	10	0.4	-----
28 <sub>Mg</sub>	Magnesium (12)	6	6	$5.2 \times 10^6$
52 <sub>Mn</sub>	Manganese (25)	5	5	$4.4 \times 10^5$
54 <sub>Mn</sub>		20	20	$8.3 \times 10^8$
56 <sub>Mn</sub>		5	5	$2.2 \times 10^7$
99 <sub>Mo</sub>	Molybdenum (42)	100	20	$4.7 \times 10^5$
13 <sub>N</sub>	Nitrogen (7)	20	10	$1.5 \times 10^9$
22 <sub>Na</sub>	Sodium (11)	8	8	$6.3 \times 10^3$
24 <sub>Na</sub>		5	5	$8.7 \times 10^6$
93 <sub>m</sub> Nb	Niobium (41)	1000	200	$1.1 \times 10^9$
95 <sub>Nb</sub>		20	20	$3.9 \times 10^4$
97 <sub>Nb</sub>		20	20	$2.6 \times 10^7$
147 <sub>Nd</sub>	Neodymium (60)	100	20	$8.0 \times 10^4$
149 <sub>Nd</sub>		30	20	$1.1 \times 10^7$
59 <sub>Ni</sub>	Nickel (28)	1000	900	$8.1 \times 10^2$
63 <sub>Ni</sub>		1000	100	$4.6 \times 10^1$
65 <sub>Ni</sub>		10	10	$1.9 \times 10^7$
237 <sub>Np</sub>	Neptunium (93)	5	0.005	$6.9 \times 10^{-1}$
239 <sub>Np</sub>		200	25	$2.3 \times 10^5$
185 <sub>Os</sub>	Osmium (76)	20	20	$7.3 \times 10^9$
191 <sub>Os</sub>		600	200	$4.6 \times 10^4$
191 <sub>m</sub> Os		200	200	$1.2 \times 10^6$
193 <sub>Os</sub>		100	20	$5.3 \times 10^5$
32 <sub>P</sub>	Phosphorus (15)	30	30	$2.9 \times 10^5$
230 <sub>Pa</sub>	Protactinium (91)	20	0.8	$3.2 \times 10^4$
231 <sub>Pa</sub>		2	0.002	$4.5 \times 10^2$
233 <sub>Pa</sub>		100	100	$2.1 \times 10^4$
201 <sub>Pb</sub>	Lead (82)	20	20	$1.7 \times 10^6$
210 <sub>Pb</sub>		100	0.2	$8.8 \times 10$
212 <sub>Pb</sub>		6	5	$1.4 \times 10^6$
103 <sub>Pd</sub>	Palladium (46)	1000	700	$7.5 \times 10^4$
109 <sub>Pd</sub>		100	20	$2.1 \times 10^6$
147 <sub>Pm</sub>	Promethium (61)	1000	25	$9.4 \times 10^2$
149 <sub>Pm</sub>		100	20	$4.2 \times 10^5$

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210 <sub>po</sub>	Polonium (84)	200	0.2	4.5 x 10 <sup>3</sup>
142 <sub>pr</sub>	Praseodymium (59)	10	10	1.2 x 10 <sup>4</sup>
143 <sub>pr</sub>		300	20	6.6 x 10 <sup>4</sup>
191 <sub>pt</sub>	Platinum (78)	100	100	2.3 x 10 <sup>5</sup>
193m <sub>pt</sub>		200	200	2.0 x 10 <sup>5</sup>
197m <sub>pt</sub>		300	20	1.2 x 10 <sup>7</sup>
197 <sub>pt</sub>		300	20	8.8 x 10 <sup>5</sup>
238 <sub>pu</sub>	Plutonium (94)	3	0.003	1.7 x 10 <sup>1</sup>
239 <sub>pu</sub>		2	0.002	6.2 x 10 <sup>-2</sup>
240 <sub>pu</sub>		2	0.002	2.3 x 10 <sup>-1</sup>
241 <sub>pu</sub>		1000	0.1	1.1 x 10 <sup>2</sup>
242 <sub>pu</sub>		3	0.003	3.9 x 10 <sup>-3</sup>
223 <sub>ra</sub>	Radium (88)	50	0.2	5.0 x 10 <sup>4</sup>
224 <sub>ra</sub>		6	0.5	1.6 x 10 <sup>5</sup>
226 <sub>ra</sub>		10	0.05	1.0
228 <sub>ra</sub>		10	0.05	2.3 x 10 <sup>2</sup>
81 <sub>rb</sub>	Rubidium (37)	30	25	8.2 x 10 <sup>5</sup>
86 <sub>rb</sub>		30	30	8.1 x 10 <sup>4</sup>
87 <sub>rb</sub>		Unlimited	Unlimited	6.6 x 10 <sup>-6</sup>
Rb (Natural)		Unlimited	Unlimited	1.8 x 10 <sup>-4</sup>
186 <sub>re</sub>	Rhenium (75)	100	20	1.9 x 10 <sup>5</sup>
187 <sub>re</sub>		Unlimited	Unlimited	3.8 x 10 <sup>-3</sup>
188 <sub>re</sub>		10	10	1.0 x 10 <sup>5</sup>
Re (Natural)		Unlimited	Unlimited	2.4 x 10 <sup>-3</sup>
103m <sub>rh</sub>	Rhodium (45)	1000	1000	3.2 x 10 <sup>7</sup>
105 <sub>rh</sub>		200	25	8.2 x 10 <sup>5</sup>
222 <sub>rn</sub>	Radon (86)	10	2	1.5 x 10 <sup>5</sup>
97 <sub>ru</sub>	Ruthenium (44)	80	80	5.5 x 10 <sup>5</sup>
103 <sub>ru</sub>		30	25	3.2 x 10 <sup>4</sup>
105 <sub>ru</sub>		20	20	6.6 x 10 <sup>5</sup>
106 <sub>ru</sub>		10	7	3.4 x 10 <sup>3</sup>
35 <sub>s</sub>	Sulphur (16)	1000	60	4.3 x 10 <sup>1</sup>
122 <sub>sb</sub>	Antimony (51)	30	30	3.9 x 10 <sup>5</sup>
124 <sub>sb</sub>		5	5	1.8 x 10 <sup>4</sup>
125 <sub>sb</sub>		40	25	1.4 x 10 <sup>5</sup>
46 <sub>sc</sub>	Scandium (21)	8	8	3.4 x 10 <sup>4</sup>
47 <sub>sc</sub>		200	20	8.2 x 10 <sup>5</sup>
48 <sub>sc</sub>		5	5	1.5 x 10 <sup>5</sup>
75 <sub>se</sub>	Selenium (34)	40	40	1.4 x 10 <sup>4</sup>
31 <sub>si</sub>	Silicon (14)	100	20	3.9 x 10 <sup>7</sup>
147 <sub>sm</sub>	Samarium (62)	Unlimited	Unlimited	2.0 x 10 <sup>-4</sup>
151 <sub>sm</sub>		1000	90	2.6 x 10 <sup>1</sup>
153 <sub>sm</sub>		300	20	4.4 x 10 <sup>5</sup>
113 <sub>sn</sub>	Tin (50)	60	60	1.0 x 10 <sup>4</sup>
119m <sub>sn</sub>		100	100	4.4 x 10 <sup>5</sup>
125 <sub>sn</sub>		10	10	1.1 x 10 <sup>5</sup>
85m <sub>sr</sub>	Strontium (38)	80	80	3.2 x 10 <sup>7</sup>
85 <sub>sr</sub>		30	30	2.4 x 10 <sup>1</sup>
87m <sub>sr</sub>		50	50	1.2 x 10 <sup>7</sup>
89 <sub>sr</sub>		100	10	2.9 x 10 <sup>4</sup>
90 <sub>sr</sub>		10	0.4	1.5 x 10 <sup>2</sup>
91 <sub>sr</sub>		10	10	3.6 x 10 <sup>5</sup>
92 <sub>sr</sub>		10	10	1.3 x 10 <sup>7</sup>
T (uncompressed)*	Tritium (1)	1000	1000	9.7 x 10 <sup>3</sup>
T (compressed)*		1000	1000	9.7 x 10 <sup>3</sup>
T (activated luminous paint)		1000	1000	9.7 x 10 <sup>3</sup>
T (adsorbed on solid carrier)		1000	1000	9.7 x 10 <sup>3</sup>
T (tritiated water)		1000	1000	9.7 x 10 <sup>3</sup>
T (other forms)		20	20	9.7 x 10 <sup>3</sup>
182 <sub>ta</sub>	Tantalum (73)	20	20	6.2 x 10 <sup>3</sup>
160 <sub>tb</sub>	Terbium (65)	20	10	1.1 x 10 <sup>1</sup>
96m <sub>tc</sub>	Technetium (43)	1000	1000	3.8 x 10 <sup>7</sup>
96 <sub>tc</sub>		6	6	3.2 x 10 <sup>5</sup>
97m <sub>tc</sub>		1000	200	1.5 x 10 <sup>1</sup>
97 <sub>tc</sub>		1000	400	1.4 x 10 <sup>-3</sup>
99m <sub>tc</sub>		100	100	5.2 x 10 <sup>5</sup>
99 <sub>tc</sub>		1000	25	1.7 x 10 <sup>-2</sup>
125m <sub>te</sub>	Tellurium (52)	1000	100	1.8 x 10 <sup>4</sup>
127m <sub>te</sub>		300	20	4.0 x 10 <sup>1</sup>
127 <sub>te</sub>		300	20	2.6 x 10 <sup>5</sup>

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$^{129}\text{m}_{\text{Fe}}$		30	10	$2.5 \times 10^{-1}$
$^{129}\text{Fe}$		100	20	$2.0 \times 10^{-7}$
$^{131}\text{m}_{\text{Fe}}$		10	10	$8.0 \times 10^{-5}$
$^{132}\text{Fe}$		7	7	$3.1 \times 10^{-5}$
$^{227}\text{Th}$	Thorium (90)	200	0.2	$3.2 \times 10^{-1}$
$^{228}\text{Th}$		6	0.008	$8.3 \times 10^{-1}$
$^{230}\text{Th}$		3	0.003	$1.9 \times 10^{-2}$
$^{231}\text{Th}$		1000	25	$5.3 \times 10^{-5}$
$^{232}\text{Th}$		Unlimited	Unlimited	$1.1 \times 10^{-7}$
$^{234}\text{Th}$		10	10	$2.3 \times 10^{-1}$
Th (Natural)		Unlimited	Unlimited	$2.2 \times 10^{-7}$
Th (irradiated)**		---	---	---
$^{200}\text{Th}$	Thallium (81)	20	20	$5.8 \times 10^{-5}$
$^{201}\text{Th}$		200	200	$2.2 \times 10^{-5}$
$^{202}\text{Th}$		40	40	$5.4 \times 10^{-4}$
$^{224}\text{Th}$		300	10	$4.3 \times 10^{-2}$
$^{170}\text{Tm}$	Thulium (69)	300	10	$6.0 \times 10^{-3}$
$^{171}\text{Tm}$		1000	100	$1.1 \times 10^{-3}$
$^{230}\text{U}$	Uranium (92)	100	0.1	$2.7 \times 10^{-1}$
$^{232}\text{U}$		30	0.03	$2.1 \times 10^{-1}$
$^{233}\text{U}$		100	0.1	$9.5 \times 10^{-3}$
$^{234}\text{U}$		100	0.1	$6.2 \times 10^{-3}$
$^{235}\text{U}$		100	0.2	$2.1 \times 10^{-6}$
$^{236}\text{U}$		200	0.2	$6.3 \times 10^{-5}$
$^{238}\text{U}$		Unlimited	Unlimited	$3.3 \times 10^{-7}$
U (natural)		Unlimited	Unlimited	(See Section 24)
U (enriched) less than 20%		Unlimited	Unlimited	(See Section 24)
U (enriched) 20% or greater		100	0.1	(See Section 24)
U (depleted)		Unlimited	Unlimited	(See Section 24)
U (irradiated)***		---	---	---
$^{48}\text{V}$	Vanadium (23)	6	6	$1.7 \times 10^{-5}$
$^{181}\text{W}$	Tungsten (74)	200	100	$5.0 \times 10^{-3}$
$^{185}\text{W}$		1000	25	$9.7 \times 10^{-3}$
$^{187}\text{W}$		40	20	$7.0 \times 10^{-5}$
$^{127}\text{Xe}$ (uncompressed)*	Xenon (54)	70	70	$2.8 \times 10^{-4}$
$^{127}\text{Xe}$ (compressed)*		5	5	$2.8 \times 10^{-4}$
$^{131}\text{m}_{\text{Xe}}$ (compressed)*		10	10	$1.0 \times 10^{-5}$
$^{131}\text{m}_{\text{Xe}}$ (uncompressed)*		100	100	$1.0 \times 10^{-5}$
$^{133}\text{Xe}$ (uncompressed)*		1000	1000	$1.9 \times 10^{-5}$
$^{133}\text{Xe}$ (compressed)*		5	5	$1.9 \times 10^{-5}$
$^{135}\text{Xe}$ (uncompressed)*		70	70	$2.5 \times 10^{-5}$
$^{135}\text{Xe}$ (compressed)*		2	2	$2.5 \times 10^{-5}$
$^{87}\text{Y}$	Yttrium (39)	20	20	$4.5 \times 10^{-1}$
$^{90}\text{Y}$		10	10	$2.5 \times 10^{-5}$
$^{91\text{m}}\text{Y}$		30	30	$4.1 \times 10^{-7}$
$^{91}\text{Y}$		30	30	$2.5 \times 10^{-4}$
$^{92}\text{Y}$		10	10	$9.5 \times 10^{-6}$
$^{93}\text{Y}$		10	10	$3.2 \times 10^{-5}$
$^{169}\text{Yb}$	Ytterbium (70)	80	80	$2.3 \times 10^{-5}$
$^{175}\text{Yb}$		400	25	$1.3 \times 10^{-5}$
$^{65}\text{Zn}$	Zinc (30)	30	30	$8.0 \times 10^{-3}$
$^{69\text{m}}\text{Zn}$		40	40	$3.3 \times 10^{-6}$
$^{69}\text{Zn}$		300	20	$5.3 \times 10^{-7}$
$^{93}\text{Zr}$	Zirconium (40)	1000	200	$3.5 \times 10^{-3}$
$^{95}\text{Zr}$		20	20	$2.1 \times 10^{-4}$
$^{97}\text{Zr}$		20	20	$2.0 \times 10^{-5}$

\*For the purpose of this section, compressed gas means at a pressure which exceeds the ambient atmospheric pressure at the location where the containment system was closed.

\*\*The values of  $A_1$  and  $A_2$  must be calculated in accordance with the procedure specified in Section 20(2)(c) of this administrative regulation, taking into account the activity of the fission products and of the uranium-233 in addition to that of the thorium.

\*\*\*The values of  $A_1$  and  $A_2$  must be calculated in accordance with the procedure specified in Section 20(2)(c) of this administrative regulation, taking into account the activity of the fission products and plutonium isotopes in addition to that of the uranium.

Section 22. Table. The following table is to be used for the:  
RELATIONSHIP BETWEEN  $A_1$  AND  $E_{\text{max}}$  FOR BETA EMITTERS

$E_{\text{max}}$ (MeV)	$A_1$ (Ci)
less than 0.5	1000
0.5 – less than 1.0	300
1.0 – less than 1.5	100

1.5 – less than 2.0	30
greater than or equal to 2.0	10

Section 23. Table. The following is to be used for the:  
RELATIONSHIP BETWEEN  $A_3$   
AND THE ATOMIC NUMBER OF THE RADIONUCLIDE

$A_3$
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Atomic Number	Half-life less than 1000 days	Half-life 1000 days to $10^6$ years	Half-life greater than $10^6$ years
1 to 81	3-Gi	0.5-Gi	3-Gi
82 and above	.002-Gi	002-Gi	3-Gi

Section 24. Table. The following table is to be used for the:

ACTIVITY-MASS RELATIONSHIPS  
FOR URANIUM/THORIUM

Thorium and Uranium enrichment* wt% $^{235}\text{U}$ present	Specific Activity	
	Gi/g	g/Gi
0.45	$5.0 \times 10^{-7}$	$2.0 \times 10^6$
0.72 (natural)	$7.06 \times 10^{-7}$	$1.42 \times 10^6$
1.0	$7.6 \times 10^{-7}$	$1.3 \times 10^6$
1.5	$1.0 \times 10^{-6}$	$1.0 \times 10^6$
5.0	$2.7 \times 10^{-6}$	$3.7 \times 10^5$
10.0	$4.8 \times 10^{-6}$	$2.1 \times 10^5$
20.0	$1.0 \times 10^{-5}$	$1.0 \times 10^5$
35.0	$2.0 \times 10^{-5}$	$5.0 \times 10^4$
50.0	$2.5 \times 10^{-5}$	$4.0 \times 10^4$
90.0	$5.8 \times 10^{-5}$	$1.7 \times 10^4$
93.0	$7.0 \times 10^{-5}$	$1.4 \times 10^4$
95.0	$9.1 \times 10^{-5}$	$1.1 \times 10^4$
Natural Thorium	$2.2 \times 10^{-7}$	$4.6 \times 10^6$

\*The figures for uranium include representative values for the activity of the uranium-234 which is concentrated during the enrichment process. The activity for thorium includes the equilibrium concentration of thorium-228.]

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

#### REGULATORY IMPACT ANALYSIS

Agency Contact person: John A. Volpe

(1) Type and number of entities affected: This amendment to the administrative regulation impacts all radioactive material licensees and persons who ship radioactive material.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was re-

quested and no comments were received.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No change in fees at this time; therefore, there will not be an impact on state revenues to support the radiation program.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees from the licensing of radioactive material users.

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

(a) Geographical area in which administrative regulation will be implemented: No comments were received.

(b) Kentucky: No comments were received.

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The amended administrative regulation provides corrections to tables for determining requirements for activity limits for shipping radioactive material and deletes requirements, which are not necessary to maintain compatibility with U.S. Nuclear Regulatory Commission requirements.

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

(c) If detrimental effect would result, explain detrimental effect: Without the administrative regulation, radioactive material licensees could ship radioactive material in a manner, which could adversely impact public health.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: No conflict with statutes or administrative regulations.

(a) Necessity of 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: Not applicable.

(11) TIERING: Is tiering applied? No, this administrative regulation applies equally to all radioactive material licensees who may ship radioactive material.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Atomic Energy Act of 1954, as amended, and 10 CFR 71 as promulgated by the U.S. Nuclear Regulatory Commission.

2. State compliance standards. Administrative regulation provides applicants requirements for the transportation of radioactive material.

3. Minimum or uniform standards contained in the federal mandate. This amendment will bring about compatibility with U.S. Nuclear Regulatory Commission's requirements for transportation of radioactive material.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Administrative regulation provides requirements equivalent to U.S. Nuclear Regulatory Commission's regulatory requirements for transportation of radioactive material.



## FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Not applicable.

3. State the aspect or service of local government to which this administrative regulation relates. Not applicable.

4. How does this administrative regulation affect the local government or any service it provides. Not applicable.

**CABINET FOR HEALTH SERVICES**  
**Department for Public Health**  
**Division of Public Health Protection and Safety**  
**(Amendment)**

**902 KAR 100:085. Exempt concentrations.**

RELATES TO: KRS 13B.170, 211.842 to 211.852, 211.990(4), 10 CFR 30.70

STATUTORY AUTHORITY: KRS 13B.170, 194A.050, 211.090, 211.844, 10 CFR 30.70

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services is mandated [Human Resources is authorized] by KRS 211.844 to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation provides a list of concentrations for specific radionuclides which are exempted from the requirements of 902 KAR Chapter 100 [these administrative regulations].

Section 1. [Applicability. This administrative regulation exempts certain concentrations of radionuclides from the requirements of the cabinet's radiation administrative regulations.

Section 2. Table. (1) In the following table values are given in Column I [only] for [these] materials normally used as gases. Values given in Column II are equivalent values for microcuries per gram if applicable to solids.

(2) Except as provided in other applicable provisions of 902 KAR Chapter 100 [these administrative regulations], a person is exempt from the requirements established in 902 KAR Chapter 100 if [to the extent that] the person receives, possesses, uses, transfers, owns or acquires products or materials containing radioactive material in concentrations not in excess of those listed in the following table:

EXEMPT CONCENTRATIONS			
Element (atomic Number)	Isotopes	Column I Gas concentration uCi/ml	Column II Liquid and Solid concentration uCi/ml
Antimony (51)	Sb-122 Sb-124 Sb-125		3x10 <sup>-4</sup> 2x10 <sup>-4</sup> 1x10 <sup>-3</sup>
Argon (18)	Ar-37 Ar-41	1x10 <sup>-3</sup> 4x10 <sup>-7</sup>	
Arsenic (33)	As-73 As-74 As-76 As-77		5x10 <sup>-3</sup> 5x10 <sup>-4</sup> 2x10 <sup>-4</sup> 8x10 <sup>-4</sup>
Barium (56)	Ba-131 Ba-140		2x10 <sup>-3</sup> 3x10 <sup>-4</sup>
Beryllium (4)	Be-7		2x10 <sup>-2</sup>
Bismuth (83)	Bi-206		4x10 <sup>-4</sup>
Bromine (35)	Br-82	4x10 <sup>-7</sup>	3x10 <sup>-3</sup>
Cadmium (48)	Cd-109 Cd-115m Cd-115		2x10 <sup>-3</sup> 3x10 <sup>-4</sup> 3x10 <sup>-4</sup>

Calcium (20)	Ca-45 Ca-47		9x10 <sup>-5</sup> 5x10 <sup>-4</sup>
Carbon (6)	C-14	1x10 <sup>-6</sup>	8x10 <sup>-3</sup>
Cerium (58)	Ce-141 Ce-143 Ce-144		9x10 <sup>-4</sup> 4x10 <sup>-4</sup> 1x10 <sup>-4</sup>
Cesium (55)	Cs-131 Cs-134m Cs-134		2x10 <sup>-2</sup> 6x10 <sup>-2</sup> 9x10 <sup>-5</sup>
Chlorine (17)	Cl-38	9x10 <sup>-7</sup>	4x10 <sup>-3</sup>
Chromium (24)	Cr-51		2x10 <sup>-2</sup>
Cobalt (27)	Co-57 Co-58 Co-60		5x10 <sup>-3</sup> 1x10 <sup>-3</sup> 5x10 <sup>-4</sup>
Copper (29)	Cu-64		3x10 <sup>-3</sup>
Dysprosium (66)	Dy-165 Dy-166		4x10 <sup>-3</sup> 4x10 <sup>-4</sup>
Erbium (68)	Er-169 Er-171		9x10 <sup>-4</sup> 1x10 <sup>-3</sup>
Europium (63)	Eu-152 (9.2 h) Eu-155		6x10 <sup>-4</sup> 2x10 <sup>-3</sup>
Fluorine (9)	F-18	2x10 <sup>-6</sup>	8x10 <sup>-3</sup>
Gadolinium (64)	Gd-153 Gd-159		2x10 <sup>-3</sup> 8x10 <sup>-4</sup>
Gallium (31)	Ga-72		4x10 <sup>-4</sup>
Germanium (32)	Ge-71		2x10 <sup>-2</sup>
Gold (79)	Au-196 Au-198 Au-199		2x10 <sup>-3</sup> 5x10 <sup>-4</sup> 2x10 <sup>-2</sup>
Hafnium (72)	Hf-181		7x10 <sup>-4</sup>
Hydrogen (1)	H-3	5x10 <sup>-6</sup>	3x10 <sup>-2</sup>
Indium (49)	In-113m In-114m		1x10 <sup>-2</sup> 2x10 <sup>-4</sup>
Iodine (53)	I-126 I-131 I-132 I-133 I-134	3x10 <sup>-9</sup> 3x10 <sup>-9</sup> 8x10 <sup>-8</sup> 1x10 <sup>-8</sup> 2x10 <sup>-7</sup>	2x10 <sup>-5</sup> 2x10 <sup>-5</sup> 6x10 <sup>-4</sup> 7x10 <sup>-5</sup> 1x10 <sup>-3</sup>
Iridium (77)	Ir-190 Ir-192 Ir-194		2x10 <sup>-3</sup> 4x10 <sup>-3</sup> 3x10 <sup>-4</sup>
Iron (26)	Fe-55 Fe-59		8x10 <sup>-3</sup> 6x10 <sup>-4</sup>
Krypton (36)	Kr-85m Kr-85	1x10 <sup>-6</sup> 3x10 <sup>-6</sup>	1x10 <sup>-6</sup> 3x10 <sup>-6</sup>
Lanthanum (57)	La-140		2x10 <sup>-4</sup>
Lead (82)	Pb-203		4x10 <sup>-3</sup>
Lutetium (71)	Lu-177		1x10 <sup>-3</sup>
Manganese (25)	Mn-52 Mn-54 Mn-56		3x10 <sup>-4</sup> 1x10 <sup>-3</sup> 1x10 <sup>-3</sup>
Mercury (80)	Hg-197m Hg-197 Hg-203		2x10 <sup>-3</sup> 3x10 <sup>-3</sup> 2x10 <sup>-4</sup>
Molybdenum (42)	Mo-99		2x10 <sup>-3</sup>
Neodymium (60)	Nd-147 Nd-149	6x10 <sup>-4</sup> 3x10 <sup>-3</sup>	6x10 <sup>-4</sup> 3x10 <sup>-3</sup>
Nickel (28)	Ni-65		1x10 <sup>-3</sup>
Niobium (Columbium) (41)	Nb-95 Nb-97		1x10 <sup>-3</sup> 9x10 <sup>-3</sup>
Osmium (76)	Os-185 Os-191m Os-191 Os-193		7x10 <sup>-4</sup> 3x10 <sup>-2</sup> 2x10 <sup>-3</sup> 6x10 <sup>-4</sup>
Palladium (46)	Pd-103 Pd-109		3x10 <sup>-3</sup> 9x10 <sup>-4</sup>
Phosphorus (15)	P-32		2x10 <sup>-4</sup>
Platinum (78)	Pt-191 Pt-193m Pt-197m Pt-197		1x10 <sup>-3</sup> 1x10 <sup>-2</sup> 1x10 <sup>-2</sup> 1x10 <sup>-3</sup>

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Potassium (19)	K-42		$3 \times 10^{-3}$
Praseodymium (59)	Pr-142		$3 \times 10^{-4}$
	Pr-143		$5 \times 10^{-4}$
Promethium (61)	Pm-147		$2 \times 10^{-3}$
	Pm-149		$4 \times 10^{-4}$
Rhenium (75)	Re-183		$6 \times 10^{-3}$
	Re-186		$9 \times 10^{-4}$
	Re-188		$6 \times 10^{-4}$
Rhodium (45)	Rh-103m		$1 \times 10^{-1}$
	Rh-105		$1 \times 10^{-3}$
Rubidium (37)	Rb-86		$7 \times 10^{-4}$
Ruthenium (44)	Ru-97		$4 \times 10^{-3}$
	Ru-103		$8 \times 10^{-4}$
	Ru-105		$1 \times 10^{-3}$
	Ru-106		$1 \times 10^{-4}$
Samarium (62)	Sm-153		$8 \times 10^{-4}$
Scandium (21)	Sc-46		$4 \times 10^{-4}$
	Sc-47		$9 \times 10^{-4}$
	Sc-48		$3 \times 10^{-4}$
Selenium (34)	Se-75		$3 \times 10^{-3}$
Silicon (14)	Si-31		$9 \times 10^{-3}$
Silver (47)	Ag-105		$1 \times 10^{-3}$
	Ag-110m		$3 \times 10^{-4}$
	Ag-111		$4 \times 10^{-4}$
Sodium (11)	Na-24		$2 \times 10^{-3}$
Strontium (38)	Sr-85		$1 \times 10^{-3}$
	Sr-89		$1 \times 10^{-4}$
	Sr-91		$7 \times 10^{-4}$
	Sr-92		$7 \times 10^{-4}$
Sulfur (16)	S-35	$9 \times 10^{-8}$	$6 \times 10^{-4}$
Tantalum (73)	Ta-182		$4 \times 10^{-4}$
Technetium (43)	Tc-96m		$1 \times 10^{-1}$
	Tc-96		$1 \times 10^{-3}$
Tellurium (52)	Te-125m		$2 \times 10^{-3}$
	Te-127m		$6 \times 10^{-4}$
	Te-127		$3 \times 10^{-3}$
	Te-129m		$3 \times 10^{-4}$
	Te-131m		$6 \times 10^{-4}$
	Te-132		$3 \times 10^{-4}$
Terbium (65)	Tb-160		$4 \times 10^{-4}$
Thallium (81)	Tl-200		$4 \times 10^{-3}$
	Tl-201		$3 \times 10^{-3}$
	Tl-202		$1 \times 10^{-3}$
	Tl-204		$1 \times 10^{-3}$
Thulium (69)	Tm-170		$5 \times 10^{-4}$
	Tm-171		$5 \times 10^{-3}$
Tin (50)	Sn-113		$9 \times 10^{-4}$
	Sn-125		$2 \times 10^{-4}$
Tungsten (Wolfram) (74)	W-181		$4 \times 10^{-3}$
	W-187		$7 \times 10^{-4}$
Vanadium (23)	V-48		$3 \times 10^{-4}$
Xenon (54)	Xe-131m	$4 \times 10^{-6}$	$4 \times 10^{-6}$
	Xe-133	$3 \times 10^{-6}$	$3 \times 10^{-6}$
	Xe-135	$1 \times 10^{-6}$	$1 \times 10^{-6}$
Ytterbium (70)	Yb-175		$1 \times 10^{-3}$
Yttrium (39)	Y-90		$2 \times 10^{-4}$
	Y-91m		$3 \times 10^{-2}$
	Y-91		$3 \times 10^{-4}$
	Y-92		$6 \times 10^{-4}$
	Y-93		$3 \times 10^{-4}$
Zinc (30)	Zn-65		$1 \times 10^{-3}$
	Zn-69m		$7 \times 10^{-4}$
	Zn-69		$2 \times 10^{-2}$
Zirconium (40)	Zr-95		$6 \times 10^{-4}$
	Zr-97		$2 \times 10^{-4}$
Beta or gamma emitting radioactive material not listed above with half-life less than 3 years		$1 \times 10^{-10}$	$1 \times 10^{-6}$

Section 2. [3:] Special Cases. The following applies to the combination of nuclides:

(1) In expressing the concentrations in Section 1 [2] of this administrative regulation, the activity stated is that of the parent nuclide and takes into account the daughters; and

(2) For purposes of 902 KAR 100:045, Section 3, if there is involved a combination of nuclides, the limit for the combination shall be derived by determining for each nuclide in the product, the ratio between the radioactivity concentration present in the product and the exempt radioactivity concentration established in Section 1 [2] of this administrative regulation for the specific nuclide if not in combination. The sum of such ratios may not exceed one ("1") (i.e., "unity").

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

#### REGULATORY IMPACT ANALYSIS

Agency Contact person: John A. Volpe

(1) Type and number of entities affected: Amending this regulation, which exempts certain quantities of radionuclides from regulatory control, will impact all radioactive material licensees and persons.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

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

1. First year following implementation: None

2. Second and subsequent years: None

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No change in fees at this time; therefore, there will not be a impact on state revenues to support the radiation program.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees from the licensing of radioactive material users.

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

(a) Geographical area in which administrative regulation will be implemented: No comments were received.

- (b) Kentucky: No comments were received.
- (7) Assessment of alternative methods: reasons why alternatives were rejected: No viable alternatives were identified.
- (8) Assessment of expected benefits:
  - (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The amended administrative regulation provides corrections to exempt concentration that are necessary to address unnecessary regulatory control of radioactive material, which may not impact public health.
  - (b) State whether a detrimental effect on environment and public health would result if not implemented: No
  - (c) If detrimental effect would result, explain detrimental effect:
  - (9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: No conflict with statutes or administrative regulations.
  - (a) Necessity of 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: Not applicable
  - (11) TIERING: Is tiering applied? No, this regulation applies equally to all radioactive material licensees and persons who may acquire exempt quantities of radioactive material.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Atomic Energy Act of 1954, as amended, and 10 CFR 30.70 as promulgated by the U.S. Nuclear Regulatory Commission.
2. State compliance standards. Administrative regulation provides a list of concentrations for specific radionuclides, which are exempt from the requirements of 902 KAR 100.
3. Minimum or uniform standards contained in the federal mandate. This amendment will bring about compatibility with U.S. Nuclear Regulatory Commission's requirements for exempt concentrations for specific radionuclides.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Administrative regulation provides requirements equivalent to U.S. Nuclear Regulatory Commission's regulatory requirements for exempt concentrations for specific radionuclides.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No
2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Not applicable.
3. State the aspect or service of local government to which this administrative regulation relates. Not applicable.
4. How does this administrative regulation affect the local government or any service it provides. Not applicable.

#### CABINET FOR HEALTH SERVICES Department for Public Health Division of Public Health Protection and Safety (Amendment)

**902 KAR 100:165. Notices, reports and instructions to employees.**

RELATES TO: KRS 13B.170, 211.842 to 211.852, 211.990(4), 10 CFR 19.11 through 19.17, 30.7, 30.10

STATUTORY AUTHORITY: KRS 13B.170, 194A.050, 211.090, 211.844, 10 CFR 19.11 through 19.17, 30.7, 30.10 [EO-96-862]

NECESSITY, FUNCTION, AND CONFORMITY: [Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.] The Cabinet for Health

Services is mandated [authorized] by KRS 211.844 to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation provides notices, instructions, and reports for the protection of workers who may be exposed to radiation in their employment.

Section 1. Posting of Notices to Workers. (1) A licensee or registrant shall post current copies of the following documents:

- (a) The requirements of this administrative regulation and 902 KAR 100:019, relating to standards for protection against radiation;
  - (b) The license, certificate of registration, conditions or documents incorporated into the license by reference and amendments to the license;
  - (c) The operating procedures applicable to work under the license or registration; and
  - (d) A notice of violation involving radiological working conditions, proposed imposition of civil penalty, or order issued as authorized by 902 KAR 100:170, and responses from the licensee or registrant.
- (2) If posting of a document specified in subsection (1)(a), (b), or (c) of this section is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.

(3) Cabinet form KR-441 "Notice to Employees" shall be prominently posted by a licensee or registrant. The form may be obtained from the cabinet at 275 East Main Street, Frankfort, Kentucky 40621, between 8 a.m. and 4:30 p.m., Monday through Friday.

(4) Documents, notices or forms posted as required by this section shall:

- (a) Appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from a particular work location to which the document applies;
  - (b) Be conspicuous; and
  - (c) Be replaced if defaced or altered.
- (5)(a) Cabinet documents posted as required by subsection (1)(d) of this section shall be posted within two (2) working days after receipt of the documents from the cabinet;
- (b) The licensee's or registrant's response shall be posted within two (2) working days after dispatch from the licensee or registrant; and
- (c) The documents shall remain posted for a minimum of five (5) working days or until action correcting the violation has been completed, whichever is later.

Section 2. Instructions to Workers. (1) Individuals, in the course of employment, likely to receive in a year an occupational dose in excess of 100 millirems (one (1) mSV) shall be:

- (a) Kept informed of the storage, transfer, or use of sources of radiation in the licensee's or registrant's workplace;
- (b) Instructed in the health protection problems associated with exposure to radioactive material or radiation to the individual and potential offspring, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;
- (c) Instructed in, and instructed to observe, to the extent within the worker's control, the applicable requirements of 902 KAR Chapter 100 and licenses for the protection of personnel from exposures to radiation or radioactive material;
- (d) Instructed of their responsibility to report promptly to the licensee or registrant a condition which may lead to or cause a violation of the Act, 902 KAR Chapter 100 or license conditions, or unnecessary exposure to radiation or radioactive material;
- (e) Instructed in the appropriate response to warnings made in the event of an unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and
- (f) Advised as to the radiation exposure reports which workers may request as authorized by Section 3 of this administrative regulation.

(2) In determining the individuals subject to the requirements of this section, licensees or registrants shall take into consideration assigned activities during normal and abnormal situations involving exposure to radioactive material or radiation which can reasonably be expected to occur during the life of a licensed or registered facility. The extent of these instructions shall be commensurate with potential radiological health protection problems in the workplace.

Section 3. Notifications and Reports to Individuals. (1) Radiation exposure data for an individual and the results of measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual shall be reported to the individual as specified in this section.

(2) The information reported shall include data and results obtained as required by 902 KAR Chapter 100, orders, or license conditions, as shown in records maintained by the licensee or registrant as required by 902 KAR 100:019, Section 34.

(3) Each notification and report shall:

(a) Be in writing;

(b) Include appropriate identifying data such as:

1. The name of the licensee or registrant;

2. The name of the individual; and

3. The individual's identification number or Social Security number.

(c) The individual's exposure information; and

(d) Contain the following statement: "This report is furnished to you under the provisions of the Kentucky Cabinet for Health Services' radiation administrative regulations, 902 KAR 100:165. [You should] Preserve this report for further reference."

(4) A licensee or registrant shall advise the worker annually of the worker's exposure to radiation or radioactive material as shown in records maintained by the licensee or registrant required by 902 KAR 100:019, Section 34.

(5) At the request of a worker formerly engaged in work controlled by the licensee or the registrant, a licensee or registrant shall furnish to the worker a report of the worker's exposure to radiation or radioactive material. The report shall:

(a) Be furnished within thirty (30) days from the time request is made, or within thirty (30) days after the exposure of the individual has been determined by the licensee or registrant, whichever is later;

(b) Cover the period of time the worker's activities involved exposure to radiation from radioactive materials licensed by, or radiation machines registered with the cabinet; and

(c) Include the dates and locations of work under the license or registration in which the worker participated during this period.

(6) If a licensee or registrant is required, pursuant to 902 KAR 100:019, Sections 40, 41 and 42, to report to the cabinet an exposure of an individual to radiation or radioactive material, the licensee or the registrant shall also provide the individual a report on the exposure data included in the report to the cabinet. The reports shall be transmitted to the individual at a time not later than the transmittal to the cabinet.

(7)(a) At the request of a worker who is terminating employment, with the licensee or registrant in work involving exposure to radiation or radioactive material, during the current year, the licensee or registrant shall provide to the worker, or to the worker's designee, at termination, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during the current year or fraction thereof.

(b) If the most recent individual personnel monitoring results are not available at that time, a written estimate of the dose shall be provided.

(c) Estimated doses shall be clearly indicated as estimated doses.

Section 4. Presence of Representatives of Licensees or Registrants and Workers during Inspection. (1) A licensee or registrant shall afford to the cabinet at all reasonable times opportunity to inspect materials, machines, activities, facilities, premises, and records required by 902 KAR Chapter 100.

(2) During an inspection, cabinet inspectors may consult privately with workers as specified in Section 5 of this administrative regulation. The licensee or registrant may accompany cabinet inspectors during other phases of an inspection.

(3) If, during the inspection, an individual has been authorized by the workers to represent them during cabinet inspections, the licensee or registrant shall notify the inspectors of the authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

(4) The workers' representative shall be routinely engaged in work under control of the licensee or registrant and shall have received instructions as specified in Section 2 of this administrative regulation.

(5) Different representatives of licensees or registrants and work-

ers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of an inspection. However, only one (1) workers' representative at a time may accompany the inspectors.

(6) With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, shall be afforded the opportunity to accompany cabinet inspectors during the inspection of physical working conditions.

(7) In addition to the other requirements of this section, cabinet inspectors are authorized to refuse to permit accompaniment by an individual who deliberately interferes with a fair and orderly inspection.

(8) With regards to areas containing information classified by an agency of the U.S. government in the interest of national security, an individual who accompanies an inspector shall have access to such information only if authorized to do so.

(9) With regard to an area containing proprietary information, the workers' representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area.

Section 5. Consultation with Workers during Inspection. (1) Cabinet inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to 902 KAR Chapter 100 and licenses or registrations to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(2) During the course of an inspection a worker may bring privately to the attention of the inspectors, either orally or in writing, a past or present condition which he has reason to believe may have contributed to or caused a violation of the Act, 902 KAR Chapter 100, or license condition, or an unnecessary exposure of an individual to radiation from licensed radioactive material or a registered radiation machine under the licensee's or registrant's control. A written notice shall comply with the requirements of Section 6(1) of this administrative regulation.

(3) The requirements of subsection (2) of this section shall not be interpreted as authorization to disregard instructions required by Section 2 of this administrative regulation.

Section 6. Requests by Workers for Inspections. (1)(a) A worker or representative of workers who believes that a violation of the Act, 902 KAR Chapter 100 or license conditions exists or has occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged, may request an inspection by giving notice of the alleged violation to the Cabinet for Health Services, Radiation Health and Toxic Agents Branch [Control].

(b) The notice shall:

1. Be in writing;

2. Set forth the specific grounds for the notice; and

3. Be signed by the worker or representative of the workers.

(c) A copy shall be provided to the licensee or registrant by the cabinet no later than at the time of inspection. If the worker giving the notice requests, his name and the name of individuals referred to in the notice shall not appear in the copy or on a record published, released, or made available by the cabinet, except for good cause shown.

(2) If, upon receipt of the notice, the Manager, Radiation Health and Toxic Agents Branch [Control], determines that the complaint meets the requirements established [set forth] in subsection (1) of this section, and that there are reasonable grounds to believe that the alleged violation exists or has occurred, he shall cause an inspection to be made as soon as practicable, to determine if the alleged violation exists or has occurred. Inspections authorized by this section need not be limited to matters referred to in the complaint.

(3) A licensee or registrant or contractor or subcontractor of a licensee or registrant shall not discharge or in a [any] manner discriminate against a worker because the worker has:

(a) Filed a complaint;

(b) Instituted or caused to be instituted a proceeding under 902 KAR 100:170;

(c) Testified or is about to testify in a proceeding; or

(d) Exercised an option on behalf of himself or others afforded by this administrative regulation.

Section 7. Inspections not Warranted; Informal Review. (1)(a) If the Cabinet for Health Services, Radiation Health and Toxic Agents Branch [Control] determines, with respect to a complaint under Section 6 of this administrative regulation, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the cabinet shall notify the complainant in writing of the determination.

(b) The complainant may obtain a review of the determination by submitting a written statement of position with the Commissioner, Department for Public Health. The commissioner shall provide the licensee or registrant with a copy of the statement by certified mail, excluding, at the request of the complainant, the name of the complainant.

(c) The licensee or registrant may submit an opposing written statement of position with the commissioner, who shall provide the complainant with a copy of the statement by certified mail.

(2) Upon the request of the complainant, the commissioner shall hold an administrative hearing in accordance with 902 KAR 1:400.

(3) If Radiation Health and Toxic Agents Branch [Control] determines that an inspection is not warranted because the requirements of Section 6(1) of this administrative regulation have not been met, the complainant shall be notified, in writing, of the determination. The determination shall be without prejudice to the filing of a new complaint meeting the requirements of Section 6(1) of this administrative regulation.

Section 8. Employee Protection. (1) Discrimination by a cabinet licensee, an applicant for a cabinet license, a registrant or a contractor or subcontractor of a cabinet licensee, registrant or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment.

(a) The protected activities include but are not limited to:

1. Providing the cabinet or his or her employer information about alleged violations or possible violations of requirements of 902 KAR Chapter 100;

2. Refusing to engage in a practice made unlawful under or under these requirements if the employee has identified the alleged illegality to the employer;

3. Requesting the cabinet to institute action against his or her employer for the administration or enforcement of these requirements;

4. Testifying in a cabinet proceeding, or before Congress, or at a federal or state proceeding regarding a provision (or proposed provision) of 902 KAR Chapter 100;

5. Assisting or participating in, or is about to assist or participate in, these activities.

(b) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(c) This section has no application to an employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of a requirement of the Act or the administrative regulations promulgated under the Act.

(2) An employee who believes that he or she has been discharged or discriminated against by a person for engaging in protected activities specified in subsection (1)(a) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding in the Department of Labor. The administrative proceeding shall be initiated within 180 days after an alleged violation occurs. The employee may do this by filing a complaint alleging the violation with the Department of Labor, Employment Standards Administration, Wage and Hour Division. The Department of Labor may order reinstatement, back pay, and compensatory damages.

(3) A violation of subsections (1) and (6) of this section by a cabinet licensee, an applicant for a cabinet license, or a contractor or subcontractor of a cabinet licensee or applicant may be grounds for:

(a) Denial, revocation, or suspension of the license.

(b) Imposition of a penalties on the licensee or applicant.

(c) Other enforcement action.

(4) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The prohibition applies if the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

(5) Agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with the Department of Labor may not contain a provision which may prohibit, restrict, or discourage an employee from participating in protected activity as defined in subsection (1)(a) of this section including, but not limited to, providing information to the cabinet or to his or her employer on potential violations or other matters within cabinet's regulatory responsibilities.

Section 9. Deliberate Misconduct. (1) A licensee, certificate of registration holder, applicant for a license, registrant or certificate of registration, employee of a licensee, certificate of registration holder, or applicant; or a contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of a licensee or certificate of registration holder or applicant for a license or certificate of registration, who knowingly provides to a licensee, registrant, applicant, certificate holder, contractor, or subcontractor, components, equipment, materials, or other goods or services that relate to a licensee's, certificate holder's or applicant's activities in 902 KAR Chapter 100, may not:

(a) Engage in deliberate misconduct that causes or may have caused, if not detected, a licensee, registrant, certificate of registration holder, or applicant to be in violation of a rule, administrative regulation, or order; or a term, condition, or limitation of a license issued by the cabinet; or

(b) Deliberately submit to the cabinet, a licensee, registrant, certificate of registration holder, an applicant, or a licensee's, certificate holder's or applicant's, contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the cabinet.

(2) A person who violates subsection (1)(a) or (b) of this section may be subject to enforcement action in accordance with the procedures in 902 KAR 100:170.

(3) For the purposes of subsection (1)(a) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:

(a) May cause a licensee, registrant, certificate of registration holder or applicant to be in violation of a rule, administrative regulation, or order; or a term, condition, or limitation, of a license or registration issued by the cabinet; or

(b) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, registrant certificate of registration holder, applicant, contractor, or subcontractor.

Section 10. Material Incorporated by Reference. (1) The following form is incorporated by reference: Cabinet for Health Services Form KR-441 "Notice to Employees".

(2) The form in subsection (1) of this section may be viewed or copied at the Office of the Commissioner of Public Health, 275 East Main Street, Frankfort, Kentucky 40621, 8 a.m. until 4:30 p.m., Monday through Friday.

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

#### REGULATORY IMPACT ANALYSIS

Agency Contact person: John A. Volpe

(1) Type and number of entities affected: Amending this administrative regulation which provides provisions for protecting radiation workers in the workplace will impact all 400 radioactive material licensees.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(c) Compliance, reporting, and paperwork requirements, including factors increasing or decreasing cost (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

(4) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No change in fees at this time; therefore, there will not be an impact on state revenues to support the radiation program.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees from the licensing of radioactive material users.

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

(a) Geographical area in which administrative regulation will be implemented: No comments were received.

(b) Kentucky: No comments were received.

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

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: The amended regulation provides a better understanding by workers for provisions for their protection when working with radiation in the workplace.

(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: Provisions would not be made for workers' protection in the workplace.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: No conflict with statutes or administrative regulations.

(a) Necessity of 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: Not applicable.

(11) TIERING: Is tiering applied? No, this regulation applies equally to all radioactive material licensees.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Atomic Energy Act of 1954, as amended, and 10 CFR 19.11 through 19.17 and 30.7 through 30.10 as promulgated by the U.S. Nuclear Regulatory Commission.

2. State compliance standards. Administrative regulation provides notices, instructions, and reports for the protection of workers who may be exposed to radiation in their employment.

3. Minimum or uniform standards contained in the federal mandate. This amendment will bring about compatibility with U.S. Nuclear Regulatory Commission's requirements for the protection of workers who may be exposed to radiation in their employment.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Administrative regulation provides requirements equivalent to U.S. Nuclear Regulatory Commission's regulatory requirements for the protection of workers who may be exposed to radiation in their employment.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Not applicable.

3. State the aspect or service of local government to which this administrative regulation relates. Not applicable.

4. How does this administrative regulation affect the local government or any service it provides. Not applicable.

#### CABINET FOR FAMILIES AND CHILDREN Department for Community Based Services Division of Policy Development (Amendment)

#### 921 KAR 2:050. Time and manner of payments.

RELATES TO: KRS 205.220[(1)], 205.245 [45-GFR-255:3], 42 USC 601 et seq.

STATUTORY AUTHORITY: KRS 194B.050(1), [45-GFR-255:3], 42 USC 601 et seq., EO 98-731 [96-862]

NECESSITY, FUNCTION, AND CONFORMITY: [Executive Order 96-862, effective July 2, 1996, reorganized the Cabinet for Human Resources and placed the Department for Social Insurance and its programs under the Cabinet for Families and Children.] The Cabinet for Families and Children 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 a money payment to a person who is [money payments to those persons who are] aged, blind and has [have] a disability who is [are] disadvantaged by the implementation of the Supplemental Security Income (SSI) Program. In addition, KRS 205.245 provides for a money payment to a person who is [money payments to certain other persons who are] aged, blind or has [have] a disability. The Cabinet for Families and Children shall make a payment pursuant to [payments, described in] 921 KAR 2:015, for a person [the persons] with mental illness or mental retardation [(MIMR)-supplement-program]. This administrative regulation sets forth the time and the manner in which a payment is [payments are] made.

Section 1. Authorization of Kentucky Transitional Assistance Program Assistance Payments. (1) Method of payment.

(a) A payment may be issued;

1. Monthly by check; or

2. Deposited directly into a recipient's checking account upon completion by the recipient of the Direct Deposit Authorization, Form PA-63; and

(b) A payment shall be issued prospectively.



(2) Initial payment.

(a) A Kentucky Transitional Assistance Program approval shall not be made for a [any] period prior to the date of application.

(b) The effective date of an initial payment for a Kentucky Transitional Assistance Program approval shall be the date an application is filed if [all] eligibility factors are met as of that date.

(c) If [all] eligibility factors are not met as of the day of application, the approval shall be effective the date on which all factors are met.

(3) Subsequent and special payment [payments].

(a) Except in a situation pursuant to [situations specified in] paragraphs (b), (c), and (d) of this subsection, a subsequent Kentucky Transitional Assistance Program payment shall be made for an entire month in which [all] technical eligibility factors are met as of the first day of the month.

(b) A subsequent Kentucky Transitional Assistance Program payment shall not be made to an individual for a [any] month in which the amount of the benefit payment, prior to a [any] recoupment, would be less than ten (10) dollars.

(c) An otherwise eligible individual shall be deemed a recipient of Kentucky Transitional Assistance Program for another purpose [all other purposes] if a Kentucky Transitional Assistance Program check is not received pursuant to paragraph (b) of this subsection.

(d) A special payment shall be issued:

1. If [When] the regular monthly payment received is less than the entitled amount based on a [the] household circumstance [circumstances]; and

2. For a period of up to twelve (12) months preceding the month of error correction, if the error existed in the preceding months.

(4) Inalienability of payment [payments].

(a) A Kentucky Transitional Assistance Program payment is unconditional and is exempt from a [any] remedy for the collection of a debt, lien or encumbrance from an [any] individual or agency other than the Cabinet for Families and Children.

(b) The Cabinet for Families and Children may [shall] initiate recoupment to recover overpayment of benefits.

(5) Eligible payee.

(a) A money payment shall usually be issued in the name of the eligible applicant.

(b) A protective payment may be made to a third party payee if:

1. A determination has been made by the Cabinet for Families and Children [agency] that poor money management is contributing to the unsuitability of the home for a needy child;

2. The payee has refused, without good cause pursuant to [as specified in] 921 KAR 2:006 and 921 KAR 2:370, to participate in the Kentucky Works Program or the Child Support Program; or

3. A minor teenage parent has not complied pursuant to [with provisions found in] 921 KAR 2:006, Section 18. The protective payment to a third party payee shall be for the eligible child of the minor teenage parent.

(c) The Department for Community Based Services may request an accounting from a third-party payee in which the use of Kentucky Transitional Assistance Program funds shall be described pursuant to PA-148.

(d) A Kentucky Transitional Assistance Program payment for the month of death may be reissued to the:

1. [The] Widow or widower;
2. [The] Parent;
3. [The] Guardian; or
4. [The] Executor or administrator of the estate.

(e) [(d)] If the payment is reissued to an executor or administrator, a copy of the appointment order shall be obtained as verification.

(6) A Kentucky Transitional Assistance Program check may [shall] not be issued to an eligible Kentucky Transitional Assistance Program recipient who is a wage supplementation participant pursuant to 921 KAR 2:370, Section 2(2)(c)11. The amount of the eligible Kentucky Transitional Assistance Program payment for the benefit group containing a wage supplementation participant may [shall] be diverted to the contracted employer of the wage supplementation participant. [The otherwise eligible wage supplementation participant shall be deemed a recipient of Kentucky Transitional Assistance Program for all other purposes.]

Section 2. Supportive Services for Kentucky Works Participants. A supportive services payment for a Kentucky Works participant shall be

made according to the type of service provided, as follows:

(1) A child care payment shall be issued pursuant [according] to 922 KAR 2:160.

(2) Transportation.

(a) A transportation payment shall be made prospectively for anticipated transportation cost [costs].

(b) A transportation payment pursuant to 921 KAR 2:017 may be made directly to the Kentucky Transitional Assistance Program recipient.

(3) Other approved supportive services payments shall be made:

(a) Directly to the provider; and

(b) Within thirty (30) days of receipt of appropriate verification of service delivery of billing, pursuant to [as specified in] 921 KAR 2:017.

Section 3. Authorization of a State Supplementation Payment. (1) Method of payment.

(a) A payment shall be issued monthly by check; and

(b) A payment shall be issued prospectively.

(2) Initial payment.

(a) The effective date for State Supplementation Program approval shall be the first day of the month in which:

1. An application is filed; and

2. [All] Eligibility factors are met.

(b) A State Supplementation Program approval shall be made for the entire month [during any part] of which eligibility factors are met.

(3) Subsequent and special payment [payments].

(a) A State Supplementation Program payment shall be made for an entire month in which eligibility factors are met as of the first day of the month.

(b) A special payment shall be made:

1. If [When] the regular monthly payment received is less than the entitled amount based on a [the] household circumstance [circumstances]; and

2. For a period of up to twelve (12) months preceding the month of error correction, if the error existed in the preceding months.

(4) Inalienability of a payment.

(a) A State Supplementation Program money payment is unconditional and is exempt from a [any] remedy for the collection of a debt, lien or encumbrance from an [any] individual or agency other than the Cabinet for Families and Children.

(b) The Cabinet for Families and Children may initiate recoupment to recover overpayment of benefits.

(5) Eligible payee.

(a) A money payment shall usually be issued in the name of the eligible applicant.

(b) A money payment may be issued to the:

1. [The] Legally appointed committee or guardian; or

2. [The] Person serving as the representative payee for another statutory benefit such as SSI.

(c) A State Supplementation Program payment for the month of death may be reissued to the:

1. [The] Widow or widower;
2. [The] Parent;
3. [The] Guardian; or
4. [The] Executor or administrator of the estate.

(d) If the payment is reissued to an executor or administrator, a copy of the appointment order shall be obtained as verification.

Section 4. Authorization of Persons With Mental Illness or Mental Retardation (MIMR) Supplement Program Payment. (1) Method of payment.

(a) The MIMR supplement payment shall be made:

1. Quarterly;

2. By the last day of the month following the month that [in which] the certified quarter ends.

(b) The training reimbursement payment for the MIMR Supplement Program shall be issued within thirty (30) days of receipt of appropriate documentation, pursuant to [as specified in] 921 KAR 2:015.

2. Initial payment.

(a) Following the notification of the Cabinet for Families and Children by the personal care home (PCH) of its intent to participate, the effective date of the MIMR supplement shall be the first day of a quarter that [in which] certification requirements pursuant to [contained in] 921 KAR 2:015 are met.

(b) MIMR approvals shall be made:

1. For the entire quarter during any part of which certification factors are met, unless a conditional rating is received from the Office of the Inspector General; and

2. If a Type A citation issued from the Office of Inspector General [conditional rating] occurs, payment shall be made only for eligible months pursuant to [as specified in] 921 KAR 2:015.

(3) A subsequent payment [payments] shall be made for a [any] month within a quarter in which eligibility factors are met.

(4) Eligible payee.

(a) Payment for the MIMR supplement shall be made to the participating PCH, meeting MIMR certification requirements, for an eligible calendar quarter, pursuant to [as specified in] 921 KAR 2:015.

(b) Payment for the MIMR training reimbursement shall be made to the participating PCH.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) PA-63, "Direct Deposit Authorization", edition 11/98; and

(b) PA-148, "Protective Payment Agreement", edition 11/98.

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

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

APPROVED BY AGENCY: May 6, 2000

FILED WITH LRC: May 11, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 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 June 14, 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: The affected entities are families who apply for or receive benefits under the Temporary Assistance for Needy Families (TANF) block grant program called Kentucky Transitional Assistance Program (K-TAP). As of February 2000, there were a total of 38,014 basic K-TAP cases and 760 UP cases (unemployed parent cases), for a total of 38,774 K-TAP cases. In February 2000, there were 24,705 adults and 63,860 children in those cases. Also affected are State Supplementation cases. As of February 2000, there was a total of 5,004 State Supplementation recipients. Additionally, approximately 50 personal care homes participate in MIMR and are affected.

(2) Direct and indirect cost or savings to those affected: None

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received.

(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.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 USC 601 et seq.

2. State compliance standards. In order to comply with the requirements of the above referenced mandate, as well as KRS 205.220 and 205.245, this administrative regulation:

Authorizes payments of public assistance grants to eligible individuals;

Permits the cabinet to request an accounting of such funds from any person who receives and disburses public assistance grants on behalf of another individual eligible for public assistance; and

Requires supplemental payments to persons requiring special living arrangements as they become eligible for the supplemental security income program.

3. Minimum or uniform standards contained in the federal mandate. None

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

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

#### CABINET FOR FAMILIES AND CHILDREN Department for Community Based Services Division of Policy Development (Amendment)

922 KAR 1:140. Foster care and [;] adoption permanency services [assistance].

RELATES TO: KRS 199.467, 199.472, 199.801, 620.020, 620.060, 620.090, 2000 Ky. Acts ch. 60

## VOLUME 26, NUMBER 12 – JUNE 1, 2000

STATUTORY AUTHORITY: KRS 194B.050(1), 620.180, 42 USC 620-628, 672, 673

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194B.050(1) provides that the Secretary of the Cabinet for Families and Children shall adopt administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. This administrative regulation is required by 42 USC 620-628, 672, 673, Adoption Assistance and Child Welfare Act of 1980. It serves to set forth the maximum number of children in foster care who can remain in care for more than twenty-four (24) months and the steps which shall be taken to achieve the goal. Additionally, this administrative regulation establishes the process pursuant to KRS 620.180 of reviewing the status of a child and those services that are provided to best meet the needs of a child placed in out-of-home care. This administrative regulation has been promulgated in compliance with KRS 13A.221 that requires a separate administrative regulation for each topic of general subject matter.

Section 1. Definitions. (1) "Aggravated circumstance" means the existence of a condition pursuant to 2000 Ky. Acts ch. 60.

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

(3) "Concurrent planning" means the cabinet may simultaneously plan for:

(a) Reunification of a child under the custodial control of the cabinet; and

(b) Permanent removal of the child if the prognosis for reunification is poor.

(4) "Reasonable efforts" means the exercise of ordinary diligence and care by the cabinet to use preventive and reunification services available that are necessary to enable the child to safely live at home pursuant to KRS 620.020. ["Child-care institution" means an institution as governed by 42 USC 672:

(2) "Family foster home" means a private family household which is approved by the Cabinet for Families and Children for out-of-home care;

(3) "Foster care" means care of a child in a family foster home or child-care institution.]

Section 2. Children in Care. During the federal fiscal year beginning October 1, 1993 and succeeding fiscal years, the maximum number of children who may receive foster care in excess of twenty-four (24) months is 3000.

Section 3. Permanency Planning. (1) Cabinet staff shall demonstrate to the satisfaction of the court that reasonable efforts;

(a) Shall have been made to enable the child to live safely at home; or

(b) Shall not be required pursuant to 2000 Ky. Acts ch. 60, including when consideration has been given to a parent's:

1. Subjection of a child to an aggravated circumstance;

2. Ability to care for the child because alcohol or drug abuse contributes to abuse or neglect by the parent of the child and the parent has established a pattern of noncompliance with available treatment;

3. Mental illness, mental retardation, or other developmental disability that substantially impairs the parent's ability to function and;

a. Places the child at substantial risk of physical or emotional injury; and

b. No known treatment for the parent exists so that the child may be returned to the parent within twelve (12) months and live safely at home; or

4. Other circumstances that makes continued efforts to preserve or reunify the family inconsistent with the;

a. Best interests of the child; and

b. Permanency plan for the child.

(2) A child shall be removed from his home:

(a) If an emergency custody order has been obtained pursuant to KRS 620.060; or

(b) If a temporary custody order has been obtained pursuant to KRS 620.090.

(3) Upon removal of a child from his home:

(a) Placement shall be:

1. Selected according to the most appropriate and least restric-

tive alternative pursuant to KRS 620.090; and

2. Closest in proximity to the child's home pursuant to KRS 199.801;

(b) Cabinet staff shall give priority consideration to placement of the child with a relative pursuant to KRS 620.090 and upon determination that relative placement is in the child's best interest, eligibility for kinship care shall be considered pursuant to 922 KAR 1:130.

(4) An absent parent search shall be conducted by cabinet staff to locate a parent whose whereabouts are unknown.

(5) Within five (5) days of the temporary removal hearing, a treatment plan shall be established pursuant to KRS 620.180 and a plan for permanency shall be developed and documented on the P&P-1282, Family Case Plan, for a child placed under the custodial control of the cabinet.

(6) Concurrent planning shall be considered during development of the permanency plan and documented on the P&P-1282, Family Case Plan. The plan shall identify the permanency goal pursuant to Section 4 of this administrative regulation.

Section 4. Permanency Goals. (1) A permanency goal for a child under the custodial control of the cabinet shall be established according to the particular needs and best interests of the child.

(2) An approved permanency goal shall include one (1) of the following:

(a) Return to parent;

(b) Adoption;

(c) Permanent relative placement;

(d) Legal guardianship;

(e) Planned permanent living arrangement; or

(f) Emancipation.

Section 5. Return to Parent. (1) A child under the custodial control of the cabinet shall be returned to the parent when the home has been determined safe and reunification has been determined to be in the best interest of the child.

(2) Another permanency goal as identified in Section 4 of this administrative regulation shall be selected when:

(a) A family does not make progress toward achieving the objectives specified in the Family Case Plan established pursuant to Section 3(5) of this administrative regulation; or

(b) Reasonable efforts shall not be required as identified in Section 3(1)(b) of this administrative regulation.

Section 6. Adoption. (1) The permanency goal for a child under the custodial control of the cabinet shall be adoption when:

(a) The parent pursues voluntary termination of parental rights; or

(b) Return to the parent is not in the child's best interest and the cabinet pursues involuntary termination of parental rights pursuant to KRS 625.090.

(2) An exception for proceeding with termination of parental rights may be requested by the cabinet when:

(a) Relative placement has been secured;

(b) A compelling reason;

1. Has been documented in the family case plan that termination of parental rights is not in the best interests of the child; and

2. Is continually monitored to assess validity; or

(c) Services deemed necessary for reunification with the parent have not been provided to the family of the child within the time period specified in the family case plan.

(3) Cabinet staff shall consider involuntary termination of parental rights at the twelve (12) month permanency hearing.

(4) If a determination is made during the twelve (12) month permanency hearing that prohibits termination of parental rights from being in the best interest of the child:

(a) Documentation to support the determination shall be included in the family case plan; and

(b) Termination of parental rights shall be considered at each subsequent hearing.

Section 7. Permanent Relative Placement. Permanent relative placement shall be requested pursuant to KRS 620.027 for a child under the custodial control of the cabinet when:

(1) Return to the parent is not in the child's best interest; and

(2) The relative is not able to pursue other permanent custody options.

Section 8. Legal Guardianship. (1) The permanency goal for a child under the custodial control of the cabinet shall be guardianship pursuant to 2000 Ky. Acts ch. 60 when reunification with the parent and adoption is not in the child's best interest.

(2) Legal guardianship shall be requested pursuant to 2000 Ky. Acts ch. 60.

Section 9. Planned Permanent Living Arrangement. (1) The permanency goal for a child under the custodial control of the cabinet shall be a planned permanent living arrangement when:

(a) An effort has been made to place the child for adoption or with a relative and the child has been placed on a national adoption register;

(b) Other permanency goal options have been considered and are not appropriate due to the specific circumstances of the child;

(c) The cabinet has reviewed documentation that a goal of planned permanent living arrangement is in the best interests of the child;

(d) The court has determined that it would be in the best interests of the child to be placed in a planned permanent living arrangement; or

(e) The child has formed psychological ties with those with whom he lives and adoption and guardianship have been discussed with the care provider and are not appropriate or viable alternatives.

(2) Approval must be obtained from the commissioner's office of the Department for Community Based Services prior to the establishment of a planned permanent living arrangement as a permanency goal for a child:

(a) Under the age of sixteen (16); or

(b) Placed with a private child caring agency.

Section 10. Emancipation. (1) The permanency goal for a child under the custodial control of the cabinet shall be emancipation when:

(a) The youth is age sixteen (16) or older; and

(b) Other permanency options have been considered and are not appropriate due to the specific circumstance of the child.

(2) Upon establishment of emancipation as a permanency goal, the youth shall be referred to the cabinet administered independent living program.

Section 11. Permanency Services. (1) The cabinet shall provide services for a child under the custodial control of the cabinet so that permanency may be achieved.

(2) Permanency services may include:

(a) Ongoing case work and monitoring of the family to:

1. Maintain the child safely in his home; and

2. Ensure safe return of the child if the goal is reunification;

(b) Adoption assistance pursuant to 922 KAR 1:050;

(c) Postfinalization adoption assistance when adoption assistance has not been previously approved if:

1. A finalized adoption is near dissolution due to the need for extraordinary medical care;

2. The child was placed for adoption by the cabinet;

3. The adoptive parent has made a reasonable effort to meet the needs of the child without assistance; and

4. The child is under eighteen (18) years of age; or

(d) Referral to other cabinet and community resources necessary for the achievement or maintenance of the child's permanency goal.

Section 12. Incorporation by Reference. (1) The P&P-1282, "Family Case Plan", edition 9/98, 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. [Goal Achievement: Activities directed at the achievement of this goal may include:

(1) Supportive services to the child and family to prevent or eliminate the need for removal of the child;

(2) Attempting to place the child in close proximity to the family

and in the least restrictive setting;

(3) Implementing case plan and a case review procedure that periodically assess the appropriateness of the child's placement and reevaluate the services provided to assist the child and family;

(4) Providing supportive services to the family to make it possible for the child to return home; and

(5) At the end of six (6) months in foster care to formulate a permanent plan for the child.]

DIETRA PARIS, Commissioner

HIREN DESAI, Attorney

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 15, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 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 June 14, 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: Entities affected include children placed in out-of-home care by the cabinet. As of 3/26/2000, a total of 5778 children were in out-of-home care.

(2) Direct and indirect cost or savings to those affected: None

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comment received: No public hearing was requested as a result of the Notice of Intent being published and no written comments were received.

(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 alterna-

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tives 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.

### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 USC 620-628, 672, 673.

2. State compliance standards. In order to comply with the requirements of the above referenced mandate, as well as KRS 199.467, 199.472, 199.801, 620.020, 620.060, 620.090, 620.180, and 2000 Ky. Acts ch. 60, this administrative regulation:

Clarifies when the provision of reasonable efforts to prevent removal of a child from his parent or guardian is unnecessary;

Requires concurrent planning to be considered during development of the child's case treatment plan;

Describes each permanency goal that may be approved for a child under the custodial control of the cabinet;

Permits the cabinet to provide services for a child under the custodial control of the cabinet so that permanency may be achieved; and

Retains the established goal for the maximum number of children who may remain in foster care in excess of twenty-four (24) months.

3. Minimum or uniform standards contained in the federal mandate. Pursuant to 42 USC 620-628, 672, 673, this administrative regulation:

Establishes permanency services to help return children to families from which they have been removed; or

Be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned permanent living arrangement.

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

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

NEW ADMINISTRATIVE REGULATIONS RECEIVED THROUGH NOON, MAY 15, 2000

**KENTUCKY BOARD OF LICENSURE OF  
MARRIAGE AND FAMILY THERAPISTS  
(New Administrative Regulation)**

**201 KAR 32:081. Inactive licensure status.**

RELATES TO: KRS 335.325(6)

STATUTORY AUTHORITY: KRS 335.320(9), 335.325(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.325(6) enables the board to grant retired or inactive status to licensees under the conditions set forth by administrative regulation. This administrative regulation establishes the requirements for inactive licensure status.

Section 1. Inactive licensure status may be granted to a licensee pursuant to KRS 335.325(6) upon written request to the board.

(1) The licensee shall be relieved of his obligation to pay the renewal fee, but shall meet the annual requirements for continuing education as established in 201 KAR 32:060.

(2) The licensee may return to active status within three (3) years of being granted inactive licensure status upon:

(a) Written notification to the board;

(b) Payment of the current renewal fee as set forth in 201 KAR 32:030; and

(c) Demonstration of compliance with all continuing education requirements, as established in 201 KAR 32:060, for each year during the period of inactive licensure status.

(3) If the licensee does not reactivate his license before the third anniversary date of the granting of inactive licensure status, then the license shall be forfeited. Following forfeiture of a license under the provisions of this section, any person desiring to practice marriage and family therapy in the Commonwealth of Kentucky shall make a new application for licensure to the board, pay the initial fees for application and licensure, and meet current requirements for initial licensure, as established by statute and administrative regulation.

JOHN P. SOHAN, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: May 1, 2000

FILED WITH LRC: May 3, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000, at 10 a.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 14, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Ste. 2, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

**REGULATORY IMPACT ANALYSIS**

Agency contact: Nancy Black

(1) Type and number of entities affected: Approximately 400 licensed marriage and family therapists.

(2) Direct and indirect costs or savings to those affected: The direct saving to licensees is that they will be relieved of their obligation to pay the annual renewal fee. The direct cost associated with this regulation occurs only in the event that the licensee fails to reactivate his license before the third anniversary date of the granting

of inactive licensure status, at which time he must pay the initial fee for licensure.

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received.

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

1. First year following implementation: There are no additional costs. Licensees will continue to be responsible for meeting annual continuing education requirements.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body: None

(a) Direct or indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None anticipated.

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Board funds received from licensure fees.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on: No comments received.

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation does not affect economic activity.

(b) Kentucky: None

(7) Assessment of alternative methods, reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits: Brings the administrative regulation into conformity with the statutory requirements.

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

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

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: Board is not aware of any statute, regulation or government policy, which may be in conflict or is duplicated by this proposed regulation.

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

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

(10) Any additional comments: None

(11) TIERING: Is tiering applied? No. The regulation applies equally to all licensed marriage and family therapists.

**KENTUCKY BOARD OF LICENSURE OF  
MARRIAGE AND FAMILY THERAPISTS  
(New Administrative Regulation)**

**201 KAR 32:101. Reinstatement of license subject to disciplinary action.**

RELATES TO: KRS 335.325(5); 335.340(5), (7)

STATUTORY AUTHORITY: KRS 335.320(9), 335.348, 335.360

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.348 empowers the board to punish a licensee for violation of the statutes and administrative regulations governing the practice of marriage and family therapy. This includes the ability to revoke a license. KRS 335.360 permits a person whose license has been revoked to apply



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for reinstatement after five (5) years. This administrative regulation establishes the requirements for reinstatement of a license that has been the subject of disciplinary action by the board.

Section 1. Reinstatement of a License Revoked by Disciplinary Action of the Board. (1) If a license has been revoked, an individual may apply for reinstatement by:

- (a) Completing the License Reinstatement form;
- (b) Paying the initial licensure fee as set forth in 201 KAR 32:030;
- (c) Paying the examination fee as established in 201 KAR 32:030;
- (d) Taking the licensure examination and achieving a passing score; and
- (e) The applicant shall show evidence of completion of fifteen (15) hours of continuing education for each year since the date of revocation in accordance with the requirements established in 201 KAR 32:060.

(2) A hearing shall be held to determine whether or not to reinstate the former licensee. The board shall consider the information contained in the application and the testimony and evidence obtained in the hearing. Based upon the information gathered the board shall determine if reinstatement of the license would be a threat to public safety, health and welfare. If the board finds that there no longer exists a danger to the public, it may reinstate the license. If the board finds that the danger still exists, it may refuse to reinstate the license.

Section 2. Reinstatement of a License which was Voluntarily Surrendered as if Revoked. (1) If a license has been voluntarily surrendered as if revoked, an individual may apply for reinstatement by:

- (a) Completing the License Reinstatement form;
  - (b) Paying the initial licensure fee as established in 201 KAR 32:030;
  - (c) Paying a reinstatement fee of fifty (50) dollars;
  - (d) Notifying the board, in writing, that the requirements of agreed order have been met or completed; and
  - (e) Notifying the board, in writing, to request that a hearing be held to determine if the issuance of a license would no longer be a threat to public safety and welfare;
- (2) An individual whose license has been voluntarily surrendered as if revoked shall be required to comply with the annual continuing education requirements for the period during which the license was voluntarily surrendered in accordance with the requirements established in 201 KAR 32:060.

Section 2. Incorporation by Reference. (1) "License Reinstatement form," (2000 Edition), Kentucky Board of Licensure for Marriage and Family Therapists, is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Kentucky Board of Licensure for Marriage and Family Therapists, 700 Louisville Road, Berry Hill Annex, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN P. SOHAN, Chair

DIANE SCHULER FLEMING, Assistant Attorney General

APPROVED BY AGENCY: May 1, 2000

FILED WITH LRC: May 3, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000, at 10 a.m. at the offices of the Division of Occupations and Professions, 700 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by June 14, 2000, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the

contact person.

CONTACT PERSON: Nancy Black, Executive Director, Division of Occupations and Professions, 700 Louisville Road, Berry Hill Annex, Suite 2, Frankfort, Kentucky 40601, telephone (502) 564-3296, Fax (502) 564-4818.

### REGULATORY IMPACT ANALYSIS

Agency contact: Nancy Black

(1) Type and number of entities affected: Approximately 400 licensed marriage and family therapists.

(2) Direct and indirect costs or savings to those affected: The direct cost associated with this administrative regulation for reinstatement of a revoked license is the payment of the initial licensure fee as set forth in 201 KAR 32:030, and payment of the examination fee. The direct cost for reinstatement of a voluntarily surrendered license is payment of the initial licensure fee as set forth in 201 KAR 32:030, and payment of a \$50 reinstatement fee.

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No comments received.

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

1. First year following implementation: There are no additional costs. Licensees will continue to be responsible for completing 15 hours of continuing education for each year since the date of revocation, or voluntary surrender.

2. Second and subsequent years: Same as above.

(3) Effects on the promulgating administrative body: None

(a) Direct or indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None anticipated.

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Board funds received from licensure fees.

(6) To the extent available from public comments received, the economic impact, including effects of economic activities arising from administrative regulation on: No comments received.

(a) Geographical area in which administrative regulation will be implemented: This administrative regulation does not affect economic activity.

(b) Kentucky: None

(7) Assessment of alternative methods, reasons why alternatives were rejected: Not applicable.

(8) Assessment of expected benefits: Brings the administrative regulation into conformity with the statutory requirements.

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

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

(c) If detrimental effect would result, explain detrimental effect: Not applicable.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: Board is not aware of any statute, regulation or government policy, which may be in conflict or is duplicated by this proposed regulation.

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

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

(10) Any additional comments: None

(11) TIERING: Is tiering applied? No. The regulation applies equally to all licensed marriage and family therapists.

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## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Water (New Administrative Regulation)

### 401 KAR 5:072. Concentrated animal feeding operations.

RELATES TO: KRS 224.10-100, 224.16-050, 224.16-060, 224.20-100, 224.20-110, 224.20-120, 224.70-100, 224.70-110, 33 USC 1342

STATUTORY AUTHORITY: KRS 224.10-100, 224.16-050, 224.20-110, 224.70-110, 33 USC 1342

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe permits to discharge into any waters of the Commonwealth. KRS 224.16-050 further empowers the cabinet to issue federal permits pursuant to 33 USC Section 1342(b) of the Federal Water Pollution Control Act. KRS 224.20-110 authorizes the cabinet to regulate the emission or discharge of air contaminants into the air under the jurisdiction of the Commonwealth. This administrative regulation establishes certain conditions applicable to KPDES permits for concentrated animal feeding operations.

Section 1. Applicability. This administrative regulation applies to concentrated animal feeding operations.

Section 2. Owner and Operator Liability. (1) All persons who own or operate a concentrated animal feeding operation shall sign an application for and obtain a KPDES permit. This includes a person who enters into a contract with an owner or operator of a concentrated animal feeding operation if the person:

- (a) Owns the animals;
- (b) Directs the manner in which the animals will be housed or

fed; or

(c) Controls the inputs or other material aspects of the concentrated animal feeding operation.

(2) All owners and operators of a concentrated animal feeding operation shall be jointly and severally liable for complying with the KPDES permit.

Section 3. Siting Criteria. (1) A livestock barn, poultry house, lagoon, or land application area constructed or expanded after February 14, 2000 shall not be located in:

(a) A state or national park, state or national forest, or nature preserve; or

(b) A wellhead protection area approved by the cabinet pursuant to 401 KAR 4:220.

(2) A livestock barn, poultry house, or lagoon constructed or expanded after February 14, 2000 shall not be located in:

(a) A 100-year floodplain unless permitted pursuant to 401 KAR 4:060;

(b) A jurisdictional wetland as determined by the Natural Resources Conservation Service; or

(c) A sinkhole or other enclosed depression where subsidence is evident.

(3) The setback requirements established by this subsection apply as follows:

(a) A barn, lagoon, poultry house, litter storage structure, composting site, or waste handling structure constructed or expanded after February 14, 2000 at a concentrated animal feeding operation;

(b) A barn, lagoon, poultry house, litter storage structure, or composting site constructed or expanded after February 14, 2000 at an animal feeding operation, if the construction or expansion will cause the animal feeding operation to become a concentrated animal feeding operation; and

(c) Land application of waste at a concentrated animal feeding operation.

### BEEF SITING CRITERIA

SETBACK FEATURE <sup>3</sup>	BARN, LAGOON	LAND APPLICATION AREA	
		Injection	Other Method
Dwelling not owned by applicant, church, school, schoolyard, business, other structure to which the general public has access, park <sup>4</sup>	1,500 feet	500 feet	1,000 feet
Incorporated city limit <sup>4,5</sup>	3,000 feet	1,000 feet	2,000 feet
Lake, river, blue-line stream, karst feature	150 feet	75 feet	150 feet
Water well not owned by applicant <sup>4</sup>	300 feet	150 feet	150 feet
Downstream <sup>1</sup> water listed in 401 KAR 5:030 as exceptional water or outstanding national resource water; or outstanding state resource water <sup>2</sup>	1 mile	750 feet	1,500 feet
Downstream <sup>1</sup> public water supply surface water intake	5 miles	1 mile	1 mile
Roadways, primary (state and federal)	150 feet	75 feet	150 feet
Roadways, secondary (county)	150 feet	75 feet	150 feet

<sup>1</sup>Measured along gradient

<sup>2</sup>Designated outstanding state resource waters are listed in 401 KAR 5:026

<sup>3</sup>Measured from the edge of the barn, lagoon, or land application area to the nearest edge of the setback feature

<sup>4</sup>Existing at the time the first KPDES permit is issued

<sup>5</sup>For existing operations, land application setbacks do not apply

### DAIRY SITING CRITERIA

SETBACK FEATURE <sup>3</sup>	BARN, LAGOON	LAND APPLICATION AREA	
		Injection	Other Method
Dwelling not owned by applicant, church, school, schoolyard, business, other structure to which the general public has access, park <sup>4</sup>	1,500 feet	500 feet	1,000 feet
Incorporated city limit <sup>4,5</sup>	3,000 feet	1,000 feet	2,000 feet
Lake, river, blue-line stream, karst feature	150 feet	75 feet	150 feet
Water well not owned by applicant <sup>4</sup>	300 feet	150 feet	150 feet
Downstream <sup>1</sup> water listed in 401 KAR 5:030 as exceptional water or outstanding national resource water; or outstanding state resource water <sup>2</sup>	1 mile	750 feet	1,500 feet
Downstream <sup>1</sup> public water supply surface water intake	5 miles	1 mile	1 mile
Roadways, primary (state and federal)	150 feet	75 feet	150 feet
Roadways, secondary (county)	150 feet	75 feet	150 feet

<sup>1</sup>Measured along gradient

<sup>2</sup>Designated outstanding state resource waters are listed in 401 KAR 5:026

<sup>3</sup>Measured from the edge of the barn, lagoon, or land application area to the nearest edge of the setback feature

<sup>4</sup>Existing at the time the first KPDES permit is issued

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<sup>5</sup>For existing operations, land application setbacks do not apply

## POULTRY SITING CRITERIA

SETBACK FEATURE <sub>3</sub>	POULTRY HOUSES, LITTER STORAGE, OR COMPOSTING SITE	LAND APPLICATION AREA	
		Injection	Other Method
Dwelling not owned by applicant, church, school, schoolyard, business, other structure to which the general public has access, park <sub>4</sub>	1,500 feet	300 feet	300 feet
Incorporated city limit <sub>4,5</sub>	2,000 feet	1,000 feet	1,500 feet
Lake, river, blue-line stream, karst feature	150 feet	75 feet	75 feet
Water well not owned by applicant <sub>4</sub>	300 feet	200 feet	200 feet
Downstream <sub>1</sub> water listed in 401 KAR 5:030 as exceptional water or outstanding national resource water; or outstanding state resource water <sub>2</sub>	1 mile	500 feet	500 feet
Downstream <sub>1</sub> public water supply surface water intake	1 mile	500 feet	500 feet
Roadways, primary (state and federal)	150 feet	75 feet	75 feet
Roadways, secondary (county)	100 feet	75 feet	75 feet

<sup>1</sup>Measured along gradient

<sup>2</sup>Designated outstanding state resource waters are listed in 401 KAR 5:026

<sup>3</sup>Measured from the edge of the barn, lagoon, or land application area to the nearest edge of the setback feature

<sup>4</sup>Existing at the time the first KPDES permit is issued

<sup>5</sup>For existing operations, land application setbacks do not apply

## SWINE SITING CRITERIA

SETBACK FEATURE <sub>3</sub>	BARN, LAGOON	LAND APPLICATION AREA	
		Injection	Other Method
Dwelling not owned by applicant, church, school, schoolyard, business, other structure to which the general public has access, park <sub>4</sub>	1,500 feet	500 feet	1,000 feet
Incorporated city limit <sub>4,5</sub>	3,000 feet	1,000 feet	2,000 feet
Lake, river, blue-line stream, karst feature	150 feet	75 feet	150 feet
Water well not owned by applicant <sub>4</sub>	300 feet	150 feet	150 feet
Downstream <sub>1</sub> water listed in 401 KAR 5:030 as exceptional water or outstanding national resource water; or outstanding state resource water <sub>2</sub>	1 mile	750 feet	1,500 feet
Downstream <sub>1</sub> public water supply surface water intake	5 miles	1 mile	1 mile
Roadways, primary (state and federal)	150 feet	75 feet	150 feet
Roadways, secondary (county)	150 feet	75 feet	150 feet

<sup>1</sup>Measured along gradient

<sup>2</sup>Designated outstanding state resource waters are listed in 401 KAR 5:026

<sup>3</sup>Measured from the edge of the barn, lagoon, or land application area to the nearest edge of the setback feature

<sup>4</sup>Existing at the time the first KPDES permit is issued

<sup>5</sup>For existing operations, land application setbacks do not apply

(d) The cabinet may grant a variance from the setbacks in this section for a dwelling not owned by the applicant, or church if the applicant obtains from the owner of the property in question an easement, properly filed of record, granting the applicant a permanent exemption from the distance requirements in this administrative regulation. A certified copy of this easement shall be submitted to the cabinet with the permit application.

Section 4. Permanent Litter Storage. (1) Poultry concentrated animal feeding operations shall provide permanent litter storage structures by October, 2001.

(2) The requirements of Section 3(3) of this administrative regulation do not apply to the siting of permanent litter storage structures on poultry concentrated animal feeding operations in existence prior to February 14, 2000.

JAMES E. BICKFORD, Secretary

BARBARA A. FOSTER, General Counsel

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 9 a.m.

PUBLIC HEARING: A public hearing on this proposed administrative regulation is scheduled for 6:30 p.m., Central Standard Time, June 29, 2000, at the Madisonville Technology Center, Byrnes Auditorium, 750 North Laffoon Drive, Madisonville, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing, by June 22, 2000, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will be made. If you request a transcript, you

will be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Jack A. Wilson, Director, Division of Water, Department for Environmental Protection, 14 Reilly Road, Frankfort, Kentucky 40601, Phone: (502) 564-3410, Fax: (502) 564-0111.

## REGULATORY IMPACT ANALYSIS

Contact Person: Jack A. Wilson

(1) Type and number of entities affected: This administrative regulation applies only to concentrated animal feeding operations as defined in 401 KAR 5:002. We estimate that there are approximately 237 CAFOs in Kentucky.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: There were no specific comments received regarding the cost of living and employment in the state. Comments focused primarily on 2 areas: the effect of concentrated animal feeding operations on property values and the effect of the regulations on farmers. The cabinet is aware of several conflicting studies on property values, and has concluded

that property values and therefore, cost of living in the area, may increase or decrease if this regulation results in fewer concentrated animal feeding operations in the state. The effect on employment of persons in the agricultural sector is also ambiguous, as large operations have a higher level of automation and may in fact not increase employment in an area to the extent expected. Many persons commented that these operations would put small family farms out of business. Others commented that these facilities, particularly poultry, provide income for farm families to replace lost tobacco income. Related industries such as construction, transportation, and agricultural suppliers may see a decrease in their employment growth if the result is fewer confined animal feeding operations in the state. However, tourism and recreation may have increased employment with improved air and water quality.

(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: There will be an increase in the cost of doing business in the agricultural sector if an operation expands to meet the criteria of a concentrated animal feeding operation as defined in 401 KAR 5:002. There may be an increase in land costs necessary to meet setback requirements. Small producers complain that they will not be able to expand. However, the average farm in Kentucky is 149 acres, and this is sufficient to meet setback requirements in most instances, dependent upon the placement of buildings. There will be additional costs to integrators as they are now responsible for performance. There will also be the requirement for permanent litter storage after 2001. This will require an investment in infrastructure for poultry farmers, but it appears that cost share funds may be available. Some producers complained integrator liability would put them at a competitive disadvantage but other commentators noted that the requirements are expected to be nationwide so companies located in Kentucky would not be at a competitive disadvantage as compared to other states.

(c) To the extent available from the public comments received, compliance, reporting, and paperwork requirements, including factors increasing or decreasing costs (note any effects upon competition) for the:

1. First year following implementation: There is a permit fee for an individual permit of \$1200. The permit application will take some time and paperwork and it will take some time to meet the requirements.

2. Second and subsequent years: There will be additional requirements in the case of an expansion of a facility.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will be an increase in costs if there is a significant increase in the number of permit applications.

2. Continuing costs or savings: There will be an increase in costs if there is a significant increase in the number of permit applications.

3. Additional factors increasing or decreasing costs: There are no foreseen factors increasing or decreasing costs at this time.

(b) Reporting and paperwork requirements: There will be an increased burden on the administrative body if there is a consequent increase in permit applications.

(4) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on state and local revenues.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The funds to support the implementation and enforcement of this administrative regulation will come from a combination of federal sources (Clean Water Act Section 106 funds) and state funds.

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

(a) Geographical area in which administrative regulation will be implemented: The regulation will be implemented in the entire state.

(b) Kentucky: There is an expected positive effect on the economy. Tourism and recreation depend upon clean air and water. If this regulation results in fewer concentrated animal feeding operations, the effect is ambiguous. There are studies finding an increase in property values, while other studies have found a decrease in property values. The effect on overall employment is ambiguous.

(7) Assessment of alternative methods; reasons why alterna-

tives were rejected: This administrative regulation is in response to the U.S. Department of Agriculture, U.S. Environmental Protection Agency Unified National Strategy for Animal Feeding Operations, March 9, 1999. The federal strategy says that states should address integrator liability. Siting criteria are necessary for developing the comprehensive nutrient management plan. This strategy directs that odor and environmental matters be addressed by the states. This administrative regulation addresses these areas that are void in current state regulation. Other alternatives include doing nothing; voluntary measures; local planning and zoning, etc. Voluntary measures and local planning and zoning are still viable options for other governmental agencies.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation is intended to protect public health and the environment.

(b) State whether detrimental effect on environment and public health would result if not implemented: There would be a detrimental effect on the environment and public health if this administrative regulation is not implemented.

(c) If detrimental effect would result, explain detrimental effect: The 1998 305(b) "Report to Congress on Water Quality" has identified agricultural operations as contributors to the impairment of streams in Kentucky. This administrative regulation, with its siting criteria, minimizes this potential impairment and loss of designated uses. The integrator liability provisions of this administrative regulation seek to ensure the proper mitigation or clean up of a spill or accident by ensuring that sufficient funds are available.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no known conflict, overlap, or duplication.

(a) Necessity of proposed administrative regulation if in conflict: There is no known conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no known conflict.

(10) Any additional information or comments: No

(11) TIERING: Is tiering applied? Yes. (Explain why tiering was or was not applied) Due to the definitions of concentrated animal feeding operations, smaller producers who are thought to have less of an impact on public health and the environment are not affected by this administrative regulation, unless they expand their operation to the size of a concentrated animal feeding operation.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 33 USC 1342.

2. State compliance standards. KRS 224.10-100, 224.16-050, 224.16-060, 224.20-100, 224.20-110, 224.20-120, 224.70-100, 224.70-110.

3. Minimum or uniform standards contained in the federal mandate. The Unified National Strategy presents USDA and EPA's plan for addressing the water quality and public health impacts associated with certain aspects of animal feeding operations.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? No, based on the U.S. Department of Agriculture, U.S. Environmental Protection Agency Unified National Strategy for Animal Feeding Operations, March 9, 1999.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will not affect any unit, part, or division of local government.

3. State the aspect or service of local government to which this

administrative regulation relates. This administrative regulation does not relate to local government.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no anticipated effect on current revenues.

Expenditures (+/-): There is no anticipated effect on current revenues.

Other Explanation: None

**WORKFORCE DEVELOPMENT CABINET  
Department for Technical Education  
(New Administrative Regulation)**

**780 KAR 2:011. Repeal of administrative regulations in 780 KAR Chapter 2.**

RELATES TO: KRS 151B.025, 151B.030, 151B.110, 151B.150  
STATUTORY AUTHORITY: KRS 151B.025, 151B.110, 151B.150

NECESSITY, FUNCTION, AND CONFORMITY: These administrative regulations are no longer necessary because the authority to promulgate administrative regulations for the postsecondary institutions was transferred to the Kentucky Community and Technical College System on July 1, 1998.

Section 1. The following administrative regulations are hereby repealed:

- (1) 780 KAR 2:020, Appeals process;
- (2) 780 KAR 2:035, Advisory boards and committees for Kentucky TECH schools primarily serving postsecondary students;
- (3) 780 KAR 2:090, Postsecondary vocational-technical school admission priorities;
- (4) 780 KAR 2:100, Attendance policies for postsecondary students in Kentucky TECH schools;
- (5) 780 KAR 2:120, Standard for academic progress for postsecondary students.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

**REGULATORY IMPACT ANALYSIS**

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 2:011 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in

which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The regulation applies equally to all affected entities.

**FISCAL NOTE ON LOCAL GOVERNMENT**

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**WORKFORCE DEVELOPMENT CABINET  
Department for Technical Education  
(New Administrative Regulation)**

**780 KAR 4:011. Repeal of administrative regulations in 780 KAR Chapter 4.**

RELATES TO: KRS 151B.110, 151B.145

STATUTORY AUTHORITY: KRS 151B.025, 151B.095, 151B.110, 151B.120, 151B.150

NECESSITY, FUNCTION, AND CONFORMITY: These administrative regulations are no longer necessary because the authority to promulgate administrative regulations for the postsecondary institutions was transferred to the Kentucky Community and Technical College System on July 1, 1998.

Section 1. The following administrative regulations are hereby repealed:

- (1) 780 KAR 4:020, Diploma requirements for postsecondary students;
- (2) 780 KAR 4:040, Standards for postsecondary programs;
- (3) 780 KAR 4:060, Kentucky TECH guarantee.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

**REGULATORY IMPACT ANALYSIS**

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 4:011 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies to all affected entities equally.

**FISCAL NOTE ON LOCAL GOVERNMENT**

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**WORKFORCE DEVELOPMENT CABINET  
Department for Technical Education  
(New Administrative Regulation)**

**780 KAR 5:011. Repeal of administrative regulations in 780 KAR Chapter 5.**

RELATES TO: KRS 151B.110, 151B.150

STATUTORY AUTHORITY: KRS 151B.110, 151B.145, 151B.150, 38 USC 3670 et seq.

NECESSITY, FUNCTION, AND CONFORMITY: These administrative regulations are no longer necessary because the authority to promulgate administrative regulations for the postsecondary institutions was transferred to the Kentucky Community and Technical College System on July 1, 1998.

Section 1. The following administrative regulations are hereby repealed:

(1) 780 KAR 5:010, Institutional courses, approval of;

(2) 780 KAR 5:020, Apprenticeship and OJT courses, approval of;

(3) 780 KAR 5:030, Revisions and amendments approval;

(4) 780 KAR 5:040, Denial or revocation of approval;

(5) 780 KAR 5:050, Inspection and supervision.



## VOLUME 26, NUMBER 12 – JUNE 1, 2000

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

**PUBLIC HEARING:** A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatruck, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

### REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatruck, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 5:011 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our

knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies to all affected entities equally.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

### WORKFORCE DEVELOPMENT CABINET

Department for Technical Education

(New Administrative Regulation)

#### 780 KAR 7:011. Repeal of administrative regulations in 780 KAR Chapter 7.

RELATES TO: KRS 151B.110, 151B.150

STATUTORY AUTHORITY: KRS 151B.110, 151B.150

NECESSITY, FUNCTION, AND CONFORMITY: These administrative regulations are no longer necessary because the authority to promulgate administrative regulations for the postsecondary institutions was transferred to the Kentucky Community and Technical College System on July 1, 1998.

Section 1. The following administrative regulations are hereby repealed:

(1) 780 KAR 7:030, Regional technology center facility standards;

(2) 780 KAR 7:032, Corrections education center facility standards.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

**PUBLIC HEARING:** A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatruck, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

REGULATORY IMPACT ANALYSIS

Other Explanation:

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 7:011 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies equally to all affected entities.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

WORKFORCE DEVELOPMENT CABINET  
Department for Technical Education  
(New Administrative Regulation)

780 KAR 9:011. Repeal of administrative regulation in 780 KAR Chapter 9.

RELATES TO: KRS 151B.110, 151B.125

STATUTORY AUTHORITY: KRS 151B.110, 151B.125

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is no longer necessary because the authority to promulgate administrative regulations for the high school equivalency diplomas has been transferred to the Department for Adult Education.

Section 1. The following administrative regulation is hereby repealed: 780 KAR 9:020, High school equivalency diploma.

ALLEN D. ROSE, Secretary

SHERRY R. DEATRICK, General Counsel

APPROVED BY AGENCY: April 21, 2000

FILED WITH LRC: May 1, 2000 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 23, 2000 at 1 p.m., prevailing local time in the Workforce Development Cabinet Board Room at 500 Mero Street, Second Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the agency in writing by June 16, 2000, five working days prior to the hearing of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Sherry R. Deatrick, General Counsel, Workforce Development Cabinet, 500 Mero Street, Second Floor, Frankfort, Kentucky 40601, telephone: (502) 564-6606, fax number: (502) 564-9990.

REGULATORY IMPACT ANALYSIS

Contact: Sherry R. Deatrick, General Counsel

(1) Type and number of entities affected: The proposed 780 KAR 9:011 will affect the Department of Technical Education within the Workforce Development Cabinet.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No impact. None anticipated.

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

1. First year following implementation: No significant change is anticipated.

2. Second and subsequent years: No significant change is anticipated.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change is anticipated.

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

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(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Recurring agency base budgets.

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

(a) Geographical area in which administrative regulation will be implemented: None

(b) Kentucky: None

(7) Assessment of alternative methods: reasons why alternatives were rejected: No alternative methods exist.

(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 impact.

(b) State whether a detrimental effect on environment and public health would result if not implemented: The regulation does not affect environment or public health. It relates to the Department for Technical Education.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes, regulations or policies in conflict, to our knowledge.

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments: None

(11) TIERING: Is tiering applied? No. The administrative regulation applies equally to all affected entities.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State what unit, part or division of local government this administrative regulation will affect:

3. State the aspect or service of local government to which this administrative regulation relates.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

### PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance (New Administrative Regulation)

#### 806 KAR 38:091. Repeal of 806 KAR 38:090.

RELATES TO: KRS 304.38-080(3)

STATUTORY AUTHORITY: KRS 304.38-150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.38-150 authorized the Commissioner of Insurance to promulgate reasonable administrative regulations necessary for the proper administration of KRS Chapter 304 Subtitle 38. Prior to the 1998 Kentucky General Assembly, KRS 304.38-080(3) required a health maintenance organization to have an open enrollment period at least every year. The Department of Insurance promulgated 806 KAR 38:090 to establish the procedures and requirements of that enrollment period. The 1998 Kentucky General Assembly amended KRS 304.38-080 to abolish the requirement for open enrollment. Therefore, the administrative regulation establishing the procedures and requirements of that enrollment period is no longer necessary and must be repealed.

Section 1. 806 KAR 304.38:090, HMO open enrollment, is hereby repealed.

GALE PEARCE, General Counsel

GEORGE NICHOLS III, Commissioner

RONALD B. MCCLOUD, Secretary

APPROVED BY AGENCY: May 1, 2000

FILED WITH LRC: May 2, 2000 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000, at 10 a.m. at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by June 14, 2000, five work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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: Charlette K. Hummel, Counsel, Kentucky Department of Insurance, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602, Phone: (502) 564-1936 ext. 293, FAX: (502) 564-1456.

### REGULATORY IMPACT ANALYSIS

Contact Person: Charlette K. Hummel

(1) Type and number of entities affected: This administrative regulation will affect all health maintenance organizations who have been licensed to engage in insurance agency activities in the state of Kentucky. Currently, there are approximately 15 health maintenance organizations offering health insurance in the state.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: The department has received no public comments regarding this issue.

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

1. First year following implementation: KRS 304.38-080(3) abolished the requirement for open enrollment. Therefore, 806 KAR 38:090, the regulation establishing the procedures and requirements of that enrollment period is no longer necessary and must be repealed. This administrative regulation repeals 806 KAR 38:090. The department does not anticipate that this administrative regulation will increase costs, but may decrease costs previously associated with compliance with 806 KAR 38:090.

2. Second and subsequent years: The department anticipates the costs savings will decrease after the first year.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This administrative regulation simply repeals 806 KAR 38:090. The department does not foresee any direct or indirect costs or substantial savings on the administrative body as a result of this administrative regulation. There may be a savings in actuarial costs previously involved with approving rates.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: The budget for the Department of Insurance will be used to implement and enforce this administrative regulation.

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

(a) Geographical area in which administrative regulation will be implemented: The department has received no public comments regarding this issue.

(b) Kentucky: The department has received no public comments regarding this issue.

(7) Assessment of alternative methods; reasons why alternatives were rejected: KRS 304.38-080(3) which required a health maintenance organization to have open enrollment period at least every year has been repealed. Therefore, 806 KAR 38:090 which was promulgated by the department of Insurance to establish the procedures and requirements of that enrollment period is no longer necessary and must be repealed. For this reason, no other alternatives were considered.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Actual abolishment of the open enrollment period may have had an effect on public health. However, because only the procedures for open enrollment are being repealed by 806 KAR 38:091, the department of Insurance does not anticipate any effects on public health and environmental welfare resulting from the repeal of 806 KAR 38:090.

(b) State whether a detrimental effect on environment and public health would result if not implemented: No detrimental effect on environment or public health would result if this administrative regulation were not implemented.

(c) If detrimental effect would result, explain detrimental effect:

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

(a) Necessity of proposed regulation if in conflict:

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

(10) Any additional information or comments:

(11) TIERING: Is tiering applied? Tiering is not applied because this administrative regulation applies to all health maintenance organizations authorized to engage in insurance agency activities in the state of Kentucky.

**CABINET FOR HEALTH SERVICES  
Department for Public Health  
Division of Adult and Child Health  
(New Administrative Regulation)**

**902 KAR 13:160. Emergency medical services educational institutions and emergency medical services testing agencies:**

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS 194A.030, 211.220, 211.964

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.964 requires the Cabinet for Health Services to promulgate administrative regulations relating to emergency medical technicians (EMTs). The function of this administrative regulation is to establish requirements for an organization to be approved by the cabinet as an emergency medical services (EMS) educational institution or an EMS testing agency.

Section 1. EMS Educational Institution Requirements. (1) A public agency or private corporation that has been approved by the cabinet to establish an EMS educational institution shall be authorized to conduct a training program which shall meet requirements for initial EMT certification.

(2) An applicant shall:

(a) File, with the cabinet, a letter of request for approval to establish an EMS educational institution;

(b) Be located within Kentucky or a contiguous state;

(c) Submit to the cabinet:

1. The estimated number of EMT courses planned for each academic year from July 1 until June 30 of the following year;

2. The tentative starting and ending dates of each course; and

3. A copy of the EMT syllabus for courses to be taught. The syllabus shall be resubmitted to the cabinet if it is revised;

(d) Assign, in the following manner, a seven (7) digit number to each EMT course conducted:

1. The first three (3) digits shall correspond to the EMS educational institution approval number assigned by the cabinet;

2. The fourth and fifth digits shall correspond to the academic year. For example, if a course is taught between July 1, 2000 through June 30, 2001, the academic year number assigned shall be ninety-nine (99); and

3. The sixth and seventh digits shall correspond to the sequential number of courses begun between July 1 and June 30 of each year.

(e) Employ or have available the following key administrative personnel and faculty:

1. A chief administrative officer who shall be responsible for the overall management of an EMS-educational institution or the organization of which the EMS educational institution is affiliated;

2. A program coordinator who shall:

a. Be responsible for the planning, administration and oversight of the EMS educational programs;

b. Randomly monitor the activities of the faculty and students during the didactic, skills and clinical or field rotation phases of the educational program;

c. Obtain and maintain records required by the educational institution or the cabinet related to the conduct of prehospital caregiver courses; and

d. Serve as a member of the course faculty, if he holds credentials in accordance with subparagraphs 3 and 4 of this paragraph and subsections (3) and (4) of this section. If a program coordinator meets the requirements of subsection (4) of this section, he may also function as the lead instructor.

3. A lead instructor who shall:

a. If teaching an EMT-B Instructor candidate United States (US) Department of Transportation (DOT) EMT-B Instructor method of instruction (MOI) educational course for a cabinet approved EMS educational institution, be a:

(i) Kentucky-certified EMT-B Instructor who has been certified for at least three (3) years and who has taught at least two (2) complete EMT-B training courses;

(ii) Kentucky-appointed EMT instructor trainer; or

(iii) Person who holds a Kentucky current EMT-B or EMT-paramedic certification in addition to holding a bachelor's degree in education or a valid Kentucky (KY) teaching certificate.

b. If teaching an EMT-B course, be a Kentucky-certified EMT-B instructor; or

c. If teaching an EMT-first responder course, be a Kentucky-certified EMT-B instructor or EMT-first responder instructor.

4. An assistant instructor who shall be:

a. Minimally certified at the level for which the course is being conducted;

b. A certified EMT-B instructor for an EMT-B course;

c. A certified EMT-B instructor or an EMT-first responder instructor for an EMT-first responder course; or

d. An adjunct faculty member who shall provide documentation to an EMS educational institution that he has actively lectured on or performed, within the most recent five (5) years, the skills or topic being taught; and

(f) Meet the requirements of the EMS educational institution Memorandum of Agreement.

(3) The lead instructor or an alternate instructor who meets the requirements of subsection (2)(e)4 of this section shall be present at each lecture and practical skills classroom session.

(4) A person who is certified at or above the level of the course being taught may serve as an assistant instructor during a practical skills lesson.

(5) There shall be present during a scheduled practical skills lesson:

(a) At least one (1) lead instructor for the first ten (10) students; and

(b) Another assistant instructor for each one (1) to ten (10) additional students.

(6) An EMS educational institution shall assure that physical resources as required by the curriculum, such as classrooms, skill practice areas, textbooks, instructional aids, equipment, and supplies are:

(a) In good working condition; and

(b) Adequate in number for the number of students enrolled in

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the program to have sufficient opportunity for skills practice.

(7) An EMS educational institution shall develop and make available to a prospective student a clearly defined admission policy and procedure which shall include specific requirements for admission such as:

- (a) Academic requirements;
- (b) Health-related requirements; and
- (c) Admission prerequisites.

(8) An EMS educational institution shall disclose to an applicant for admission:

- (a) Accurate information regarding program requirements;
- (b) Tuition and fees including remediation fees or other costs associated with the training program;
- (c) A descriptive synopsis of the curriculum for each type of course taught;

- (d) Course educational objectives;
- (e) Classroom lecture and skill practice schedules;
- (f) Clinical or field rotation locations and tentative schedules;
- (g) Cabinet certification requirements for the level of training being offered; and

(h) The disciplinary actions described in 902 KAR 13:090 that may be grounds for denial, revocation, suspension, probation, or restriction of EMT certification.

(9) An EMS educational institution shall establish and maintain written policies to ensure that:

(a) Announcements and advertising shall accurately reflect the courses offered;

(b) A procedure shall be in place that shall allow complaints and grievances to be processed that are filed by:

1. An applicant;
2. A student; or
3. A faculty member.

(c) There shall be a process for a student to withdraw from a course, and, if allowed, obtain a refund of tuition or fees paid;

(d) The health and safety of a patient, a student or a faculty member shall be protected while participating in educational activities;

(e) A student or a faculty member shall maintain proper personal and professional conduct during classroom and clinical or field rotation activities;

(f) Continuing education requirements for faculty members shall be established and maintained;

(g) Passing requirements for each course offered shall be established and maintained; and

(h) Examination policies are established and maintained.

(10) A student, while participating in a clinical or field rotation shall be clearly identified by name and student status by the use of:

- (a) A nameplate;
- (b) A uniform; or
- (c) Other apparent means.

(11) An EMS educational institution shall maintain, for at least five (5) years beyond the course completion date of the last classroom session of each EMT course:

(a) The student attendance for each course taught including:

1. Lectures;
2. Practical skill lessons; and
3. Clinical or field rotation;

(b) A master copy of written examinations and answer keys administered for each course taught;

(c) A master copy of practical skill examination forms used during each course taught;

(d) A master copy of the current course syllabus for the courses taught;

(e) Faculty records on a participating faculty member that shall include:

1. A complete resume; and
2. A listing of academic preparation, clinical experience, current certifications and licenses;

(f) Health records that may be required by an EMS educational institution or through a written clinical affiliation agreement;

(g) A record of disciplinary action taken against a student or a faculty member. This shall include all responses and actions taken as a result of a complaint or grievance;

(h) Remediation activity for each student enrolled. This shall include how the specific remediation was accomplished and if the process was successful; and

(i) A master file of the objectives and competencies achieved by a student. The file shall be reviewed annually by the EMS educational institution and updated as necessary.

(12) An EMS educational institution shall:

- (a) Pay the fees required by 902 KAR 13:130, Section 1(2);
- (b) Within two (2) weeks following the EMT course completion date, submit to the cabinet a written summary report that includes the:

1. Name of the cabinet-approved EMS educational institution;
2. Course number;
3. Name of the lead instructor and qualifications, including certification number and the lead instructor's certification expiration date during the time the course was conducted, as well as names and similar qualifications of instructor assistants and adjunct faculty for the EMT course;

4. City in which the course is conducted;

5. Starting and ending dates, the ending date being the last classroom session (the course ending date shall be a date prior to the date of the Kentucky Practical Skills Certification Examination date);

6. Listing of the names and Social Security numbers of enrolled students for the EMT course;

7. Identifier for the students referenced in subparagraph 6 of this paragraph who successfully passed the EMT training course requirements, with the provision of accompanying completed applications for Kentucky certification and required fees;

8. Identifier for the students referenced in subparagraph 6 of this paragraph who continued throughout the course but were unsuccessful in passing the EMT training course requirements, with an identifier for ones yet attempting to finish clinical or field rotations; and

9. An identifier for the students referenced in subparagraph 6 of this paragraph who did not continue throughout and dropped from the EMT course.

(c) Submit to the cabinet by September 1 of each odd-numbered year a biennial written summary report covering the two (2) previous academic years' data from July 1 of the first year through June 30 of the second year. The biennial written report shall include the data regarding courses conducted within the two (2) previous academic years. A biennial report shall contain, for each course taught the:

1. Course number;
2. Name of the lead instructor;
3. Course location (city);
4. Starting and ending dates;
5. Number of students enrolled;
6. Number of students who successfully passed the EMT training course requirements;

7. Number of students who continued throughout the course but were unsuccessful in passing the EMT training course requirements; and

8. Number of students who did not continue throughout and dropped from the EMT course.

(13) If courses were not taught during the last reporting period an EMS educational institution shall file a biennial report with the cabinet stating that no courses were taught during the reporting period.

(14) Unless approval is revoked by the cabinet pursuant to Section 3 of this administrative regulation, the approval of an EMS educational institution shall be valid for a period of five (5) years.

(15) At the end of a five (5) year approval period, an EMS educational institution may reapply for approval for an additional five (5) year period.

### Section 2. Probation of an EMS Educational Institution Program.

(1) The cabinet shall place an EMS educational institution program on probationary status if:

(a) During a twenty-four (24) month period, or after at least two (2) consecutive courses have been taught at the same level, more than twenty five (25) percent of the course graduates who attempt to complete the certification examination process, fail to successfully pass the certification examination and associated certification process within twenty-four (24) months of the course completion date; or

(b) An inspection or investigation by the cabinet determines that an EMS educational institution has not met the requirements of:

1. Section 1 of this administrative regulation; or

2. The EMS educational institution Memorandum of Agreement.

(2) If the cabinet intends to place a program on probationary status, it shall notify the chief administrative officer of an EMS educational institution by certified mail.

(3) A program that is placed on probationary status shall not begin a new course within that same level of training during the term of the probationary period.

(4) Upon notification by the cabinet that a program within an EMS educational institution has been placed on probationary status, the chief administrative officer shall conduct an evaluation of the programs offered by the EMS educational institution. The evaluation shall include a review of:

(a) The qualifications, responsibilities, and performance of the program coordinator, medical director, lead instructor, and other course faculty;

(b) Student admission practices;

(c) Syllabi and objectives of courses offered;

(d) Graduation requirements for cabinet approved courses offered by the EMS educational institution;

(e) Faculty classroom involvement;

(f) Clinical or field rotation requirements and activities;

(g) Textbooks, equipment, supplies and ancillary learning aids used by the EMS educational institution during an approved course; and

(h) The ability of the EMS educational institution to meet the stated goals and objectives of the program.

(5) Within sixty (60) days of being placed on probationary status, the chief administrative officer shall provide a written report to the cabinet. The report shall include:

(a) Problems identified during the review process conducted pursuant to subsection (4) of this section; and

(b) A detailed plan for corrective action, including a time frame for the completion of the plan.

(6) After review of the written plan of correction, the cabinet may:

(a) Approve the entire plan;

(b) Approve a portion of the plan and require additional or alternative corrective action; or

(c) Disapprove the plan and restrict or revoke the approval of the EMS educational institution.

(7) Within sixty (60) days of receiving a written plan of correction, the cabinet shall notify the chief administrative officer, by certified mail, of the planned action of the cabinet.

(8) The cabinet shall monitor compliance and may conduct an investigation to determine if a requirement established for corrective action has been met.

Section 3. Denial, Revocation, Suspension, and Restriction of Approval of an EMS Educational Institution. (1) The cabinet may deny, revoke, suspend, or restrict the approval of an EMS educational institution if an EMS educational institution:

(a) Is on probationary status and fails to meet the corrective action required by the cabinet;

(b) Faculty member or staff member reproduces or reconstructs, or attempts to reproduce or reconstruct, a portion of a training or certification examination for the purpose of assisting another to cheat on the examination;

(c) Faculty member or staff member disseminates information for purposes of reproduction or reconstruction of a portion of a training or certification examination in order to assist another to cheat on the examination;

(d) Faculty member or staff member cheats, or assists another to cheat, on an examination for training or certification;

(e) Falsifies a record of training or continuing education;

(f) Fails to pay a fee or issues a check for a fee required by 902 KAR 13:030 on an invalid account or an account that does not have sufficient funds;

(g) Fails to file a written biennial report as required by Section 1(12)(c) or (13) of this administrative regulation; or

(h) Fails to meet the requirements of the EMS educational institution Memorandum of Agreement.

(2) If the approval of an EMS educational institution is denied, restricted, suspended or revoked by the cabinet, the EMS educational institution shall be provided an opportunity to appeal the decision in

accordance with the provisions of 902 KAR 1:400.

Section 4. EMS Testing Agencies. (1) An EMS educational institution, public agency, or private corporation may be approved to administer the practical skills and written certification examinations if they:

(a) File, with the cabinet, a letter of request for approval to establish an EMS testing agency; and

(b) Meet the requirements of the EMS testing agency Memorandum of Agreement.

(2) A person shall not Proctor for the written portion nor function as an examiner or an examination representative for the practical skills portion of a Kentucky EMT certification examination for an EMT candidate if he:

(a) Served as a key administrative personnel of an EMT-Basic course for which candidates are being tested as described in Section 1(2)(e) of this administrative regulation;

(b) Supervises or is supervised by the candidate;

(c) Is a family member of the candidate; or

(d) Has a conflict of interest that could potentially bias the examiner or examination representative of the practical skills portion or the proctor of the written portion of the Kentucky EMT certification examination toward or against the candidate.

(3) The EMS testing agency shall:

(a) Be responsible for securing examiners for the practical skill portion of the Kentucky EMT certification examination who shall:

1. Be currently certified or licensed to perform the skills at or above the level of training of the candidate being tested;

2. Document that they have had a minimum of two (2) years prehospital patient care experience prior to serving as an examiner; and

3. Have completed a cabinet-approved practical skills examiner training program conducted by the cabinet or personnel of a cabinet-approved testing agency;

(b) Verify the eligibility of a candidate applying to initially test or retest for the Kentucky EMT-B practical skills or written portion of the Kentucky EMT certification examination. Eligibility for subsequent testing or retesting shall follow the guidelines of the:

1. "1994 National Registry of EMT-Basic Practical Examination Users Guide" for EMT-Basics, incorporated by reference in 902 KAR 13:050;

2. "1995 National Registry of EMT First Responder Practical Examination Users Guide" for EMT First Responders, incorporated by reference in 902 KAR 13:110;

3. "1994 National Registry EMT-Basic, Examination Coordinator Manual", incorporated by reference in 902 KAR 13:050;

4. "1995 EMT First Responder, Examination Coordinator Manual", incorporated by reference in 902 KAR 13:110; and

5. EMS Branch requirements of the cabinet pursuant to subparagraphs 1 through 4 of this paragraph; and

(c) Be responsible for securing proctors for the written portion of the Kentucky EMT certification examination who shall comply with the requirements of subsection (2) of this section and who shall not be an EMT training program coordinator or an EMT instructor as established in Section 1(2)(e)2 and 3 of this administrative regulation.

(4) The approval of an EMS testing agency may be probated, denied, revoked, suspended, or restricted if an agency faculty member or representative is found to have committed an offense described in Section 3(1)(b), (c), (d), (e), (f) or (h) of this administrative regulation.

(5) The approval of an EMS testing agency may be probated, denied, revoked, suspended or restricted if an agency proctor, examiner, or other representative is found to have violated a testing guideline established in subsection (3)(b) of this section.

(6) If the approval of an EMS testing agency is denied, restricted, suspended or revoked by the cabinet, the EMS testing agency shall be provided an opportunity to appeal the decision in accordance with the provisions of 902 KAR 1:400.

Section 5. Public Notice of Negative Action. The cabinet shall publish, in the EMS Newsletter, similar publication of the cabinet, or otherwise disseminate the name of an EMS educational institution or EMS testing agency that:

(1) Is placed on probationary status;



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- (2) Is placed on restrictive status;
- (3) Is suspended; or
- (4) Has had approval as an EMS educational institution or EMS testing agency revoked.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) EMS Educational Institution Memorandum of Agreement (EMS Branch 7/99); and

(b) EMS testing agency Memorandum of Agreement (EMS Branch 6/99).

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

JIMMY D. HELTON, Secretary  
RICE C. LEACH, M.D., Commissioner  
JOHN WALKER, Attorney

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If no notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

### REGULATORY IMPACT ANALYSIS

Contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 15,500 emergency medical technicians (EMTs) and EMT-first responders who receive EMT training through an EMS educational institution. It is anticipated there may be 65 to 75 entities who apply for approval to become an EMS educational institution. The approval fee of \$100 will generate approximately \$6,500 to \$7,000 for a 5 year approval period.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented to the extent available from the public comments received. This administrative regulation may have an effect on the cost of living and employment in this state.

(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. This administrative regulation may have an effect on the cost of EMT training or testing agency in that there are new requirements for medical directors for training agencies, new operating requirements, and new reporting requirements.

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

1. First year following implementation: An annual report is required for all training agencies.

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None.

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(4) Assessment of anticipated effect on state and local revenues:

State revenues will be increased due to fees ranging from \$30 to \$100 established for approval of EMT training and testing agencies.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: General and T & A 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: This administrative regulation may have an economic impact in areas where EMT training and testing agencies are established due to additional requirements for medical directors for training agencies and approval fees.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were rejected because the National Standard Curricula established for training of EMTs specifically defines medical direction as an essential component of prehospital training to ensure physician involvement and availability for all aspects of EMS training. The additional reporting requirements are established to capture essential data needed to plan for the availability and effectiveness of EMT training and testing in all areas of the state.

(8) Assessment of expected benefits:

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will have a positive effect on public health in that there would be medical direction and physician consultation for EMT training conducted throughout the Commonwealth. In addition, the administrative regulation establishes minimum standards and conformity among agencies that conduct EMT training and testing.

(b) State whether a detrimental effect on environmental and public health would result if not implemented: Yes. If this administrative regulation is not implemented, medical direction would not be available to all EMT training agencies and there would be no means to establish minimum standards for training and testing of EMTs.

(c) If detrimental effect would result, explain detrimental effect: Kentucky EMT training programs would not meet national standards which include medical directors for EMT training programs. Without medical direction and minimum standards for EMT training or testing, Kentucky's emergency medical services providers would lag behind the standards of other states.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or 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? (Explain why tiering was or was not used.) Yes. Tiering was applied because this administrative regulation relates to training of all levels of EMTs.

### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes if the local government desires to conduct training or testing of EMTs.

2. State what unit, part or division of local government this administrative regulation will affect the local government or only a part or division of the local government. This administrative regulation will affect only that part of local government that desires to conduct training or testing of EMTs.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation relates to an aspect of local government that desires to conduct training or testing of EMTs.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. This administrative regulation may affect a local government or any service it provides since if it chooses to conduct EMT training or testing, it must obtain medical direction,

develop uniform policies, and comply with reporting requirements established for all EMT training and testing agencies. Most local governments are not normally involved in the training or testing of EMTs. Since this policy varies across the state, there is no way to determine the impact on local expenditures.

**CABINET FOR HEALTH SERVICES  
Department for Public Health  
Division of Adult and Child Health  
(New Administrative Regulation)**

**902 KAR 13:170. Emergency medical technician-basic course requirements.**

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS 194A.030, 211.964

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.964 requires the Cabinet for Health Services to promulgate administrative regulations relating to emergency medical technicians (EMTs). The function of this administrative regulation is to establish requirements for the education and training of the emergency medical technician-basic (EMT-B).

**Section 1. Training Course Requirements.** (1) An EMT-B training course in Kentucky shall be conducted by an emergency medical services (EMS) educational institution that has been approved by the cabinet pursuant to 902 KAR 13:160 to train EMT-Bs.

(2) An EMT-B training course that begins prior to the effective date of this administrative regulation shall be at least 119 hours in duration, and shall:

(a) Follow the 1994 version of the United States Department of Transportation (U.S. DOT), National Highway Traffic Administration, Emergency Medical Technician Basic: National Standard Curriculum, incorporated by reference in 902 KAR 13:050 with the exception of the modified "Elective Advanced Airway Module" established in subsection (6)(b)3 of this section as a Kentucky-required supplemental curriculum, and as established in 902 KAR 13:080, Section 2(1)(d); and

(b) Follow additional Kentucky-required supplemental curricula established in 902 KAR 13:080, Section 1(1)(a) approved by the cabinet as described in subsections (4) and (6) of this section, and as established in 902 KAR 13:080, Section 2(1)(a), (b) and (c).

(3) Except for an EMT-B training course established in subsection (2) of this section, for an EMT-B training course starting with the effective date of this administrative regulation, classroom sessions, which include the DOT National Standard established in subsection (2)(a) of this section and the Kentucky-required supplemental curricula, established in subsection (2)(b) of this section, shall be at least 114.5 hours in duration. Additionally, the training program shall include the minimum required hours to complete the clinical/field rotation established in Section 2(1) of this administrative regulation.

(4) A Kentucky-required supplemental curriculum for an EMT-B initial training course for statewide use shall be that for which the printed curriculum document has been submitted to the Kentucky Emergency Medical Services Council for the council's:

(a) Review for appropriateness in meeting training objectives and EMT-B scope of practice; and

(b) Recommendation to the cabinet for adoption.

(5) The recommendations of the Kentucky EMS Council shall be considered by the cabinet in adoption of a Kentucky EMS Council recommended EMT-B supplemental curriculum for establishment in this administrative regulation, or a 902 KAR 13:110 established EMT first responder supplemental curriculum for statewide implementation.

(6) The Kentucky-required supplemental curricula for use in an EMT basic initial training course shall, with the effective date of this administrative regulation, include training in:

(a) Acquired Immune Deficiency Syndrome (AIDS) as required by KRS 214.610 for which the printed curriculum has been reviewed, approved and assigned an approval number by the HIV and AIDS Branch of the cabinet; and

(b) EMT-B training and practice requirements for the following procedures established in 902 KAR 13:080:

1. Prehospital and interfacility maintenance during transportation, monitoring and discontinuation of preestablished intravenous fluids for patient administration; and

2. Ventilation and care of a patient who has an endotracheal tube in place, which has been inserted by advanced life support personnel (not an EMT basic).

(7) The Kentucky optional supplemental curricula for use in service specific continuing education of each employed EMT-B before authorized to perform shall, with the effective date of this administrative regulation, include the training and practice requirements for the following procedures:

(a) The use of an automated blood glucose testing device;

(b) The use of a pulse oximeter; and

(c) The use of noninvasive monitoring equipment.

(8) A service specific provider that follows the requirements of 902 KAR 13:080 and desires to conduct training for EMT basic personnel who were initially certified before the implementation of the Kentucky supplemental curricula established in subsection (6) of this section may:

(a) Use the printed documents available from the cabinet EMS Branch associated with the curricula; or

(b) Use service developed printed curricula documents that have been submitted to, reviewed and approved in accordance with subsections (4) and (5) of this section.

**Section 2. Clinical or Field Rotation and Testing.** (1) Consistent with the 1994 version of the U.S. DOT National Highway Traffic Administration, EMT Basic: National Standard Curriculum (NSC), and as described on page twenty-one (21) of the NSC Manual, an EMT-B training course shall require its students to complete a clinical or field rotation. To meet minimum requirements of the clinical or field rotation, each student shall:

(a) Participate for a minimum of ten (10) contact hours;

(b) Interview and assess a minimum of five (5) patients;

(c) Record the patient history and assessment on a prehospital care report form for each patient reviewed and assessed; and

(d) Repeat clinical or field setting experiences, as required, until the course lead instructor deems the student as competent within the goals established for the EMS education program.

(2) In extreme cases when EMT-B students are unable to obtain experiences in a clinical or field setting, the EMS educational institution shall file with the cabinet a request for approval for a variance from the U.S. DOT requirement. Supportive documentation shall include:

(a) Written evidence that a good faith effort has been made to obtain sites for a clinical or field rotation with at least three (3) cabinet licensed ambulance services or other eligible clinical or field rotation sites within a forty (40) mile radius from location of the EMS educational institution EMT-B course site; and

(b) A description of alternatives to the clinical/field rotation proposed by the EMS educational institution, consistent with those established in the 1994 version of the U.S. DOT National Highway Traffic Administration EMT Basic: National Standard Curriculum, that meet the educational objectives to be addressed by the clinical/field rotation.

(3) A request for a variance from the clinical or field rotation requirement described in subsection (1) of this section shall be reviewed by the Kentucky Emergency Medical Services Council. The recommendations of the Kentucky Emergency Medical Services Council shall be considered by the cabinet in granting approval for a requested variance.

(4) An EMT-B student may begin the field internship required in subsection (1) of this section after he has completed the patient assessment module of the training course.

(5) An EMT-B student shall complete the last classroom session, the clinical or field rotation requirement of subsection (1) of this section and other EMS educational institution EMT basic training program requirements, before he may be eligible to take the Kentucky EMT-B certification examination pursuant to 902 KAR 13:050, Section 2.

(6) If an EMT-B student does not successfully pass the certification examination process and become Kentucky certified within two (2) years after the EMT-B course completion date, he shall repeat the entire EMT-B course requirements of Section 1 of this adminis-

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trative regulation and the field internship requirements of subsection (1) of this section before he may become eligible to apply for EMT-B certification.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The Initial Training Curriculum, "EMT Application of a Pulse Oximetry" (4/00);

(b) The Emergency Medical Technician (EMT) Training Curriculum for the "EMT-B in the Monitoring of Preestablished Patient Intravenous Infusions" (4/00);

(c) The Initial Training Curriculum, "EMT-B Advanced Airway Management", as amended from the 1994 DOT EMT Basic NSC Elective Module on Advanced Airway Management (4/00);

(d) The Initial Training Curriculum, "EMT-B Maintenance and Application of END Tidal CO2 Monitoring" (4/00);

(e) The Initial Training Curriculum, "EMT-B Use of Noninvasive Temperature Monitoring", (4/00);

(f) The Initial Training Curriculum, "EMT-B Application of EKG Electrodes and Monitor" (4/00); and

(g) The "Kentucky Initial Training Curriculum for the EMT-B in Blood Glucose Analysis" (4/00).

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

RICE C. LEACH, Commissioner

JOHN WALKER, Attorney

JIMMY D. HELTON, Secretary

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If not notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573

### REGULATORY IMPACT ANALYSIS

Contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 1,500 individuals trained as emergency medical technicians-basic (EMT-B) each year.

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented to the extent available from the public comments received. This administrative regulation will have no effect on the cost of living and employment in this state.

(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. This administrative regulation may have a minimal effect on the cost of doing business in any geographical area of this state in that the clinical/field internship will require EMS Educational Institutions to assure that students shall be exposed to direct patient care with a minimum of 5 patient contacts, or show just cause why a variance should be approved by the cabinet.

(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: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(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: 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: Based on the public comments, it is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were rejected because this administrative regulation sets minimum training standards for EMT-Bs that meet national standards and the needs of potential employers.

(8) Assessment of expected benefits: This administrative regulation sets minimum training standards for EMT-Bs that meet national standards and the needs of potential employers.

(a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: This administrative regulation will have a positive effect on public health by preparing new EMT-Bs to better perform their duties in responding to medical emergencies.

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

(c) If detrimental effect would result, explain detrimental effect: If this administrative regulation is not implemented, it will have a detrimental effect on public health because EMT-Bs trained in Kentucky will not meet national standards.

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or 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? (Explain why tiering was or was not used.) Yes. Tiering was applied because this administrative regulation establishes new requirements for EMT-B training beginning after the effective date of this administrative regulation while permitting EMT-B courses already in progress to continue under requirements of current administrative regulations.

### CABINET FOR HEALTH SERVICES Department for Public Health Division of Adult and Child Health (New Administrative Regulation)

#### 902 KAR 13:171. Repeal of 902 KAR 13:020 and 902 KAR 13:130.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

STATUTORY AUTHORITY: KRS 194A.030, 211.964

NECESSITY, FUNCTION, AND CONFORMITY: 902 KAR 13:020 is no longer required because the applicant requirements for emergency medical technician (EMT) training and certification have been included in 902 KAR 13:050 and 902 KAR 13:170. 902 KAR 13:130 is no longer required because the requirements for an EMT-Basic to maintain and discontinue a preestablished peripheral intravenous (I.V.) infusion have been included in 902 KAR 13:080.

Section 1. The following administrative regulations are hereby repealed:

(1) 902 KAR 13:020, Applicant requirements for EMT training

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and certification, is hereby repealed.

(2) 902 KAR 13:130, Emergency medical technician maintenance and discontinuation of a peripheral intravenous (I.V.) infusion.

JIMMY D. HELTON, Secretary  
RICE C. LEACH, M.D., Commissioner  
JOHN WALKER, Attorney Date

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

**PUBLIC HEARING:** A public hearing on this administrative regulation shall be held on June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2000. If no notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given 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 to: Selina Riley, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

### REGULATORY IMPACT ANALYSIS

Contact person: Robert Calhoun

(1) Type and number of entities affected: Approximately 14,000 emergency medical technicians (EMTs).

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

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented to the extent available from the public comments received. This administrative regulation will have no effect on the cost of living and employment in this state.

(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. This administrative regulation will have no effect on the cost of doing business in any geographical area of this state.

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

1. First year following implementation: None

2. Second and subsequent years: As above.

(3) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional reporting or paperwork will be required.

(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: 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: It is not anticipated that this administrative regulation will have an economic impact.

(b) Kentucky: Same as above.

(7) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were rejected because this administrative regulation complies with the requirements of KRS Chapter 13A.

(8) Assessment of expected benefits:

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

(b) State whether a detrimental effect on environmental and public

health would result if not implemented: No

(c) If detrimental effect would result, explain detrimental effect: None

(9) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation, or policy will conflict, overlap, or duplicate this administrative regulation.

(a) Necessity or 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? (Explain why tiering was or was not used.) No. Tiering was not applied because this the requirements of these 2 repealed administrative regulations have been included in other administrative regulations.

### CABINET FOR HEALTH SERVICES Department for Public Health Division of Public Health Protection and Safety (New Administrative Regulation)

#### 902 KAR 100:036. Repeal of 902 KAR 100:035.

RELATES TO: KRS 211.842 to 211.852, 211.990(4)

STATUTORY AUTHORITY: KRS 194A.050, 211.090, 211.844  
NECESSITY, FUNCTION, AND CONFORMITY: 902 KAR 100:035 is no longer necessary because a new administrative regulation, 902 KAR 100:019, regulating requirements for the picking up, receiving and opening of packages containing radioactive material and describing the test for special form licensed material has been promulgated by the Department for Public Health.

Section 1. 902 KAR 100:035, Receiving radioactive material and special form tests, is hereby repealed.

JIMMY D. HELTON, Secretary  
RICE C. LEACH, M.D., Commissioner  
JOHN WALKER, Attorney

APPROVED BY AGENCY: May 12, 2000

FILED WITH LRC: May 12, 2000 at 4 p.m.

**PUBLIC HEARING:** A public hearing on this regulation will be held June 21, 2000 at 9 a.m. in the Cabinet for Health Services Auditorium, 1st floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by June 14, 2000. If no notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is opened to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notice of intent to attend the public hearing or written comments to: Selina Riley, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

### REGULATORY IMPACT ANALYSIS

Contact Person: John A. Volpe

(1) Type and number of entities affected: All radioactive material licensees will be impacted by the repeal of 902 KAR 100:035.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

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

1. First year following implementation: None
2. Second and subsequent years: None
- (3) Effects on the promulgating administrative body:
  - (a) Direct and indirect costs or savings:
    1. First year: None
    2. Continuing costs or savings: None
  3. Additional factors increasing or decreasing costs: None
  - (b) Reporting and paperwork requirements: None
- (4) Assessment of anticipated effect on state and local revenues: No change in fees at this time; therefore, there will not be a impact on state revenues to support the radiation program.
- (5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees from the licensing of radioactive material users.
- (6) To the extent available from the public comments received, the economic impact, including effects of economic activities arising from administration regulation, on:
  - (a) Geographical area in which administrative regulation will be implemented: No comments were received.
  - (b) Kentucky: No comments were received.
- (7) Assessment of alternative methods: reasons why alternatives were rejected: No viable alternatives were identified.
- (8) Assessment of expected benefits:
  - (a) Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Not applicable.
  - (b) State whether a detrimental effect on environment and public health would result if not implemented: Not applicable.
  - (c) If detrimental effect would result, explain detrimental effect: Not applicable.
- (9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: No conflict with statutes or administrative regulations.
  - (a) Necessity of 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: Not applicable.
- (11) TIERING: Is tiering applied? (explain why tiering was or was not applied): No. Tiering was not applied since repeal of 902 KAR 100:035 will impact all holders of radioactive material licenses.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Not applicable.
2. State compliance standards. Not applicable.
3. Minimum or uniform standards contained in the federal mandate. Not applicable.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Not applicable.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No.
2. State whether this administrative regulation will affect the local government or only a part or division of the local government. No affect.
3. State the aspect or service of local government to which this administrative regulation relates. None
4. How does this administrative regulation affect the local government or any service it provides. Not applicable.

**CABINET FOR HEALTH SERVICES**  
**Department for Public Health**  
**Division of Public Health Protection and Safety**  
**(New Administrative Regulation)**

#### 902 KAR 100:042. Decommissioning and financial surety.

RELATES TO: KRS 13B.170, 211.842 to 211.852, 211.990(4), 10 CFR 20.1401 through 20.1406, 30 Appendices A through E, 30.35, 30.36, 40.36, 70.25

STATUTORY AUTHORITY: KRS 13B.170, 194A.050, 211.090, 211.844, 10 CFR 20.1401 through 20.1406, 30 Appendices A through E, 30.35 and 30.36, 40.36, 70.25

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services is mandated by KRS 211.844 to regulate the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation prescribes requirements for decommissioning and financial assurance requirements of radioactive material licensees.

Section 1. General Provisions and Scope. (1) The criteria in this administrative regulation apply to the decommissioning and financial assurance requirements of facilities licensed under 902 KAR 100:040 and 902 KAR 100:022, as well as other facilities subject to the cabinet's jurisdiction under KRS 211.842 to 211.852. For low-level waste disposal facilities (902 KAR 100:022), the criteria for decommissioning apply only to ancillary surface facilities that support radioactive waste disposal activities.

(2) The criteria in this administrative regulation do not apply to sites which:

(a) Have been decommissioned prior to the effective date of this administrative regulation.

(b) Have previously submitted and received cabinet approval on a license termination plan (LTP) or decommissioning plan prior to the effective date of this administrative regulation; or

(c) Submit a sufficient LTP or decommissioning plan with an application in its entirety as required by 902 KAR 100:040, Section 9.

(3) After a site has been decommissioned and the license terminated in accordance with the criteria in this administrative regulation, the cabinet shall require additional cleanup only if, based on new information, it determines that the criteria of this administrative regulation were not met and residual radioactivity remaining at the site could result in significant threat to public health and safety.

(4) When calculating total effective dose equivalent (TEDE) to the average member of the critical group the licensee shall determine the peak annual TEDE dose expected within the first 1000 years after decommissioning.

Section 2. Radiological Criteria for Unrestricted Use. A site shall be considered acceptable for unrestricted use if the residual radioactivity that is distinguishable from background radiation results in a TEDE to an average member of the critical group that does not exceed 25 millirem (mrem) (0.25 mSv) per year, including that from groundwater sources of drinking water, and the residual radioactivity has been reduced to levels that are as low as reasonably achievable (ALARA). Determination of the levels, which are ALARA, shall take into account consideration of detriments, such as deaths from transportation accidents, expected to potentially result from decontamination and waste disposal.

Section 3. Criteria for License Termination Under Restricted Conditions. A site shall be considered acceptable for license termination under restricted conditions if:

(1) The licensee demonstrates that further reductions in residual radioactivity necessary to comply with the provisions of Section 2 of this administrative regulation may result in net public or environmental harm or were not being made because the residual levels associated with restricted conditions are ALARA. Determination of the levels which are ALARA shall take into account consideration of detriments, such as traffic accidents, expected to potentially result from decontamination and waste disposal;

(2) The licensee has made provisions for legally enforceable institutional controls that provide reasonable assurance that the

TEDE from residual radioactivity distinguishable from background to the average member of the critical group shall not exceed 25 mrem (0.25 mSv) per year;

(3) The licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for necessary control and maintenance of the site. Acceptable financial assurance mechanisms are:

(a) Funds placed into an account segregated from the licensee's assets and outside the licensee's administrative control as described in Section 15(2)(a) of this administrative regulation;

(b) Surety method, insurance, or other guarantee method as described in Section 15(2)(b) of this administrative regulation;

(c) A statement of intent in the case of federal, state, or local government licensees, as described in Section 15(2)(d) of this administrative regulation; or

(d) When a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by the governmental entity.

(4) The licensee has submitted a decommissioning plan or license termination plan (LTP) to the cabinet indicating the licensee's intent to decommission in accordance with Section 14(1) of this administrative regulation, and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and incorporated, as appropriate, following analysis of that advice.

(a) Licensees proposing to decommission by restricting use of the site shall seek advice from such affected parties regarding the following matters concerning the proposed decommissioning:

1. Whether provisions for institutional controls proposed by the licensee;

a. Shall provide reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group shall not exceed 25 mrem (0.25 mSv) TEDE per year;

b. Shall be enforceable; and

c. Shall not impose undue burdens on the local community or other affected parties.

2. Whether the licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for necessary control and maintenance of the site;

(b) In seeking advice on the issues identified in paragraph (a) of this subsection, the licensee shall provide for:

1. Participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

2. An opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

3. A publicly available summary of the results of the discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues; and

(5) Residual radioactivity at the site has been reduced so that if the institutional controls were no longer in effect, there is reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group is as low as reasonably achievable and shall not exceed either:

(a) 100 mrem (1 mSv) per year; or

(b) 500 mrem (5 mSv) per year provided the licensee:

1. Demonstrates that further reductions in residual radioactivity necessary to comply with the 100 mrem/year (1 mSv/y) value of subsection (5)(a) of this section are not technically achievable, are prohibitively expensive, or may result in net public or environmental harm;

2. Makes provisions for durable institutional controls;

3. Provides sufficient financial assurance to enable a responsible government entity or independent third party, including a governmental custodian of a site, both to carry out periodic rechecks of the site no less frequently than every five (5) years to assure that the institutional controls remain in place as necessary to meet the criteria established in subsection (2) of this section and to assume and carry out responsibilities for necessary control and maintenance of

those controls. Acceptable financial assurance mechanisms are those in subsection (3) of this section.

Section 4. Alternate Criteria for License Termination. (1) The cabinet may terminate a license using alternate criteria greater than the dose criterion established in Sections 2 and 3(2) or (4)(a)1a of this administrative regulation, if the licensee:

(a) Provides assurance that public health and safety continues to be protected, and that it is unlikely that the dose from manmade sources combined, other than medical, are more than the 100 mrem/year (1 mSv/y) limit of 902 KAR 100:019, Section 10(1)(a), by submitting an analysis of possible sources of exposure;

(b) Has employed to the extent practical restrictions on site use according to the provisions of Section 3 of this administrative regulation in minimizing exposures at the site;

(c) Reduces doses to ALARA levels, taking into consideration detriments such as traffic accidents expected to potentially result from decontamination and waste disposal; and

(d) Has submitted a decommissioning plan or license termination plan (LTP) to the cabinet indicating the licensee's intent to decommission in accordance with Section 14(1) of this administrative regulation, and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and addressed, as appropriate, following analysis of that advice. In seeking such advice, the licensee shall provide for:

1. Participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

2. An opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

3. A publicly available summary of the results of discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues.

(2) The use of alternate criteria to terminate a license requires the approval of the cabinet after consideration of recommendations that address comments provided by state and federal agencies and public comments submitted pursuant to Section 5 of this administrative regulation.

Section 5. Public Notification and Public Participation. Upon the receipt of an LTP or decommissioning plan from the licensee, or a proposal by the licensee for release of a site pursuant to Section 3 or 4 of this administrative regulation, or if the cabinet determines a notice to be in the public interest, the cabinet shall:

(1) Notify and solicit comments from:

(a) Local and state governments in the vicinity of the site; and

(b) Other state and federal agencies for cases where the licensee proposes to release a site pursuant to Section 4 of this administrative regulation.

(2) Publish a notice in a forum, such as local newspapers, letters to state or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site, and solicit comments from affected parties.

Section 6. Minimization of Contamination. Applicants for licenses and amendments in their entirety shall describe in the application how facility design and procedures for operation shall minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.

Section 7. Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning. (1) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on:

(a) Obtaining a parent company guarantee that funds shall be available for decommissioning costs; and

(b) A demonstration that the parent company passes a financial test.

(2) Financial test.



(a) To pass the financial test, the parent company shall meet either of the following criteria:

1. The parent company shall have:

a. Two (2) of the following three (3) ratios:

(i) A ratio of total liabilities to net worth less than two (2);

(ii) A ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than one-tenth (0.1); or

(iii) A ratio of current assets to current liabilities greater than one and five-tenths (1.5);

b. Net working capital and tangible net worth each at least six (6) times the current decommissioning cost estimates for the total of facilities or parts thereof (or prescribed amount if a certification is used);

c. Tangible net worth of at least \$10,000,000; and

d. Assets located in the United States amounting to at least ninety (90) percent of the total assets or at least six (6) times the current decommissioning cost estimates for the total of facilities or parts thereof (or prescribed amount if a certification is used); or

2. The parent company shall have:

a. A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poors or AAA, AA, A, or BAA as issued by Moody's;

b. Tangible net worth each at least six (6) times the current decommissioning cost estimates for the total of facilities or parts thereof (or prescribed amount if a certification is used);

c. Tangible net worth of at least \$10,000,000; and

d. Assets located in the United States amounting to at least ninety (90) percent of the total assets or at least six (6) times the current decommissioning cost estimates for the total of facilities or parts thereof (or prescribed amount if a certification is used); or

3. The parent company shall have:

a. A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poors or AAA, AA, A, or BAA as issued by Moody's;

b. Tangible net worth each at least six (6) times the current decommissioning cost estimates for the total of facilities or parts thereof (or prescribed amount if a certification is used);

c. Tangible net worth of at least \$10,000,000; and

d. Assets located in the United States amounting to at least ninety (90) percent of the total assets or at least six (6) times the current decommissioning cost estimates for the total of facilities or parts thereof (or prescribed amount if a certification is used).

(b) The parent company's independent certified public accountant shall have compared the data used by the parent company in the financial test, which shall be derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in the financial statement. In connection with that procedure the licensee shall inform the cabinet within ninety (90) days of matters coming to the auditor's attention which cause the auditor to believe that the data specified in the financial test shall be adjusted and that the company no longer passes the test.

(c) 1. After the initial financial test, the parent company shall repeat the passage of the test within ninety (90) days after the close of each succeeding fiscal year.

2. If the parent company no longer meets the requirements of subsection (2)(a) of this section, the licensee shall send notice to the cabinet of intent to establish alternate financial assurance as specified in the cabinet's administrative regulations. The notice shall be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the parent company no longer meets the financial test requirements. The licensee shall provide alternate financial assurance within 120 days after the end of a fiscal year.

(3) Parent company guarantee. The terms of a parent company guarantee which an applicant or licensee obtains shall provide that:

(a) The parent company guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the cabinet. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the cabinet, as evidenced by the return receipts.

(b) If the licensee fails to provide alternate financial assurance as specified in the cabinet administrative regulations within ninety (90) days after receipt by the licensee and cabinet of a notice of

cancellation of the parent company guarantee from the guarantor, the guarantor shall provide an alternative financial assurance in the name of the licensee.

(c) The parent company guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license.

(d) If a trust is established for decommissioning costs, the trustee and trust shall be acceptable to the cabinet. An acceptable trustee shall include an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

Section 8. Criteria Relating to Use of Financial Tests and Self-guarantees for Providing Reasonable Assurance of Funds for Decommissioning. (1) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on:

(a) Furnishing its own guarantee that funds shall be available for decommissioning costs pursuant to subsection (3) of this section; and

(b) A demonstration that the company passes the financial test established in subsection (2) of this section.

(2) Financial test.

(a) To pass the financial test, a company shall meet the following criteria:

1. Tangible net worth at least ten (10) times the total current decommissioning cost estimate for the total of facilities or parts thereof (or the current amount required if certification is used).

2. Assets located in the United States amounting to at least ninety (90) percent of total assets or at least ten (10) times the total current decommissioning cost estimate for the total of facilities or parts thereof (or the current amount required if certification is used).

3. A current rating for its most recent bond issuance of AAA, AA, or A as issued by Standard and Poors (S&P), or Aaa, Aa, or A as issued by Moody's.

(b) To pass the financial test, a company shall meet the following additional requirements:

1. The company shall have at least one (1) class of equity securities registered pursuant to 15 USC Chapter 2B.

2. The company's independent certified public accountant shall have compared the data used by the company in the financial test, which shall be derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in the financial statement. In connection with that procedure, the licensee shall inform the cabinet within ninety (90) days of matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test shall be adjusted and that the company no longer passes the test.

3. After the initial financial test, the company shall repeat passage of the test within ninety (90) days after the close of each succeeding fiscal year.

(c) If the licensee no longer meets the requirements of paragraph (a) of this subsection, the licensee shall send immediate notice to the cabinet of its intent to establish alternate financial assurance as specified in this administrative regulation within 120 days of such notice.

(3) Company self-guarantee. The terms of a self-guarantee which an applicant or licensee furnishes shall provide that:

(a) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail to the cabinet. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by the cabinet, as evidenced by the return receipt.

(b) The licensee shall provide alternative financial assurance as specified in the cabinet's administrative regulations within ninety (90) days following receipt by the cabinet of a notice of cancellation of the guarantee.

(c) The guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license or until another financial assurance method acceptable to the cabinet has been put in effect by the licensee.

(d) The licensee shall promptly forward to the cabinet and the licensee's independent auditor the reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission pursuant to the requirements of 15 USC 78m.

(e) If, at a time, the licensee's most recent bond issuance ceases to be rated in a category of "A" or above by either Standard and Poors or Moodys, the licensee shall provide notice in writing of such fact to the cabinet within twenty (20) days after publication of the change by the rating service. If the licensee's most recent bond issuance ceases to be rated in a category of A or above by both Standard and Poors and Moodys, the licensee shall no longer meet the requirements of subsection (2)(a) of this section.

(f) The applicant or licensee shall provide to the cabinet a written guarantee (a written commitment by a corporate officer) which states that the licensee shall fund and carry out the required decommissioning activities or, upon issuance of an order by the cabinet, the licensee shall set up and fund a trust in the amount of the current cost estimates for decommissioning.

Section 9. Criteria Relating To Use of Financial Tests and Self-guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Commercial Companies that Have No Outstanding Rated Bonds. (1) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on:

(a) Furnishing its own guarantee that funds shall be available for decommissioning costs pursuant to subsection (3) of this section; and

(b) A demonstration that the company passes the financial test established in subsection (2) of this section.

(2) Financial test.

(a) To pass the financial test a company shall meet the following criteria:

1. Tangible net worth greater than \$10,000,000, or at least ten (10) times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

2. Assets located in the United States amounting to at least ninety (90) percent of total assets or at least ten (10) times the total current decommissioning cost estimate (or the current amount required if certification is used) for decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.

3. A ratio of cash flow divided by total liabilities greater than 0.15 and a ratio of total liabilities divided by net worth less than one and five-tenths (1.5).

(b) In addition, to pass the financial test, a company shall meet the following requirements:

1. The company's independent certified public accountant shall have compared the data used by the company in the financial test, which shall be derived from the independently audited year-end financial statement based on United States generally accepted accounting practices for the latest fiscal year, with the amounts in the financial statement. In connection with that procedure, the licensee shall inform the cabinet within ninety (90) days of matters that may cause the auditor to believe that the data specified in the financial test shall be adjusted and that the company no longer passes the test.

2. After the initial financial test, the company shall repeat passage of the test within ninety (90) days after the close of each succeeding fiscal year.

3. If the licensee no longer meets the requirements of paragraph (a) of this subsection, the licensee shall send notice to the cabinet of intent to establish alternative financial assurance as specified in this administrative regulation. The notice shall be sent by certified mail, return receipt requested, within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee shall provide alternative financial assurance within 120 days after the end of the fiscal year.

(3) Company self-guarantee. The terms of a self-guarantee which an applicant or licensee furnishes shall provide that:

(a) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the cabinet. Cancellation may not occur until an alternative financial assurance mechanism is in place.

(b) The licensee shall provide alternative financial assurance as

specified in this administrative regulation within ninety (90) days following receipt by the cabinet of a notice of cancellation of the guarantee.

(c) The guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license or until another financial assurance method acceptable to the cabinet has been put in effect by the licensee.

(d) The applicant or licensee shall provide to the cabinet a written guarantee (a written commitment by a corporate officer) which states that the licensee shall fund and carry out the required decommissioning activities or, upon issuance of an order by the cabinet, the licensee shall set up and fund a trust in the amount of the current cost estimates for decommissioning.

Section 10. Criteria Relating to Use of Financial Tests and Self-guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Nonprofit Colleges, Universities, and Hospitals.

(1) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on:

(a) Furnishing its own guarantee that funds shall be available for decommissioning costs; and

(b) A demonstration that the applicant or licensee passes the financial test pursuant to subsection (3) of this section established in subsection (2) of this section.

(2) Financial test.

(a) For colleges and universities, to pass the financial test a college or university shall meet either of the following criteria:

1. For applicants or licensees that issue bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard and Poors (S&P) or Aaa, Aa, or A as issued by Moodys.

2. For applicants or licensees that do not issue bonds, unrestricted endowment consisting of assets located in the United States of at least \$50,000,000, or at least thirty (30) times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for decommissioning activities for which the college or university is responsible as a self-guaranteeing licensee.

(b) For hospitals, to pass the financial test a hospital shall meet the following criteria:

1. For applicants or licensees that issue bonds, a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard and Poors (S&P) or Aaa, Aa, or A as issued by Moodys; or

2. For applicants or licensees that do not issue bonds, the following tests shall be met:

a. (Total Revenues less total expenditures) divided by total revenues shall be equal to or greater than 0.04;

b. Long term debt divided by net fixed assets shall be less than or equal to 0.67;

c. (Current assets and depreciation fund) divided by current liabilities shall be greater than or equal to 2.55; and

d. Operating revenues shall be at least 100 times the total current decommissioning cost estimate (or the current amount required if certification is used) for decommissioning activities for which the hospital is responsible as a self-guaranteeing licensee.

(c) In addition, to pass the financial test, a licensee shall meet the following requirements:

1. The licensee's independent certified public accountant shall have compared the data used by the licensee in the financial test, which shall be required to be derived from the independently audited year-end financial statements, based on United States generally accepted accounting practices, for the latest fiscal year, with the amounts in the financial statement. In connection with that procedure, the licensee shall inform the cabinet within ninety (90) days of matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test may be adjusted and that the licensee no longer passes the test.

2. After the initial financial test, the licensee shall repeat passage of the test within ninety (90) days after the close of each succeeding fiscal year.

3. If the licensee no longer meets the requirements of subsection (1) of this section, the licensee shall send notice to the cabinet of its intent to establish alternative financial assurance as specified

in cabinet administrative regulations. The notice shall be sent by certified mail, return receipt requested, within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee shall provide alternate financial assurance within 120 days after the end of such fiscal year.

(3) Self-guarantee. The terms of a self-guarantee which an applicant or licensee furnishes shall provide that:

(a) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, or return receipt requested, to the cabinet. Cancellation may not occur unless an alternative financial assurance mechanism is in place.

(b) The licensee shall provide alternative financial assurance as specified in this administrative regulation within ninety (90) days following receipt by the cabinet of a notice of cancellation of the guarantee.

(c) The guarantee and financial test provisions shall remain in effect until the cabinet has terminated the license or until another financial assurance method acceptable to the cabinet has been put in effect by the licensee.

(d) The applicant or licensee shall provide to the cabinet a written guarantee (a written commitment by a corporate officer or officer of the institution) which states that the licensee shall fund and carry out the required decommissioning activities or, upon issuance of an order by the cabinet, the licensee shall set up and fund a trust in the amount of the current cost estimates for decommissioning.

(e) If, at a time, the licensee's most recent bond issuance ceases to be rated in a category of "A" or above by either Standard and Poors or Moodys, the licensee shall provide notice in writing of such fact to the cabinet within twenty (20) days after publication of the change by the rating service.

Section 11. Financial Assurance and Recordkeeping for Decommissioning for Radioactive Material. (1) An applicant for a specific license authorizing the possession and use of unsealed radioactive material of half-life greater than 120 days and in quantities exceeding  $10^5$  times the applicable quantities in Section 16 of this administrative regulation shall submit a decommissioning funding plan as described in Section 15 of this administrative regulation. The decommissioning funding plan shall also be submitted if a combination of isotopes is involved if  $R$  divided by  $10^5$  is greater than one (1) (unity rule), where  $R$  is defined here as the sum of the ratios of the quantity of an isotope to the applicable value in Section 16 of this administrative regulation.

(2) An applicant for a specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in subsection (4) of this section shall:

(a) Submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation; or

(b) Submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by subsection (4) of this section using one (1) of the methods described in Section 15 of this administrative regulation. For an applicant, this certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued but before the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation shall be submitted to the cabinet before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the cabinet, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation.

(3)(a) A holder of a specific license which is of a type described in subsection (1) or (2) of this section, shall provide financial assurance for decommissioning in accordance with the criteria established in this section.

(b) A holder of a specific license of a type described in subsection (1) of this section shall submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation or a certification of financial assurance for decommissioning in an amount at least equal to \$750,000 in accordance with the criteria established in this section. If the licensee submits the certification of

financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning funding plan in an application for license renewal.

(c) A holder of a specific license and of a type described in subsection (2) of this section shall submit a decommissioning funding plan as described, in Section 15 of this administrative regulation, or a certification of financial assurance for decommissioning in accordance with the criteria established in this section.

(4) Table of required amounts of financial assurance for decommissioning by quantity of radioactive material:

(a) Greater than  $10^4$  but less than or equal to  $10^5$  times the applicable quantities of Section 16 of this administrative regulation in unsealed form. (For a combination of isotopes, if  $R$ , as defined in subsection (1) of this section, divided by  $10^4$  is greater than one (1) but  $R$  divided by  $10^5$  is less than or equal to 1.) .... \$750,000.

(b) Greater than  $10^3$  but less than or equal to  $10^4$  times the applicable quantities of Section 16 of this administrative regulation in unsealed form. (For a combination of isotopes, if  $R$ , as defined in subsection (1) of this section, divided by  $10^3$  is greater than one (1) but  $R$  divided by  $10^4$  is less than or equal to one (1).) .... \$150,000.

(c) Greater than  $10^{10}$  times the applicable quantities of Section 16 of this administrative regulation in sealed sources or plated foils. (For a combination of isotopes, if  $R$ , as defined in subsection (1) of this section, divided by  $10^{10}$  is greater than one (1)) .... \$75,000.

Section 12. Financial Assurance and Recordkeeping for Decommissioning for Source Material. (1) Criteria for providing financial assurance for decommissioning, except for licenses authorizing the receipt, possession, and use of source material for uranium or thorium milling, or radioactive material at sites formerly associated with such milling shall be as follows:

(a) An applicant for a specific license authorizing the possession and use of more than 100 millicuries (mCi) of source material in a readily dispersible form shall submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation.

(b) An applicant for a specific license authorizing possession and use of quantities of source material greater than 10 millicuries (mCi) but less than or equal to 100 millicuries (mCi) in a readily dispersible form shall submit:

1. A decommissioning funding plan as described in Section 15(1) of this administrative regulation; or

2. A certification that financial assurance for decommissioning has been provided in the amount of \$150,000 using one (1) of the methods described in Section 15 of this administrative regulation.

a. This certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued but before the receipt of licensed material.

b. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation shall be submitted to the cabinet prior to receipt of licensed material.

c. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the cabinet, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation.

(3)(a) A holder of a specific license which is covered by subsection (1)(a) or (b) of this section, shall provide financial assurance for decommissioning in accordance with the criteria established in this section.

(b) A holder of a specific license of a type described in subsection (1)(a) of this section shall submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation or a certification of financial assurance for decommissioning in an amount at least equal to \$750,000 in accordance with the criteria in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning funding plan in an application for license renewal.

(c) A holder of a specific license of a type described in subsection (1)(b) of this section shall submit a decommissioning funding plan, as described in Section 15(1) of this administrative regulation, or a certification of financial assurance for decommissioning in ac-

cordance with the criteria established in this section.

Section 13. Financial Assurance and Recordkeeping for Decommissioning for Special Nuclear Material. (1) An applicant for a specific license of the type described in this subsection shall submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation. A specific license authorizing the possession and use of unsealed special nuclear material in quantities exceeding  $10^5$  times the applicable quantities established in Section 16 of this administrative regulation. A decommissioning funding plan shall also be submitted when a combination of isotopes is involved if  $R$  divided by  $10^5$  is greater than one (1) (unity rule), where  $R$  is the sum of the ratios of the quantity of each isotope to the applicable value in Section 16 of this administrative regulation.

(2) An applicant for a specific license authorizing possession and use of unsealed special nuclear material in quantities specified in subsection (4) of this section shall submit:

(a) A decommissioning funding plan as described in Section 15(1) of this administrative regulation; or

(b) A certification that financial assurance for decommissioning has been provided in the amount prescribed by subsection (4) of this section using one of the methods described in Section 15 of this administrative regulation.

1. This certification may state that the appropriate assurance shall be obtained after the application has been approved and the license issued but before the receipt of licensed material.

2. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation shall be submitted to the cabinet before receipt of licensed material.

3. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the cabinet, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of Section 15 of this administrative regulation.

(3)(a) A holder of a specific license which is of a type described in subsection (1) of this section, shall provide financial assurance for decommissioning in accordance with the criteria established in this section.

(b) A holder of a specific license of a type described in subsection (1) of this section shall submit a decommissioning funding plan as described in Section 15(1) of this administrative regulation or a certification of financial assurance for decommissioning in an amount at least equal to \$750,000 in accordance with the criteria established in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan at this time, the licensee shall include a decommissioning funding plan in an application for license renewal.

(c) Each holder of a specific license of a type described in subsection (1) of this section shall submit a decommissioning funding plan, described in Section 15(1) of this administrative regulation, or a certification of financial assurance for decommissioning in accordance with the criteria established in this section.

(4) Table of required amounts of financial assurance for decommissioning by quantity of material:

(a) Greater than  $10^4$  but less than or equal to  $10^5$  times the applicable quantities of Section 16 of this administrative regulation. For a combination of isotopes, if  $R$ , as defined in subsection (1) of this section, divided by  $10^4$  is greater than one (1) but  $R$  divided by  $10^5$  is less than or equal to 1 .... \$750,000.

(b) Greater than  $10^3$  but less than or equal to  $10^4$  times the applicable quantities of Section 16 of this administrative regulation. For a combination of isotopes, if  $R$ , as defined in subsection (1) of this section, divided by  $10^3$  is greater than one (1) but  $R$  divided by  $10^4$  is less than or equal to 1 .... 150,000.

Section 14. Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas. (1) Within sixty (60) days of the occurrence of the following, a licensee shall provide notification to the cabinet in writing, and either begin decommissioning its site, or a separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with cabinet require-

ments, or submit within twelve (12) months of notification a decommissioning plan, if required by subsection (4)(a) of this section, and begin decommissioning upon approval of that plan if:

(a) The license has expired pursuant to 902 KAR 100:040, Section 7;

(b) The licensee has decided to permanently cease principal activities, as defined in this section, at the entire site or in a separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with cabinet requirements;

(c) Principal activities under the license have not been conducted for a period of twenty-four (24) months; or

(d) Principal activities have not been conducted for a period of twenty-four (24) months in a separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is unsuitable for release in accordance with cabinet requirements.

(2) Coincident with the notification required by subsection (1) of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to Sections 11, 12 and 13 of this administrative regulation in conjunction with a license issuance or renewal or as required by this section. The amount of the financial assurance shall be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to subsection (4)(d)5 of this section.

(a) A licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so within one year (1) after the effective date of this administrative regulation.

(b) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the cabinet.

(3) The cabinet may grant a request to extend the time periods established in this section if the cabinet determines that this relief is not detrimental to the public health and safety and is in the public interest. The request shall be submitted no later than thirty (30) days before notification pursuant to subsection (1) of this section. The schedule for decommissioning established in subsection (1) of this section may not commence until the cabinet has made a determination on the request.

(4)(a) A decommissioning plan shall be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the cabinet and these procedures could increase potential health and safety impacts to workers or to the public, such as in the following cases:

1. Procedures involve techniques not applied routinely during cleanup or maintenance operations;

2. Workers enter areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

3. Procedures may result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

4. Procedures may result in significantly greater releases of radioactive material to the environment than those associated with operation.

(b) The cabinet may approve an alternate schedule for submittal of a decommissioning plan required pursuant to subsection (1) of this section if the cabinet determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is in the public interest.

(c) Procedures such as those listed in subsection (4)(a) of this section with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(d) The proposed decommissioning plan for the site or separate building or outdoor area shall include:

1. A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

2. A description of planned decommissioning activities;

3. A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning.

sioning;

4. A description of the planned final radiation survey;

5. An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning; and

6. For decommissioning plans calling for completion of decommissioning later than twenty-four (24) months after plan approval, the plan shall include a justification for the delay based on the criteria in subsection (6) of this section.

(e) The proposed decommissioning plan shall be approved by the cabinet if the information therein demonstrates that the decommissioning shall be completed as soon as practicable and that the health and safety of workers and the public shall be adequately protected.

(5)(a) Licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than twenty-four (24) months following the initiation of decommissioning, except as provided in subsection (6) of this section.

(b) If decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than twenty-four (24) months following the initiation of decommissioning, except as provided in subsection (6) of this section.

(6) The cabinet may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the cabinet determines that the alternative is warranted by consideration of the following:

(a) If it is technically feasible to complete decommissioning within the allotted twenty-four (24) month period;

(b) If sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted twenty-four (24) month period;

(c) If a significant volume reduction in wastes requiring disposal shall be achieved by allowing short-lived radionuclides to decay;

(d) If a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors which the cabinet may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that may result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(7) As the final step in decommissioning, the licensee shall:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed cabinet "Form RPS-10" incorporated by reference in 902 KAR 100:040 or equivalent information; and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in Sections 1 through 6 of this administrative regulation. The licensee shall, as appropriate:

1. Report levels:

a. Of gamma radiation in units of microrentgen ( $\mu$ R) (millisieverts, mSv) per hour at one (1) meter from surfaces, and report levels;

b. Of radioactivity, including alpha and beta, in units of disintegrations per minute, microcuries (megabecquerels) per 100 square centimeters removable and fixed radiation for surfaces;

c. Microcuries (megabecquerels) per milliliter for water; and

d. Picocuries (Becquerels) per gram for solids such as soils or concrete; and

2. Specify the survey instruments used and certify that each instrument is properly calibrated and tested.

(8) Specific licenses, including expired licenses, shall be terminated by written notice to the licensee if the cabinet determines that:

(a) Radioactive material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c) A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning in Sections 1 through 6 of this administrative regulation; or

(d) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in Sections 1 through 6 of this administrative regulation; or

(e) Records required by 902 KAR 100:040, Sections 7(3)(e) and 15(7) of this administrative regulation have been received.

Section 15. Financial Assurance Methods. (1) A decommissioning funding plan shall contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from subsection (2) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility. The decommissioning funding plan shall also contain:

(a) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

(b) A signed original of the financial instrument obtained to satisfy the requirements of subsection (2) of this section.

(2) Financial assurance for decommissioning shall be provided by one (1) or more of the following methods:

(a) A prepayment deposited prior to the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets so that the amount of funds may be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(b) A surety method, insurance, or other guarantee method.

1. These methods guarantee that decommissioning costs shall be paid.

2. A surety method may be in the form of a surety bond, letter of credit, or line of credit.

3. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Section 7 of this administrative regulation.

4. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section.

5. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Section 8 of this administrative regulation.

6. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are in accordance with Section 9 of this administrative regulation.

7. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are in accordance with Section 10 of this administrative regulation.

8. A guarantee by the applicant or licensee may not be used in combination with other financial methods used to satisfy the requirements of this section or in a situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company.

9. A surety method or insurance used to provide financial assurance for decommissioning shall contain the following conditions:

a. The surety method or insurance shall be open-ended or, if written for a specified term, such as five (5) years, shall be renewed automatically unless ninety (90) days or more prior to the renewal date, the issuer notifies the cabinet, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance shall also provide that the full face amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the cabinet within thirty (30) days after receipt of notification of cancellation.

b. The surety method or insurance shall be payable to a trust established for decommissioning costs. The trustee and trust shall be acceptable to the cabinet. An acceptable trustee shall include an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

c. The surety method or insurance shall remain in effect until the

cabinet has terminated the license.

(c) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund.

1. An external sinking fund shall be a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds may be sufficient to pay decommissioning costs at the time termination of operation is expected.

2. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

3. The surety or insurance provisions shall be as stated in subsection (2)(b) of this section.

(d) In the case of federal, state, or local government licensees, a statement of intent containing a cost estimate for decommissioning or an amount based on the tables in Sections 11, 12, and 13 of this administrative regulation, and indicating that funds for decommissioning shall be obtained when necessary.

(e) If a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by the governmental entity.

(7) Each person licensed under 902 KAR 100:040 shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with 902 KAR 100:040, Section 6, licensees shall transfer the records described in this subsection to the new licensee. In this case, the new licensee shall be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the cabinet considers important to decommissioning shall consist of:

(a) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after a cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records shall include a known information on identification of involved nuclides, quantities, forms, and concentrations.

(b) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used, or stored, and of locations of possible inaccessible contamination such as buried pipes, which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.

(c) A list contained in a single document and updated every two (2) years, except for areas containing only sealed sources provided the sources have not leaked or no contamination remains after a leak, or radioactive materials having only half-lives of less than sixty-five (65) days, or depleted uranium used only for shielding or as penetrators in unused munitions:

1. Areas designated and formerly designated restricted areas as defined in 902 KAR 100:010, Section 1. For requirements prior to January 26, 1994, see 902 KAR 100:010, Section 1 contained in the 1990 edition of 902 KAR Chapter 100;

2. Areas outside of restricted areas that require documentation under subsection (7) of this section.

3. Areas outside of restricted areas where current and previous wastes have been buried as documented under 902 KAR 100:021, Section 11; and

4. Areas outside of restricted areas that contain material so that, if the license expired, the licensee shall be required to either decontaminate the area to meet the criteria for decommissioning in this administrative regulation, or apply for approval for disposal under 902 KAR 100:021, Section 2.

(d) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a

funding plan or certification is used.

#### Section 16. Quantities<sup>1</sup> of Licensed Material.

Materials	Microcuries
Americium-241	.01
Antimony-122	100
Antimony-124	10
Antimony-125	10
Arsenic-73	100
Arsenic-74	10
Arsenic-76	10
Arsenic-77	100
Barium-131	10
Barium-133	10
Barium-140	10
Bismuth-210	1
Bromine-82	10
Cadmium-109	10
Cadmium-115m	10
Cadmium-115	100
Calcium-45	10
Calcium-47	10
Carbon-14	100
Cerium-141	100
Cerium-143	100
Cerium-144	1
Cesium-131	1,000
Cesium-134m	100
Cesium-134	1
Cesium-135	10
Cesium-136	10
Cesium-137	10
Chlorine-36	10
Chlorine-38	10
Chromium-51	1,000
Cobalt-58m	10
Cobalt-58	10
Cobalt-60	1
Copper-64	100
Dysprosium-165	10
Dysprosium-166	100
Erbium-169	100
Erbium-171	100
Europium-152 9.2h	100
Europium-152 13 yr	1
Europium-154	1
Europium-155	10
Fluorine-18	1,000
Gadolinium-153	10
Gadolinium-159	100
Gallium-72	10
Germanium-71	100
Gold-198	100
Gold-199	100
Hafnium-181	10
Holmium-166	100
Hydrogen-3	1,000
Indium-113m	100
Indium-114m	10
Indium-115m	100
Indium-115	10
Iodine-125	1
Iodine-126	1
Iodine-129	0.1
Iodine-131	1
Iodine-132	10
Iodine-133	1
Iodine-134	10
Iodine-135	10
Iridium-192	10



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Iridium-194	100
Iron-55	100
Iron-59	10
Krypton-85	100
Krypton-87	10
Lanthanum-140	10
Lutetium-177	100
Manganese-52	10
Manganese-54	10
Manganese-56	10
Mercury-197m	100
Mercury-197	100
Mercury-203	10
Molbdenum-99	100
Neodymium-147	100
Neodymium-149	100
Nickel-59	100
Nickel-63	10
Nickel-65	100
Niobium-93m	10
Niobium-95	10
Niobium-97	10
Osmium-185	10
Osmium-191m	100
Osmium-191	100
Osmium-193	100
Palladium-103	100
Palladium-109	100
Phosphorus-32	10
Platinum-191	100
Platinum-193m	100
Platinum-193	100
Platinum-197m	100
Platinum-197	100
Plutonium-239	.01
Polonium-210	0.1
Potassium-42	10
Praseodymium-142	100
Praseodymium-143	100
Promethium-147	10
Promethium-149	10
Radium-226	.01
Rhenium-186	100
Rhenium-188	100
Rhodium-103m	100
Rhodium-105	100
Rubidium-86	10
Rubidium-87	10
Ruthenium-97	100
Ruthenium-103	10
Ruthenium-105	10
Ruthenium-106	1
Samarium-151	10
Samarium-153	100
Scandium-46	10
Scandium-47	100
Scandium-48	10
Seleium-75	10
Silicon-31	100
Silver-105	10
Silver-110m	1
Silver-111	100
Sodium-24	10
Strontium-85	10
Strontium-89	1
Strontium-90	0.12
Strontium-91	10
Strontium-92	10
Sulphur-35	100
Tantalum-182	10

Technetium-96	10
Technetium-97m	100
Technetium-97	100
Technetium-99m	100
Technetium-99	10
Tellurium-125m	10
Tellurium-127m	10
Tellurium-127	100
Tellurium-129m	10
Tellurium-129	100
Tellurium-131m	10
Tellurium-132	10
Terbium-160	10
Thallium-200	100
Thallium-201	100
Thallium-202	100
Thallium-204	10
Thorium (natural) <sup>1</sup>	100
Thulium-170	10
Thulium-171	10
Tin-113	10
Tin-125	10
Tungsten-181	10
Tungsten-185	10
Tungsten-187	100
Uranium (natural) <sup>2</sup>	100
Uranium-233	.01
Uranium-234 -- Uranium-235	.01
Vandium-48	10
Xenon-131m	1,000
Xenon-133	100
Xenon-135	100
Ytterbium-175	100
Yttrium-90	10
Yttrium-91	10
Yttrium-92	100
Yttrium-93	100
Zinc-65	10
Zinc-69m	100
Zinc-69	1,000
Zirconium-93	10
Zirconium-95	10
Zirconium-97	10
An alpha emitting radionuclide not listed of above or mixtures alpha emitters of unknown composition	.01
A radionuclide other than alpha emitting radionuclides, not listed above or mixtures of beta emitters of unknown composition	.1

<sup>1</sup>Based on alpha disintegration rate of Th-232, Th-230 and their daughter products.

<sup>2</sup>Based on alpha disintegration rate of U-238, U-234, and U-235.

Note: For purposes of 902 KAR 100:021, Section 3, where there is involved a combination of isotopes in known amounts, the limit for the combination shall be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed one ("1") (i.e., "unity").

JIMMY D. HELTON, Secretary  
RICE C. LEACH, M.D., Commissioner  
JOHN WALKER, Attorney

APPROVED BY AGENCY: May 12, 2000  
FILED WITH LRC: May 12, 2000 at 4 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held June 21, 2000, at 9 a.m. in the Cabinet for Health Services Auditorium, 1st floor, Health Services Building, 275 East Main

Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by June 14, 2000. If no notice of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notice of intent to attend the public hearing or written comments to: Selina Riley, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, Phone: (502) 564-7905, Fax: (502) 564-7573.

#### REGULATORY IMPACT ANALYSIS

Contact person: John A. Volpe

(1) Type and number of entities affected: Decontamination and decommissioning and financial surety requirements will impact approximately 25 out of 400 radioactive material licensees.

(2) Direct and indirect costs or savings to those affected:

(a) Cost of living and employment in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

(b) Cost of doing business in the geographical area in which the administrative regulation will be implemented, to the extent available from the public comments received: No public hearing was requested and no comments were received.

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

1. First year following implementation: Licensee will be required to conduct an analysis to determine the level of surety necessary to cover the cost of decontamination and decommissioning of facilities. Applicants will be required to submit decontamination, decommissioning, and financial surety information.

2. Second and subsequent years: If a licensee ceases operation at any time after the first year, they will be impacted by the administrative regulations in that they will be required to implement their decontamination and decommissioning plan.

(3) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: New administrative regulation will allow the Cabinet to better evaluate certain license applications and ensure that cost of decontamination and decommissioning does not have a fiscal impact (license does not walk away from a contaminated facility) on the cabinet.

2. Continuing costs or savings: Same as 1.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(4) Assessment of anticipated effect on state and local revenues: No change in fees at this time; therefore, there will not be a impact on state revenues to support the radiation program.

(5) Source of revenue to be used for implementation and enforcement of administrative regulation: Fees from the licensing of radioactive material users.

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

(a) Geographical area in which administrative regulation will be implemented: No comments were received.

(b) Kentucky: No comments were received.

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

(8) Assessment of expected benefits: Identify effects on public health and environmental welfare of the geographical area in which implemented and on Kentucky: Decontamination and decommissioning of radioactive material facilities will occur in a timely manner and these facilities will not impact public health. In addition, cost of decontamination and decommissioning will not fall to the Cabinet for Health Services, which could adversely impact the cabinet's ability to address radioactive material licensees because of the increased cost burden.

(b) State whether a detrimental effect on environment and public

health would result if not implemented: Yes

(c) If detrimental effect would result, explain detrimental effect: Without enforcement, facilities could remain contaminated with radioactive material and thus adversely impact public health.

(9) Identify any statute, administrative regulation or government policy, which may be in conflict, overlapping, or duplication: No conflict with statutes or administrative regulations.

(a) Necessity of 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: Not applicable.

TIERING: Is tiering applied? (explain why tiering was or was not applied): Yes: Tiering was applied because only certain facilities which handle diffuse radioactive material may be subject to this administrative regulation requirements.

#### FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Atomic Energy Act of 1954, as amended, and 10 CFR 20.1401 through 20.1406, 10 CFR 30.35 and 30.36, Appendices A through E of 10 CFR 30, 10 CFR 40.36, and 10 CFR 70.25 as promulgated by the U.S. Nuclear Regulatory Commission.

2. State compliance standards. Administrative Regulation prescribes requirements for decontamination and decommissioning and financial surety requirements for radioactive material licensees.

3. Minimum or uniform standards contained in the federal mandate. This amendment will bring about compatibility with U.S. Nuclear Regulatory Commission's requirements for decontamination and decommissioning and financial surety requirements for radioactive material licensees.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Administrative regulation provides requirements for decontamination and decommissioning of radioactive material licensees, which are equivalent to U.S. Nuclear Regulatory Commission's regulatory requirement.

#### FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? No

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Not applicable.

3. State the aspect or service of local government to which this administrative regulation relates. Not applicable.

4. How does this administrative regulation affect the local government or any service it provides. Not applicable.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE  
Minutes of May 9, 2000

The May meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, May 9, 2000 at 10 a.m. in Room 149 of the Capitol Annex. Representative John Arnold, Chairman, called the meeting to order, and the roll call was taken. The minutes of the April 12, 2000 meeting were approved.

Present were:

Members: John Arnold, Chairman; Senators Marshall Long, Richard Roeding, and Joey Pendleton; Representative James Bruce.

LRC Staff: Dave Nicholas, Donna Little, Stephen Lynn, Edna Lowery, Susan Wunderlich, Angela Phillips, Ellen Benzing, Donna Valencia, Dan Risch, D. Todd Littlefield.

Guests: Charlene Sizemore, Ralph Bouvette, Board of Pharmacy; Emma Lou Hartlage, James J. Grawe, Board of Embalmers and Funeral Directors; Larry Perkins, Board of Licensure for Professional Engineers and Land Surveyors; Brenda Priestley, Steve Durham, Department of Corrections; Keith Horn, Department of Juvenile Justice; Robert P. McWilliams, Workforce Development Cabinet; Steve Taylor, Department of Mines and Minerals; Dick Carroll, Bernard J. Hettel, Rena Elswick, Mark A. Guilfoil, Kentucky Racing Commission; LeChrista Finn, Ruth Walker, Ann Gordon, Stuart Owens, Sally Bowzer, Regina Oney, Gail Lightner, Vera Frazer, Barbara J. Burns, Karen Doyle, Barbara Gordon, Cabinet for Health Services; Rosanne Barkley, Thelma Cornett, Shirley Eldridge, Joyce Lea, Cabinet for Families and Children; Dandridge F. Walton, KMH; Jan L. Gould, Kentucky Retail Federation; Ruby Jo Cummins, Mike Rodman, KAHCF; Robert Barnett, Kentucky Pharmacists Association.

**The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:**

**Board of Pharmacy**

201 KAR 2:045. Technicians. Charlene Sizemore, Executive Secretary, and Ralph Bouvette, former executive director, represented the Board.

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 formatting requirements of KRS 13A.222(4).

201 KAR 2:230. Special limited pharmacy - central refill pharmacy. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); and (3) Sections 1, 2, and 3 were amended to comply with the: (a) formatting requirements of KRS 13A.222(4); and (b) drafting requirements of KRS 13A.222(4).

**Justice Cabinet: Department of Juvenile Justice: Child Welfare**

505 KAR 1:090 & E. Supervised placement revocation. Keith Horn, Attorney, represented the Department.

Subcommittee staff stated that: (1) the initial staff review stated that this administrative regulation did not perfectly match the applicable statute; (2) KRS 635.100(3) provides that the Department of Juvenile Justice may institute a proceeding to revoke supervised placement if a juvenile violates one of the terms of his probation; (3) the Department had: (a) very broad authority in promulgating administrative regulations to implement the statute; and (b) established a policy that if a juvenile commits a felony offense, the Department shall, rather than may, institute the proceedings to revoke supervised placement; and (4) this administrative regulation complied with the statutory authority.

In response to a question by Senator Roeding, Mr. Horn stated that: (1) a supervised placement revocation hearing could occur in two ways; (2) if there was a safety concern, the Department: (a)

could: 1. take the juvenile into custody; and 2. hold the juvenile in detention; and (b) would be required to hold a probable cause hearing within five (5) days; (3) probable cause: (a) was the same type of probable cause that would be presented in a courtroom in a criminal proceeding; and (b) indicated that there was credible evidence that a term or terms of supervised placement had been violated; (4) this administrative regulation did not address new crimes being committed by a juvenile; (5) when a juvenile was committed to the Department by a juvenile justice, the Department determined where the juvenile would receive treatment, which could be: (a) out of the community to a facility; or (b) in the community; (6) once the juvenile completed the treatment program, the juvenile would: (a) be placed back in the community if he was ready; and (b) sign a contract with his parents and the Department establishing the terms under which the juvenile could remain at home; (7) the terms included: (a) obey all the rules of the juvenile's house; (b) have a specified number of meetings with the designated juvenile services worker weekly; (c) no drinking or smoking; and (d) other rules that were typical of probation; (8) if a juvenile violated those terms, the Department could hold a hearing and remove the juvenile from the community; and (9) the Department: (a) did not want juveniles committing crimes again; and (b) tried to catch juveniles before the juvenile reverted back to delinquent behavior to give them additional treatment out of the community.

In response to questions by Senator Roeding, Subcommittee staff stated that this administrative regulation: (1) would not solve problems in prosecuting juvenile offenders; and (2) provided that if a felony offense was alleged to have been committed by a juvenile, the Department would be required to take steps to remove the juvenile from the community.

Mr. Horn stated that: (1) prior to the creation of the Department, this provision was never used; (2) the Department believed this provision was a positive provision for the: (a) safety of the community; and (b) the treatment of juveniles; and (3) over the last couple of years, the Department had relied on this provision to remove juveniles from the community when necessary.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to correct statutory citations; (2) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (3) Sections 2, 3, and 4 were amended to comply with the drafting requirements of KRS 13A.222(4); and (4) Section 2(1) was amended to comply with the: (a) formatting requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4).

**Workforce Development Cabinet: Department for Employment Services: Division of Unemployment Insurance: Unemployment Insurance**

787 KAR 1:010. Application for employer account; reports. Bob McWilliams, Assistant Director, represented the Department.

In response to questions by Senator Roeding, Mr. McWilliams stated that: (1) the new forms were available everywhere; (2) the old forms should not be available because the Division: (a) mailed the required forms quarterly to the employers; and (b) would not mail outdated forms to the employers; and (3) if an old form was submitted, the Division would either: (a) make the changes in-house; or (b) send someone to the employer to correct the forms.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph was amended to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220(3)(f); (2) Sections 2 and 3 were amended to: (a) correct the: 1. edition date of material incorporated by reference; and 2. title of required forms; and (b) delete references to six forms which are no longer required and (3) the Summary of Material Incorporated by Reference was amended to comply with the other changes.

**Department of Mines and Minerals: Miner Training, Education and Certification**

805 KAR 7:030. Annual retraining. Steve Taylor, General Counsel, represented the Department.

In response to questions by Senator Roeding, Mr. Taylor stated that: (1) this administrative regulation did not increase costs to coal mine owners and operators; (2) the applicable statute required the miners to receive annual retraining; (3) the Department was required to have inspectors inspect the mines to see if the miners were certified to perform the specific job or the mining; and (4) it was more practical for inspectors to check the continuing education records in the office of the owner-operators, rather than in the mines where the miners worked.

In response to a question by Representative Bruce, Mr. Taylor stated that: (1) the Department: (a) amended this administrative regulation during the summer of 1999; and (b) inadvertently omitted the requirement that training be conducted in segments longer than fifteen (15) minutes; (2) the industry did not object to that requirement; and (3) the requirement was needed to prevent a less scrupulous foreman from conducting first aid training in two minutes.

This administrative regulation was amended as follows: (1) Section 2 was amended to cite the Mine Safety and Health Administration form 5000-23; and (2) a new Section 4 was created to incorporate by reference the required form.

**Cabinet for Health Services: Department for Medicaid Services: Medicaid Services**

907 KAR 1:070 & E. Homecare waiver services. Karen Doyle, Commissioner's Office, Vera Frazer, Medicaid Services, and Barbara Gordon, Office of Aging Services, represented the Department.

In response to questions by Senator Roeding, Ms. Frazer stated that: (1) House Bill 321, enacted during the 1998 Regular Session, required Medicaid to request a Medicare homecare waiver using state general fund dollars allocated to the Office of Aging Services; (2) this administrative regulation was promulgated to implement that waiver, with: (a) the Office of Aging Services providing the day-to-day operations; and (b) the Department reviewing the plans of care; (3) the Office of Aging Services did not have adequate staff to review the plans of care; (4) case management services: (a) could not be provided by a provider of services under the same waiver program because a provider might be tempted to load up on unnecessary services; and (b) were provided independent of services; (5) a home health agency could provide either: (a) case management; or (b) services; (6) the Health Care Finance Administration (HCFA): (a) believed that case management should be independent of services; and (b) pushed states to require independent case management; (7) because this administrative regulation implemented a Medicaid waiver from HCFA, the Department was encouraged to include in the waiver program independent case management; (8) the same requirement existed for each of the federal waiver programs; and (9) a provider: (a) was not required to split his business; (b) was required to choose between offering either: 1. case management; or 2. services; and (c) could choose to provide case management under this waiver and services in another waiver program.

In response to questions by Senator Roeding, Ms. Doyle stated that the requirement that case management be independent of other services: (1) prevented a situation in which a home health agency loaded a person with services, durable medical equipment, and other items that the person did not require; and (2) provided oversight to the waiver program to control fraud and abuse.

In response to questions by Senator Roeding, Ms. Frazer stated that: (1) the items incorporated by reference were various forms required to be completed; (2) the form that related to prior authorization would be completed by an agency to inform the Department how many units of service and what kind of services a person required; and (3) the Department used that form and an evaluation submitted with the form to approve or deny the units of service.

Subcommittee staff stated that the prior authorization form did not relate to the issue of drug prior authorization, which was a subject of legislation enacted during the 1998 Regular Session.

In response to questions by Senator Roeding, Ms. Frazer stated that: (1) a federal regulation defined peer review organizations (PRO); (2) an organization was required to apply to HCFA for designation as a PRO; (3) the federal government allowed the Kentucky

Medicaid Program to receive a higher federal match for utilization review functions, level of care determinations, and other items if the Department contracted with a designated PRO; (4) Kentucky's contract was with Peer Review Systems of Ohio; (5) another PRO was Health Care Excel, located in Louisville, Kentucky; (6) before applying to HCFA for a PRO-designation, an organization was required to: (a) include physicians and specialists; and (b) contract with Medicare as a peer review organization; (7) a case management team: (a) included a social worker and a nurse; and (b) evaluated the person's: 1. needs; and 2. ability to complete: a. independent activities of daily living; and b. activities of daily living; (8) in general, case management teams in other Kentucky waiver programs and in other states: (a) consisted of a social worker and a nurse; and (b) did not include other professionals, such as physicians, physical therapists, and others; (9) in Kentucky, the Department paid \$9 for fifteen (15) minutes for an evaluation by the case management team; and (10) the costs of case management would dramatically increase if other professionals served on the teams.

Ms. Doyle stated that: (1) if a case management team included a physician, dentist, doctor of osteopathy, or other professional, the costs would be increased dramatically; (2) the federal government had approved the Kentucky waiver program; (3) Kentucky needed to maintain costs to provide more services to needy individuals; and (4) if Kentucky needed to amend the waiver application filed with, and approved by, HCFA, the Department would consider the issues raised by Senator Roeding.

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) Sections 2, 3, 5, 6, 7, and 8 were amended to: (a) cross-reference applicable administrative regulations; and (b) correct: 1. the title of material incorporated by reference; 2. internal cross-references; and 3. the name of the Justice Cabinet; (3) Sections 5, 6, 7, and 8 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); (4) Section 6 was amended to clearly establish the requirements for notification by the peer review organization; and (5) Section 10 was amended to: (a) delete the name of a form which is no longer required; and (b) correct the title of material incorporated by reference.

907 KAR 1:072 & E. Payments for homecare waiver services. In response to questions by Senator Roeding, Ms. Frazer stated that: (1) the payment amounts for homecare waiver services were competitive with: (a) the Department's other waiver programs; and (b) the amounts paid by the Office of Aging Services for similar services in its traditional programs; and (2) environmental adaptation: (a) was a term used in the federal waiver to describe a physical adaptation to a person's home; and (b) included: 1. a wheelchair ramp; 2. grab bars in the bathroom; or 3. a bench in the bathtub to enable a person to transfer from a wheelchair to the tub.

In response to questions by Senator Roeding, Ms. Doyle stated that the Department: (1) reviewed all federal laws and regulations regarding access to records; (2) believed it was necessary to inform providers of the entities that might audit the provider; and (3) included in Section 4 of this administrative regulation a list of all entities who might audit the provider at a future date.

Section 4 was amended to correct typographical errors.

907 KAR 1:090 & E. Personal care assistance waiver services. 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) Sections 2, 3, and 5 were amended to: (a) cross-reference applicable administrative regulations; and (b) correct: 1. the title of material incorporated by reference; 2. internal cross-references; and 3. the name of the Justice Cabinet; (3) Sections 4, 5, 6, 7, and 8 were amended to comply with the: (a) format requirements of KRS 13A.220(4); and (b) drafting requirements of KRS 13A.222(4); and (4) Section 9 was amended to: (a) delete the name of a form which is no longer required; and (b) correct the title of material incorporated by reference.

907 KAR 1:092 & E. Payments for personal care assistance waiver services. Section 4 was amended to correct typographical errors.

**The Subcommittee determined that the following administrative regulations complied with statutory authority:**

**Board of Embalmers and Funeral Directors**

201 KAR 15:030. Fees. Jim Grawe, Assistant Attorney General, and Emma Lou Hartlage, Executive Director, represented the Board.

In response to questions by Senator Roeding, Ms. Hartlage stated that: (1) the Board had not considered tiering the fee based on the size of the funeral home because directors transfer between funeral establishments with regularity; (2) she had not heard complaints regarding the fee increase; and (3) the increase information was sent to the Kentucky funeral directors association.

In response to questions by Chairman Arnold, Ms. Hartlage stated that the Board's expenses had increased in recent years because of the: (1) implementation of the MARS computer system; and (2) hiring of an inspector to inspect funeral homes for compliance with administrative regulations.

**Board of Licensure for Professional Engineers and Land Surveyors**

201 KAR 18:191. Repeal of 201 KAR 18:190. Larry Perkins, Executive Director, represented the Board.

**Justice Cabinet: Department of Corrections: Division of Adult Institutions: Office of the Secretary**

501 KAR 6:030. Kentucky State Reformatory. Steve Durham, General Counsel, represented the Department.

Subcommittee staff stated that: (1) the initial staff review included comments regarding policies that were being deleted from this administrative regulation; and (2) those policies were now included in the Corrections Policy and Procedures administrative regulation, which applied to all institutions, not just the Kentucky State Reformatory.

In response to a question by Representative Bruce, Mr. Durham stated that the inmates did have access to a law library.

501 KAR 6:080. Department of Corrections manuals. In response to a question by Senator Roeding, Mr. Durham stated that: (1) the manuals that were deleted from this administrative regulation: (a) had not been used; and (b) should not have been incorporated by reference; and (2) the Department was attempting to clean up its administrative regulations to make them more accurate.

**Kentucky Racing Commission: Harness Racing**

811 KAR 1:090E. Stimulants and drugs. Bernie Hettel, Executive Director, and Mark Guilfoil represented the Commission.

In response to questions by Chairman Arnold, Mr. Hettel stated that: (1) milkshaking: (a) was a concoction of substances that have more voodoo than substance; (b) was generally a bicarbonate of soda and Gatorade; and (c) was placed down a horse's esophagus into its stomach; and (2) some people believed that milkshaking helped: (a) reduce fatigue in a race distance greater than one (1) mile; and (b) prevent indigestion.

In response to questions by Senator Roeding, Mr. Hettel stated that: (1) most horses raced with lasix, or furosemide, because it reduced exercise-induced pulmonary hemorrhage and was an anti-bleeder medication; (2) the use of lasix was a separate issue than milkshaking; (3) there was a time limitation of at least four (4) hours for giving this medication to a horse; and (4) lasix was: (a) distributed to a horse: 1. in a very controlled setting; 2. by a licensed veterinarian; 3. at least four (4) hours before the race; and 4. with documentation; and (b) tested at an official testing laboratory.

In response to a question by Chairman Arnold, Mr. Hettel stated that most horses used lasix.

**Cabinet for Health Services: Department for Medicaid Services: Medicaid Services**

907 KAR 1:999. Repeal of 907 KAR 1:002. Karen Doyle, Commissioner's Office, Vera Frazer, Medicaid Services, and Barbara Gordon, Office of Aging Services, represented the Department.

In response to questions by Senator Roeding, Ms. Doyle stated that: (1) this administrative regulation repealed 907 KAR 1:002, which: (a) was the definitions administrative regulation for 907 KAR Chapter 1; and (b) had existed for many years; (2) after working with Subcommittee staff of various administrative regulations, the Department: (a) became aware of the requirements in KRS

13A.222(4)(e); and (b) determined that the administrative regulations in 907 KAR Chapter 1: 1. were complicated; 2. needed a definitions section at the beginning of each administrative regulation; and 3. did not need a separate definitions administrative regulation.

**Kentucky Children's Health Insurance Program**

907 KAR 4:030 & E. Kentucky Children's Health Insurance Program Phase III Title XXI of the Social Security Act. Karen Doyle, Commissioner's Office, Sally Bowzer, KCHIP Branch Manager, and Barbara Burns, Medicaid Budget Office, represented the Department.

In response to a question by Senator Roeding, Ms. Burns stated that the Department believed the enacted budget funded all three phases of the KCHIP program for the next biennium.

**Cabinet for Families and Children: Department for Community Based Services: Division of Policy Development: K-Tap, Kentucky Works, Welfare to Work, State Supplementation**

921 KAR 2:016 & E. Standards for need and amount for the Kentucky Transitional Assistance Program (K-TAP). Rosanne Barkley, Internal Policy Analyst, and Joyce Lea, Internal Policy Analyst, represented the Department.

In response to a question by Senator Roeding, Ms. Lea stated that the one-time federal payment that tobacco quota owners received from the tobacco settlement would be excluded from determinations regarding K-TAP eligibility.

In response to a question by Chairman Arnold, Ms. Lea stated that K-Tap: (1) replaced the former AFDC program; and (2) was a program that provided public assistance payments for low income individuals.

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

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

**The Subcommittee and promulgating administrative bodies agreed to defer consideration of the following administrative regulations to the June 13, 2000 meeting of the Subcommittee:**

**Personnel Cabinet: Classified**

101 KAR 2:102E. Classified leave administrative regulations.

**Unclassified**

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

**Finance and Administration Cabinet: Commercial Mobile Radio Service Emergency Telecommunications Board**

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

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

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

202 KAR 6:040E. Dispute resolution.

202 KAR 6:050E. PSAP certification.

202 KAR 6:060E. PSAP Pro Rata Fund disbursement.

**Tourism Development Cabinet: Department of Fish and Wildlife Resources: Game**

301 KAR 2:221E. Waterfowl seasons and limits.

301 KAR 2:222E. Waterfowl hunting requirements.

301 KAR 2:226E. Youth waterfowl hunting season.

**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.

**Workforce Development Cabinet: Department for Adult and Technical Education: Personnel System for Certified and Equivalent Employees**

780 KAR 3:065E. Certified and equivalent service administrative regulations.

780 KAR 3:071E. Repeal of 780 KAR 3:070.

780 KAR 3:072E. Attendance, compensatory time, and leave for certified and equivalent service.

780 KAR 3:075E. Sick leave sharing procedures for certified and equivalent service.

780 KAR 3:100E. Employee actions.

**Unclassified Personnel Administrative Regulations**

780 KAR 6:005E. Unclassified service administrative regulations.

780 KAR 6:061E. Repeal of 780 KAR 6:060.

780 KAR 6:062E. Attendance, compensatory time and leave for unclassified service.

780 KAR 6:065E. Sick leave sharing procedures for unclassified service.

**Kentucky Racing Commission: Thoroughbred Racing**

810 KAR 1:060. Chemical dependency.

**Cabinet for Health Services: Department for Medicaid Services: Medicaid Services**

907 KAR 1:025E. Payment for services provided by a cost-based nursing facility, a nursing facility with an all inclusive rate unit, and a hospital with federally-defined swing beds.

907 KAR 1:065E. Payments for price-based nursing facility services.

**Cabinet for Families and Children: Department for Community Based Services: Division of Policy Development: K-Tap, Kentucky Works, Welfare to Work, State Supplementation**

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

**Department for Social Insurance: Division of Management & Development: Food Stamp Program**

921 KAR 3:020E. Financial requirements.

921 KAR 3:030E. Application process.

**OTHER BUSINESS:**

**General Discussion:**

Representative Bruce discussed the Governor's veto of two bills relating to the administrative regulation review process, House Bill 856 and Senate Bill 207, during the 2000 session of the Kentucky General Assembly. House Bill 856 was overridden by the General Assembly but Senate Bill 207 passed too late in the session to allow for the consideration of an override. He expressed his feeling that the legislative branch had a role in the review of administrative regulations and that the subcommittee had been helpful and fair with the agencies in their review of administrative regulations.

Senator Roeding indicated his displeasure with the veto of Senate Bill 207, which he had sponsored. He had reviewed the veto message of the Governor relating to the veto of SB 207 and concluded that the information included in the veto message was incorrect. His goal in proposing SB 207 was to increase the information available to the public in the administrative regulation process and to insure the opportunity of the public to make meaningful input into the process. He indicated that it was important for the subcommittee as well as the public to receive accurate and meaningful information

relative to the impact and the cost of proposed administrative regulations.

Ann Gordon, Secretary's Office, Cabinet for Health Services, stated that the Cabinet had problems with Senate Bill 207, but did not have a problem with House Bill 856. Ms. Gordon indicated that it was inappropriate for the persons who work primarily with administrative regulations to be viewed in a negative light because of having voiced opposition to legislation regarding administrative regulations. In her opinion, the employees of the executive branch had a duty and an obligation to report, through their Cabinets to the Governor, the problems they saw with potential legislation, the administrative regulation process, or specific administrative regulations. She indicated that she had respect for the legislators and the legislative process and hoped that the legislative and executive branches could work together to improve the administrative regulation process.

Senator Roeding stated that he had worked with the Cabinet to address their concerns. He was under the impression that all of the major problems that the administration had with the legislation had been worked out with the amendments to Senate Bill 207. He encouraged the executive branch agencies to work with the legislators to resolve problems with legislation as well as the administrative regulations.

Representative Bruce indicated that his original comments were not based primarily on the veto of SB 207 but on comments made to the Speaker of the House about the Administrative Regulation Review Subcommittee. He indicated his willingness to continue to work with the executive branch representatives on the issues raised by the administrative regulations.

Chairman Arnold stated that the General Assembly enacted legislation to improve the administrative regulations process by requiring notification to the legislator who sponsored the legislation that related to the proposed administrative regulation. Contacting the primary sponsor will assist in increasing the communications between the legislative and executive branches in the process of implementing the law. He indicated that subcommittee staff was always available to the various cabinets to assist. Finally, he stated that there were many ways to make the administrative regulation process move smoother and quicker and that one of those would be passage of the annual session amendment.

**New Secretary:** Chairman Arnold introduced and welcomed the Subcommittee's new secretary, Ellen Steinberg.

The Subcommittee adjourned at 11:15 p.m. until June 13, 2000, at 10 a.m. in Room 149 of the Capitol Annex.





## CUMULATIVE SUPPLEMENT

### Locator Index - Effective Dates ..... L - 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 ..... L - 18

The KRS Index is a cross-reference of statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each administrative regulation submitted for publication in VOLUME 26 of the Administrative Register.

### Subject Index ..... L - 32

The Subject Index is a general index of administrative regulations published in VOLUME 26 of the Administrative Register, and is mainly broken down by agency.

# LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	25 Ky.R Page No.	Effective Date	Regulation Number	25 Ky.R. Page No.	Effective Date
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## VOLUME 25

The administrative regulations listed under VOLUME 25 are those administrative regulations that were originally published in Volume 25 (last year's) issues of the Administrative Register but had not yet gone into effect when the 1999 bound Volumes were published.

### EMERGENCY ADMINISTRATIVE REGULATIONS:

12 KAR 4:170E	2813	4-22-99	201 KAR 9:310		
Expired		11-18-99	Amended	2427	
109 KAR 2:020E	2814	4-19-99	Withdrawn		3-3-2000
Replaced		11-15-99	201 KAR 9:320	687	
109 KAR 15:020E	2816	4-19-99	As Amended	2834	
Replaced		10-7-99	Withdrawn		1-10-2000
200 KAR 30:010E	2311	2-26-99	201 KAR 18:010		
Replaced		9-16-99	Amended	2928	
200 KAR 30:020E	2312	2-26-99	Withdrawn		9-13-99
Replaced		9-16-99	201 KAR 18:050		
200 KAR 30:030E	2313	2-26-99	Amended	2929	(See Volume 26)
Replaced		9-16-99	201 KAR 18:071	2983	10-15-99
200 KAR 30:040E	2314	2-26-99	201 KAR 18:080		
Replaced		9-16-99	Amended	2930	(See Volume 26)
200 KAR 30:050E	2315	2-26-99	201 KAR 18:091	2983	10-15-99
Replaced		9-16-99	201 KAR 18:100		
200 KAR 30:060E	2316	2-26-99	Amended	2931	(See Volume 26)
Replaced		9-16-99	201 KAR 18:110		
200 KAR 30:070E	2316	2-26-99	Amended	2931	(See Volume 26)
Replaced		9-16-99	201 KAR 18:120		
201 KAR 2:020E	2818	4-22-99	Amended	2932	(See Volume 26)
Replaced		12-15-99	202 KAR 3:020		
201 KAR 38:010E	2317	3-4-99	Amended	2933	(See Volume 26)
Replaced		9-15-99	401 KAR 47:110		
201 KAR 38:020E	2318	3-4-99	Amended	2433	(See Volume 26)
Replaced		9-15-99	401 KAR 48:320	2476	(See Volume 26)
201 KAR 38:030E	2319	3-4-99	401 KAR 68:010	1747	
Replaced		9-15-99	Amended	2400	
201 KAR 38:040E	2320	3-4-99	As Amended	2857	10-13-99
Replaced		9-15-99	401 KAR 68:020	1748	
201 KAR 38:060E	2322	3-4-99	Amended	2401	
Replaced		9-15-99	As Amended	2858	(See Volume 26)
415 KAR 1:080E	2529	4-12-99	401 KAR 68:048	1750	
Replaced		10-13-99	Amended	2402	
500 KAR 13:020E	2534	4-5-99	As Amended	2858	10-13-99
Replaced		9-16-99	401 KAR 68:065	1751	
501 KAR 6:020E	2819	5-14-99	Amended	2404	
Replaced		9-16-99	As Amended	2859	10-13-99
501 KAR 6:999E	2821	5-14-99	401 KAR 68:090	1753	
Replaced		9-16-99	Amended	2405	
806 KAR 17:066E	2323	3-12-99	As Amended	2859	10-13-99
Expired		9-18-99	401 KAR 68:100	1754	
900 KAR 6:050E	2536	3-26-99	Amended	2407	
Expired		10-18-99	As Amended	2859	(See Volume 26)
908 KAR 3:160E	2353	3-9-99	401 KAR 68:150	1756	
Replaced		9-15-99	Amended	2408	
			As Amended	2860	10-13-99
			401 KAR 68:200	1757	
			Amended	2409	
			As Amended	2860	(See Volume 26)

### ORDINARY ADMINISTRATIVE REGULATIONS:

11 KAR 15:040			415 KAR 1:120		
Amended	2923	9-1-99	Amended	1122	(See Volume 26)
200 KAR 5:340	2709	(See Volume 26)	418 KAR 1:020		
201 KAR 2:010			Amended	2938	(See Volume 26)
Amended	2925	(See Volume 26)	418 KAR 1:030		
201 KAR 2:095			Amended	2940	(See Volume 26)
Amended	2926	(See Volume 26)	418 KAR 1:040		
201 KAR 9:175			Amended	2942	(See Volume 26)
Amended	2423		418 KAR 1:050		
Withdrawn		3-3-2000	Amended	2944	(See Volume 26)



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418 KAR 1:060			907 KAR 1:019		
Amended	2946	(See Volume 26)	Amended	1248	
418 KAR 1:070			Amended	1937	(See Volume 26)
Amended	2948	(See Volume 26)	907 KAR 1:021		
505 KAR 1:080	2985	(See Volume 26)	Amended	1252	
601 KAR 14:010			Amended	1940	(See Volume 26)
Amended	2952	(See Volume 26)	907 KAR 3:035	2732	(See Volume 26)
703 KAR 5:070	2731	(See Volume 26)	908 KAR 1:310		
802 KAR 1:010			Amended	2017	
Amended	434		Amended	2632	(See Volume 26)
Amended	880	(See Volume 26)	908 KAR 1:311	2484	(Volume 26)
902 KAR 20:160			908 KAR 1:370	2485	
Amended	2967	(See Volume 26)	Amended	355	(Volume 26)
902 KAR 20:240			922 KAR 7:251	2996	9-15-99
Amended	2971	(See Volume 26)	*Statement Of Consideration Not Filed By Deadline		
907 KAR 1:002					
Amended	1731				
Withdrawn		9-10-99			

## VOLUME 26

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<b>EMERGENCY ADMINISTRATIVE REGULATIONS:</b> (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)			725 KAR 1:071E	346	6-28-99
			Expired		1-18-2000
			739 KAR 1:010E	348	6-22-99
			Expired		1-18-2000
			739 KAR 1:020E	349	6-22-99
			Expired		1-18-2000
40 KAR 6:020E	1088	10-27-99	739 KAR 1:030E	350	6-22-99
Replaced	1797	4-12-2000	Expired		1-18-2000
101 KAR 2:102E	1089	11-4-99	739 KAR 1:040E	351	6-22-99
101 KAR 3:015E	1094	11-4-99	Expired		1-18-2000
200 KAR 2:006E	341	7-1-99	739 KAR 1:050E	352	6-22-99
Replaced	1114	12-16-99	Expired		1-18-2000
202 KAR 6:010E	1383	11-23-99	780 KAR 3:065	1645	1-21-2000
202 KAR 6:020E	1384	11-23-99	780 KAR 3:071E	1647	1-21-2000
202 KAR 6:030E	1386	11-23-99	780 KAR 3:072E	1648	1-21-2000
202 KAR 6:040E	1388	11-23-99	780 KAR 3:075E	1653	1-21-2000
202 KAR 6:050E	1389	11-23-99	780 KAR 3:100E	1654	1-21-2000
202 KAR 6:060E	1391	11-23-99	780 KAR 6:005E	1656	1-21-2000
301 KAR 2:221E	1392	11-24-99	780 KAR 6:061E	1658	1-21-2000
Withdrawn		2-2-2000	780 KAR 6:062E	1659	1-21-2000
Resubmitted	1639	2-2-2000	780 KAR 6:065E	1663	1-21-2000
301 KAR 2:222E	1394	11-24-99	803 KAR 2:300E	26	6-15-99
301 KAR 2:225E	703	8-31-99	Replaced	1004	11-15-99
Replaced	1534	2-14-2000	803 KAR 2:301E	27	6-15-99
301 KAR 2:226E	1397	11-24-99	Replaced	1004	11-15-99
401 KAR 5:011E	1641	2-14-2000	803 KAR 2:306E	29	6-15-99
Expires		8-18-2000	Replaced	1005	11-15-99
401 KAR 5:072E	1642	2-14-2000	803 KAR 2:307E	31	6-15-99
501 KAR 6:020E	1917	4-11-2000	Replaced	1006	11-15-99
501 KAR 6:190E	1919	4-12-2000	803 KAR 2:309E	33	6-15-99
501 KAR 6:200E	1922	4-12-2000	Replaced	1007	11-15-99
502 KAR 31:020E	24	5-26-99	803 KAR 2:313E	35	6-15-99
Replaced	1155	12-16-99	Replaced	1008	11-15-99
503 KAR 1:110E	536	8-10-99	803 KAR 2:414E	37	6-15-99
Replaced	1203	2-14-2000	Replaced	654	11-15-99
503 KAR 5:090E	538	8-10-99	803 KAR 2:500E	38	6-15-99
Replaced	1205	2-14-2000	Replaced	655	11-15-99
505 KAR 1:090E	1398	12-14-99	806 KAR 17:205E	353	6-24-99
704 KAR 20:210E	345	7-6-99	Expired		1-18-2000
Replaced	1156	12-16-99	811 KAR 1:090E	1793	3-15-2000



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815 KAR 35:015E	541	7-30-99	11 KAR 5:140		
Replaced	1049	1-11-2000	Amended	2275	
902 KAR 4:040E	958	9-30-99	11 KAR 5:145		
Replaced	1799	4-12-2000	Amended	2277	
902 KAR 55:020E	705	8-20-99	11 KAR 5:160		
Replaced	1561	2-1-2000	Amended	2279	
902 KAR 55:025E	706	8-20-99	11 KAR 6:010		
Replaced	1562	2-1-2000	Amended	1428	3-10-2000
906 KAR 1:110E		5-3-2000	11 KAR 8:030		
Withdrawn		5-10-2000	Amended	1440	
Resubmitted	2229	5-10-2000	As Amended	1676	3-10-2000
907 KAR 1:011E	355	7-2-99	Amended	2281	
Expired		1-18-2000	11 KAR 12:010		
907 KAR 1:012E	1925	3-23-2000	Amended	85	
907 KAR 1:013E	544	7-21-99	As Amended	557	9-1-99
Expired		2-18-2000	Amended	2284	
Resubmitted	1926	3-23-2000	11 KAR 12:020		
907 KAR 1:025E	548	7-21-99	Amended	86	
Withdrawn		7-21-99	Amended	626	
Resubmitted	1665	1-18-2000	As Amended	714	10-11-99
907 KAR 1:044E	1098	10-21-99	11 KAR 12:030		
Withdrawn		5-5-2000	Amended	2285	
Resubmitted	2231	5-5-2000	11 KAR 12:040		
907 KAR 1:065E	1672	1-18-2000	Amended	2286	
907 KAR 1:070E	1499	12-30-99	11 KAR 12:050		
907 KAR 1:072E	1502	12-30-99	Amended	2287	
907 KAR 1:090E	1503	12-30-99	11 KAR 12:060		
907 KAR 1:092E	1506	12-30-99	Amended	88	9-1-99
907 KAR 1:155E	359	7-2-99	11 KAR 12:070		
Expired		1-18-2000	Amended	89	
907 KAR 1:640E	361	7-2-99	As Amended	558	9-1-99
Expired		1-18-2000	Amended	2288	
907 KAR 3:066E	2236	4-17-2000	11 KAR 14:030		
907 KAR 3:110E	1100	10-20-99	Amended	1433	3-10-2000
Replaced	1953	5-10-2000	11 KAR 14:060		
907 KAR 4:020E	364	6-23-99	Amended	1434	3-10-2000
Replaced	1425	1-12-2000	11 KAR 15:060		
907 KAR 4:030E	1110	10-29-99	Amended	2290	
908 KAR 2:210E	1931	4-14-2000	12 KAR 4:170		
908 KAR 3:050E	1938	3-23-2000	Amended	1586	4-12-2000
921 KAR 2:006E	964	10-1-99	13 KAR 2:020		
Expired		4-19-2000	Amended	1987	
921 KAR 2:015E	1508	12-30-99	20 KAR 1:040		
921 KAR 2:016E	971	10-1-99	Amended	409	
921 KAR 2:017E	979	10-1-99	Amended	790	
921 KAR 2:370E	982	10-1-99	As Amended	987	11-15-99
921 KAR 3:020E	1513	12-30-99	20 KAR 1:070		
921 KAR 3:030E	1517	12-30-99	Amended	411	
921 KAR 4:120E	708	8-10-99	As Amended	989	11-15-99
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922 KAR 2:090E	710	9-8-99	As Amended	989	11-15-99
Replaced	1577	2-1-2000	32 KAR 1:180	492	
			As Amended	714	9-22-99
			40 KAR 6:020	1459	
			As Amended	1677	
			As Amended	1797	4-12-2000
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			Amended	1021	
			As Amended	1402	1-18-2000
			101 KAR 2:020		
			Amended	90	
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			Repealed	562	8-25-99
<b>ORDINARY ADMINISTRATIVE REGULATIONS:</b>					
11 KAR 3:100					
Amended	847	12-16-99			
Amended	2257				
11 KAR 5:001					
As Amended	367	8-2-99			
Amended	2272				
11 KAR 5:034					
Amended	2274				
11 KAR 5:130					
Amended	1427	3-10-2000			



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101 KAR 2:046			As Amended	1403	11-16-99
Amended	91		200 KAR 14:011		
As Amended	526	8-25-99	Amended	418	
101 KAR 2:056			As Amended	993	10-28-99
Amended	93		200 KAR 14:081		
As Amended	564	8-25-99	Amended	420	
101 KAR 2:066			As Amended	994	10-28-99
Amended	95		200 KAR 14:091		
As Amended	565	8-25-99	Amended	422	
101 KAR 2:076			As Amended	996	10-28-99
Amended	96		200 KAR 21:010		
As Amended	566	8-25-99	As Amended	41	6-23-99
101 KAR 2:095			200 KAR 21:030		
Amended	97		As Amended	42	7-14-99
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101 KAR 2:100			As Amended	584	9-16-99
Repealed	562	8-25-99	200 KAR 30:020	271	
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101 KAR 2:150			As Amended	718	10-20-99
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101 KAR 2:160			As Amended	1117	12-15-99
Amended	412		201 KAR 2:030		
As Amended	715	9-22-99	Amended	1436	
101 KAR 3:010			As Amended	1798	4-12-2000
Repealed	577	8-25-99	201 KAR 2:040		
101 KAR 3:011	265		Amended	1023	
As Amended	577	8-25-99	As Amended	1404	1-12-2000
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Amended	1995		As Amended	2238	
101 KAR 3:045			201 KAR 2:095		
Amended	106		As Amended	1118	12-15-99
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Amended	413		201 KAR 6:020		
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103 KAR 20:020	665		201 KAR 6:060		
As Amended	990	10-28-99	Amended	868	12-15-99
103 KAR 30:091			201 KAR 7:015		
Amended	415		Amended	1999	
*Expired		9-10-99	201 KAR 8:006		
103 KAR 30:095			Amended	1688	
Repelaed	493	10-28-99	As Amended	1940	5-10-2000
103 KAR 30:096	493	10-28-99	201 KAR 8:130		
109 KAR 2:020	494		Amended	1689	
As Amended	991	11-15-99	As Amended	1941	5-10-2000
109 KAR 9:010			201 KAR 8:220		
As Amended	368	8-16-99	Amended	1690	
109 KAR 15:020	496	10-7-99	As Amended	1941	5-10-2000
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Amended	862		Repealed	1736	5-10-2000
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Amended	1690		Repealed	918	1-26-2000
As Amended	1942	5-10-2000	201 KAR 18:040		
201 KAR 8:286	1736	5-10-2000	Amended	1587	
201 KAR 8:300			As Amended	1798	4-12-2000
Repealed	1736	5-10-2000	201 KAR 18:050		
201 KAR 8:301	1736	5-10-2000	As Amended	718	10-15-99
201 KAR 8:380			201 KAR 18:070		
Repealed	1737	5-10-2000	Repealed		10-15-99
201 KAR 8:381	1737	5-10-2000	201 KAR 18:080		
201 KAR 8:390			As Amended	719	10-15-99
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201 KAR 9:084			201 KAR 18:110		
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As Amended	371	8-16-99	As Amended	720	10-15-99
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As Amended	371	8-16-99	201 KAR 18:192	1460	
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201 KAR 15:030			Amended	1438	2-16-2000
Amended	1853		201 KAR 20:240		
201 KAR 16:015			Amended	1439	2-16-2000
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As Amended	997	10-15-99	As Amended	1680	2-16-2000
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201 KAR 17:011			As Amended	1681	2-16-2000
Amended	869		201 KAR 20:420		
As Amended	1520	1-26-2000	As Amended	372	8-16-99
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Amended	1024		As Amended	373	8-16-99
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201 KAR 17:013	918	1-26-2000	As Amended	374	8-16-99
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Amended	871		As Amended	720	10-20-99
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201 KAR 17:027			Amended	1696	
Amended	873		As Amended	1945	
As Amended	1523	1-26-2000	201 KAR 27:005		
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Amended	1026		201 KAR 27:008		
As Amended	1524	1-26-2000	Amended	2002	
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Repealed		1-26-2000	201 KAR 27:015		
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Amended	879		201 KAR 27:035		
As Amended	1529	1-26-2000	Amended	2008	



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201 KAR 32:010			301 KAR 2:049		
Amended	109		As Amended	43	7-14-99
As Amended	722	10-20-99	Amended	2015	
201 KAR 32:020			301 KAR 2:140		
Amended	425		Amended	116	9-8-99
As Amended	723	10-20-99	301 KAR 2:142		
201 KAR 32:025	500		Amended	2017	
As Amended	724	10-20-99	301 KAR 2:144		
201 KAR 32:030			Amended	2298	
Amended	2293		301 KAR 2:174		
201 KAR 32:041	501		Amended	2299	
As Amended	725	10-20-99	301 KAR 2:176		
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Amended	111		301 KAR 2:179		
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201 KAR 32:081	2427		Amended	1190	
201 KAR 32:101	2427		As Amended	1534	2-14-2000
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201 KAR 36:060	280		Amended	2019	
As Amended	729	10-20-99	301 KAR 3:015	1265	
201 KAR 38:010	282		As Amended	1535	2-14-2000
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As Amended	587	9-15-99	301 KAR 4:200		
201 KAR 38:030	284		Amended	2302	
As Amended	588	9-15-99	301 KAR 5:010		
201 KAR 38:040	285		Amended	2024	
As Amended	589	9-15-99	301 KAR 5:020		
201 KAR 38:050	285		Amended	2025	
Withdrawn		8-10-99	301 KAR 5:030		
201 KAR 38:060	286		Amended	2303	
As Amended	589	9-15-99	301 KAR 5:050	1266	
202 KAR 3:020			As Amended	1536	2-14-2000
As Amended	1119	12-16-99	301 KAR 6:060		
202 KAR 6:010	2104		As Amended	48	7-14-99
202 KAR 6:020	2105		306 KAR 1:010		
202 KAR 6:030	2108		Amended	1192	
202 KAR 6:050	2109		As Amended	1536	
202 KAR 6:060	2112		Withdrawn		2-2-2000
301 KAR 1:012			306 KAR 1:020		
Amended	2009		Amended	1193	
301 KAR 1:015			As Amended	1537	2-16-2000
Amended	428		306 KAR 1:030		
*Expired		9-10-99	Amended	1195	
301 KAR 1:018	2113		As Amended	1538	2-16-2000
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Amended	2010		Amended	1196	
301 KAR 1:085			As Amended	1539	2-16-2000
Amended	1028		306 KAR 1:045	1267	
As Amended	1405		Withdrawn		1-6-2000
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301 KAR 1:130			Amended	1198	
Amended	2294		As Amended	1540	2-16-2000
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Amended	2295		Amended	118	
301 KAR 1:140			Amended	792	
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Amended	2012				



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Amended	130		Repealed by 401 KAR 57:019		7-14-99
Amended	804		401 KAR 59:495		
As Amended	1131	12-8-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 5:029			401 KAR 59:500		
Amended	141		Repealed by 401 KAR 57:019		7-14-99
Amended	815		401 KAR 59:505		
As Amended	1141	12-8-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 5:030			401 KAR 59:535		
Amended	145		Repealed by 401 KAR 57:019		7-14-99
Amended	819		401 KAR 59:540		
As Amended	1144	12-8-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 5:031			401 KAR 59:545		
Amended	150		Repealed by 401 KAR 57:019		7-14-99
Amended	824		401 KAR 59:550		
As Amended	1148	12-8-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 5:072	2429		401 KAR 59:555		
401 KAR 47:110			Repealed by 401 KAR 57:019		7-14-99
Amended	73		401 KAR 59:570		
As Amended	374		Repealed by 401 KAR 57:019		7-14-99
As Amended	730	9-8-99	401 KAR 59:575		
401 KAR 48:320			Repealed by 401 KAR 57:019		7-14-99
Amended	75		401 KAR 59:580		
As Amended	376		Repealed by 401 KAR 57:019		7-14-99
As Amended	732	9-8-99	401 KAR 59:585		
401 KAR 50:039	2114		Repealed by 401 KAR 57:019		7-14-99
401 KAR 51:056	2115		401 KAR 59:590		
401 KAR 57:002			Repealed by 401 KAR 57:019		7-14-99
As Amended	49	7-14-99	401 KAR 59:595		
401 KAR 57:005			Repealed by 401 KAR 57:019		7-14-99
Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:635		
401 KAR 57:015			Repealed by 401 KAR 57:019		7-14-99
Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:705		
401 KAR 57:021			Repealed by 401 KAR 57:019		7-14-99
Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:725		
401 KAR 57:025			Repealed by 401 KAR 57:019		7-14-99
Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:740		
401 KAR 57:030			Repealed by 401 KAR 57:019		7-14-99
Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:745		
401 KAR 57:035			Repealed by 401 KAR 57:019		7-14-99
Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:750		
401 KAR 57:040			Repealed by 401 KAR 57:019		7-14-99
Repealed by 401 KAR 57:019		7-14-99	401 KAR 59:755		
401 KAR 57:045			Repealed by 401 KAR 57:019		7-14-99
Repealed by 401 KAR 57:019		7-14-99	401 KAR 60:005		
401 KAR 57:050			As Amended	50	7-14-99
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401 KAR 57:055			Repealed by 401 KAR 57:019		7-14-99
Repealed by 401 KAR 57:019		7-14-99	401 KAR 60:043		
401 KAR 57:130			Repealed by 401 KAR 57:019		7-14-99
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401 KAR 57:270			Repealed by 401 KAR 57:019		7-14-99
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401 KAR 57:300			Repealed by 401 KAR 57:019		7-14-99
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401 KAR 59:311	2117		Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:455			401 KAR 60:160		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:460			401 KAR 60:170		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 59:465			401 KAR 60:180		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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401 KAR 60:260			401 KAR 63:110		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:330			401 KAR 63:160		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:370			401 KAR 63:300		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:380			401 KAR 63:320		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:390			401 KAR 63:340		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:400			401 KAR 63:360		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:420			401 KAR 63:400		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:540			401 KAR 63:701		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:560			401 KAR 63:741		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:630			401 KAR 63:920		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
401 KAR 60:640			401 KAR 63:940		
Repealed by 401 KAR 57:019		7-14-99	Repealed by 401 KAR 57:019		7-14-99
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401 KAR 60:680			Repealed by 401 KAR 57:019		7-14-99
Repealed by 401 KAR 57:019		7-14-99	401 KAR 68:020		
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Repealed by 401 KAR 57:019		7-14-99	401 KAR 68:100		
401 KAR 60:730			As Amended	999	10-13-99
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401 KAR 60:750			As Amended	999	10-13-99
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401 KAR 63:002			As Amended	377	8-16-99
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418 KAR 1:040			501 KAR 3:120		
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418 KAR 1:050			501 KAR 3:140		
As Amended	594	9-8-99	Amended	166	
418 KAR 1:060			501 KAR 4:001	1053	2-14-2000
As Amended	595	9-8-99	501 KAR 4:010		
418 KAR 1:070			Repealed	1053	2-14-200
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Repealed	1595	4-12-2000	501 KAR 4:030		
500 KAR 6:011	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:020			501 KAR 4:040		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:030			501 KAR 4:050		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:040			501 KAR 4:060		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:050			501 KAR 4:070		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:060			501 KAR 4:080		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:070			501 KAR 4:090		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:080			501 KAR 4:100		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:090			501 KAR 4:110		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:100			501 KAR 4:120		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:110			501 KAR 4:130		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:120			501 KAR 4:140		
Repealed	1595	4-12-2000	Repealed	1053	2-14-200
500 KAR 6:130			501 KAR 6:020		
Repealed	1595	4-12-2000	Amended	168	9-16-99
500 KAR 6:140			Amended	2305	
Repealed	1595	4-12-2000	501 KAR 6:030		
500 KAR 6:150			Amended	170	9-16-99
Repealed	1595	4-12-2000	Amended	882	12-16-99
500 KAR 6:160			Amended	1445	3-10-2000
Repealed	1595	4-12-2000	Amended	1853	
500 KAR 6:170			501 KAR 6:040		
Repealed	1595	4-12-2000	Amended	884	12-16-99
500 KAR 6:180			501 KAR 6:050		
Repealed	1595	4-12-2000	Amended	1199	2-14-2000
500 KAR 6:190			501 KAR 6:060		
Repealed	1595	4-12-2000	Amended	885	12-16-99
500 KAR 6:200			501 KAR 6:070		
Repealed	1595	4-12-2000	Amended	2027	
500 KAR 6:210			501 KAR 6:080		
Repealed	1595	4-12-2000	Amended	1856	
500 KAR 6:220			501 KAR 6:110		
Repealed	1595	4-12-2000	Amended	172	9-16-99
500 KAR 13:020	289		501 KAR 6:130		
As Amended	597	9-16-99	Amended	1031	1-18-2000
501 KAR 3:010			Amended	1447	4-12-2000
Amended	158		501 KAR 6:170		
501 KAR 3:040			Amended	887	12-16-99
Amended	159		Amended	1201	2-14-2000
501 KAR 3:060			Amended	1588	4-12-2000
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			Amended	2307	



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501 KAR 6:999			502 KAR 31:020		
Amended	173	9-16-99	Amended	435	
Amended	1590		As Amended	1155	12-16-99
501 KAR 7:010			503 KAR 1:110		
Amended	174		Amended	1203	2-14-2000
501 KAR 7:020			503 KAR 1:140		
Amended	175		As Amended	54	7-14-99
501 KAR 7:040			503 KAR 3:010		
Amended	176		Amended	888	
501 KAR 7:050			Amended	1180	
Amended	178		As Amended	1408	1-18-2000
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Amended	180		Amended	195	
501 KAR 7:080			As Amended	599	9-16-99
Amended	181		503 KAR 5:090		
501 KAR 7:120			Amended	1205	2-14-2000
Amended	182		505 KAR 1:040		
501 KAR 7:140			Amended	893	12-16-99
Amended	183		505 KAR 1:080		
501 KAR 9:001	1053	2-14-2000	As Amended	604	10-11-99
501 KAR 9:010			505 KAR 1:090	1866	
Repealed	1053	2-14-2000	As Amended	2236	
501 KAR 9:025			505 KAR 2:010	1268	
Repealed	1053	2-14-2000	As Amended	1541	2-14-2000
501 KAR 9:030			505 KAR 2:020	1270	
Repealed	1053	2-14-2000	As Amended	1542	2-14-2000
501 KAR 9:040			505 KAR 2:030	1273	
Repealed	1053	2-14-2000	As Amended	1544	2-14-2000
501 KAR 9:050			505 KAR 2:040	1275	
Repealed	1053	2-14-2000	As Amended	1545	2-14-2000
501 KAR 9:060			505 KAR 2:050	1277	
Repealed	1053	2-14-2000	As Amended	1545	2-14-2000
501 KAR 9:070			505 KAR 2:060	1278	
Repealed	1053	2-14-2000	As Amended	1546	2-14-2000
501 KAR 9:080			505 KAR 2:070	1281	
Repealed	1053	2-14-2000	As Amended	1547	2-14-2000
501 KAR 9:090			505 KAR 2:080	1282	
Repealed	1053	2-14-2000	As Amended	1548	2-14-2000
501 KAR 9:100			505 KAR 2:090	1284	
Repealed	1053	2-14-2000	As Amended	1548	2-14-2000
501 KAR 9:110			505 KAR 2:100	1285	
Repealed	1053	2-14-2000	As Amended	1549	2-14-2000
501 KAR 9:120			505 KAR 2:110	1287	
Repealed	1053	2-14-2000	As Amended	1549	2-14-2000
501 KAR 9:130			505 KAR 2:120	1290	
Repealed	1053	2-14-2000	As Amended	1551	2-14-2000
501 KAR 9:140			505 KAR 2:130	1291	
Repealed	1053	2-14-2000	As Amended	1552	2-14-2000
501 KAR 9:150			505 KAR 2:140	1293	
Repealed	1053	2-14-2000	As Amended	1552	2-14-2000
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501 KAR 10:040			505 KAR 2:160	1296	
Amended	186		As Amended	1553	2-14-2000
501 KAR 10:060			505 KAR 2:170	1297	
Amended	188		As Amended	1553	2-14-2000
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505 KAR 2:230	1307		703 KAR 4:110		
As Amended	1557	2-14-2000	Repealed	668	11-1-99
601 KAR 1:015			703 KAR 5:020		
Repealed	1738	5-22-2000	Amended	77	
601 KAR 1:016			As Amended	380	8-2-99
Repealed	1738	5-22-2000	703 KAR 5:070		
601 KAR 1:017	1738	5-22-2000	As Amended	1001	10-11-99
601 KAR 1:018	1308		703 KAR 5:080	667	11-1-99
Amended	1581		703 KAR 5:111	291	9-1-99
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601 KAR 1:040			703 KAR 5:120	2120	
Amended	201	9-7-99	703 KAR 5:130	2123	
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601 KAR 14:010			As Amended	608	9-1-99
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603 KAR 2:015			Amended	1449	3-10-2000
Amended	1700	5-22-2000	704 KAR 5:050		
603 KAR 4:035			Repealed	1054	1-18-2000
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603 KAR 5:075			As Amended	1415	1-18-2000
Repealed	1738	5-22-2000	704 KAR 20:011	502	
603 KAR 5:076	1738	5-22-2000	As Amended	744	10-11-99
603 KAR 5:100			704 KAR 20:021		
Repealed	1738	5-22-2000	Amended	437	
603 KAR 5:105			As Amended	745	10-11-99
Repealed	1738	5-22-2000	704 KAR 20:065		
603 KAR 5:110			Repealed	744	10-11-99
Repealed	1738	5-22-2000	704 KAR 20:085		
603 KAR 5:112			Repealed	744	10-11-99
Repealed	1738	5-22-2000	704 KAR 20:090		
603 KAR 5:120			Repealed	744	10-11-99
Amended	1032		704 KAR 20:110		
As Amended	1412	1-13-2000	Repealed	744	10-11-99
603 KAR 5:150			704 KAR 20:150		
Amended	1034		Repealed	744	10-11-99
As Amended	1414	1-13-2000	704 KAR 20:210		
603 KAR 5:260			Amended	896	
Repealed	1738	5-22-2000	As Amended	1156	12-16-99
603 KAR 5:270			704 KAR 20:240		
Repealed	1738	5-22-2000	Repealed	744	10-11-99
603 KAR 5:330			704 KAR 20:245		
Repealed	1738	5-22-2000	Repealed	744	10-11-99
702 KAR 3:075			704 KAR 20:250		
Amended	642		Repealed	744	10-11-99
As Amended	1000	11-1-99	704 KAR 20:270		
702 KAR 3:120			Repealed	744	10-11-99
Amended	642		704 KAR 20:285		
As Amended	1000	11-1-99	Repealed	744	10-11-99
702 KAR 3:244	666		704 KAR 20:300		
As Amended	1000	11-1-99	Amended	1035	
702 KAR 3:245			As Amended	1415	1-18-2000
Repealed	1000	11-1-99	704 KAR 20:305		
702 KAR 7:065			Amended	439	
Amended	1448	3-10-2000	As Amended	746	
703 KAR 3:060			As Amended	1001	10-11-99
Repealed	291	9-1-99	704 KAR 20:350		
703 KAR 4:010			Repealed	744	10-11-99
Repealed	291	9-1-99	704 KAR 20:360		
703 KAR 4:080			Repealed	744	10-11-99
Repealed	291	9-1-99	704 KAR 20:370		
703 KAR 4:090			Repealed	744	10-11-99
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704 KAR 20:590			780 KAR 4:050		
Amended	1038		Amended	2325	
As Amended	1417	1-18-2000	780 KAR 5:011	2433	
704 KAR 20:610			780 KAR 6:005	2159	
Amended	1039		780 KAR 6:060		
As Amended	1418	1-18-2000	Repealed	1658	1-21-2000
704 KAR 20:670			780 KAR 6:061	2161	
Amended	442		780 KAR 6:062	2162	
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704 KAR 20:690			780 KAR 7:010		
Amended	1043		Amended	2326	
As Amended	1557	2-14-2000	780 KAR 7:011	2434	
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## KRS SECTION

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